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Administrative Procedure Act

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15.06.2005	RT I 2005, 39, 308	01.01.2006
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15.02.2007	RT I 2007, 24, 127	01.01.2008
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27.01.2011	RT I, 23.02.2011, 3	01.01.2012
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18.01.2023	RT I, 03.02.2023, 1	01.05.2023
20.06.2023	RT I, 06.07.2023, 6	01.01.2024

Part 1
GENERAL INFORMATION

Chapter 1
GENERAL PROVISIONS

Subchapter 1
Administrative Procedure

§ 1. Purpose of Act

The purpose of this Act is to ensure the protection of the rights of persons by creation of a uniform administrative procedure which allows participation of persons and judicial control.

§ 2. Definition of administrative procedure

(1) “Administrative procedure” means activities conducted by an administrative authority (§ 8) upon issue of regulations (§ 88) or administrative decisions (§§ 51 and 52), taking measures (§ 106) or entry into administrative contracts (§ 95).

(2) For the purposes of this Act, the procedure for the grant of legal protection to objects of industrial property, public procurement and adjudication of challenges for the purposes of the Public Procurement Act, misdemeanour procedure and pre-trial investigation of offences are not administrative procedure.
[RT I 2007, 15, 76 – entry into force 01.05.2007]

Subchapter 2
Principles of Administrative Procedure

§ 3. Protection of rights

(1) In administrative procedure, the fundamental rights and freedoms or other subjective rights of a person may be restricted only pursuant to law.

(2) Administrative decisions and measures shall be appropriate, necessary and proportionate to the stated objectives.

§ 4. Right of discretion

(1) The right of discretion (discretion) is an authorisation granted to an administrative authority by law to consider making a resolution or choose between different resolutions.

(2) The right of discretion shall be exercised in accordance with the limits of authorisation, the purpose of discretion and the general principles of justice, taking into account relevant facts and considering legitimate interests.

§ 5. Choice of form and purposefulness

(1) An administrative authority shall determine the form of procedural acts and other details of administrative procedure on the basis of the right of discretion unless otherwise provided by an Act or regulation.

(2) Administrative procedure shall be purposeful, efficient and straightforward and conducted without undue delay, avoiding superfluous costs and inconveniences to persons.

(3) An administrative authority may charge fees for the performance of procedural acts only in the cases and in the amount prescribed by law.
[RT I 2002, 61, 375 – entry into force 01.08.2002]

(4) Procedural acts shall be performed promptly, but not later than within the term provided by law or a regulation.
[RT I 2002, 61, 375 – entry into force 01.08.2002]

(5) If legal provisions regulating administrative procedure change during a proceeding, the rules of law which were in force at the time of commencement of the proceeding shall apply.

(6) In administrative procedure, electronic operations shall be equal to written operations, taking account of the specifications arising from electronic operations. Digital signatures and electronic seals shall be used in administrative procedure pursuant to the procedure provided for in the Electronic Identification and Trust Services for Electronic Transactions Act and other legislation.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

§ 6. Principle of investigation

During proceedings in a matter, an administrative authority is required to establish the facts relevant to the matter and, if necessary, collect evidence on its own initiative for such purpose.

§ 7. Accessibility and data protection

(1) Administrative proceedings shall be public.

(2) An administrative authority is responsible for the display in its premises of important information concerning administrative proceedings (instructions for submission of documents, instructions for completing forms, forms, explanations provided for in § 36 of this Act, etc.), also, an administrative authority shall provide such information on its official Internet home page if it has a home page.

(3) An administrative authority is required to maintain state and business secrets and the confidentiality of classified information of foreign states and information intended for internal use of an agency.
[RT I 2007, 24, 127 – entry into force 01.01.2008]

(4) In administrative procedure, personal data shall be processed pursuant to the procedures for processing personal data deriving from Regulation (EU) 2016/679 of the European Parliament and of the Council on the

protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 04.05.2016, p. 1–88) and the Personal Data Protection Act, taking account of the specifications provided for in the Act.
[RT I, 13.03.2019, 2 - entry into force 15.03.2019]

(5) An administrative authority may, for the purpose of issuing administrative decisions, taking measures or entry into administrative contracts in administrative procedure, process personal data regarding any circumstances necessary for the proceedings in a matter, unless otherwise provided by law or legislation issued pursuant to law.
[RT I, 13.03.2019, 2 - entry into force 15.03.2019]

Subchapter 3
Administrative Authority

§ 8. Administrative authority

(1) Administrative authority means any agency, body or official which is authorised to perform public administration duties by an Act, a regulation issued on the basis of an Act or an administrative contract.

(2) Persons who in administrative proceedings act on behalf of an administrative authority shall be appointed within the administrative authority unless otherwise provided by an Act or regulation.

§ 9. Determining jurisdiction

(1) If one and the same matter subject to administrative proceedings falls within the competence of several administrative authorities, the proceedings in the matter shall be conducted as follows:
1) administrative proceedings which commence by submission of an application to the administrative authority shall be conducted by the administrative authority which is the first to receive the application for commencement of administrative proceedings;
2) administrative proceedings which commence on the initiative of the administrative authority shall be conducted by the administrative authority which is the first to become aware of the circumstances which caused or cause the commencement of administrative proceedings.

(2) In determining jurisdiction in a matter between administrative authorities with different territorial jurisdiction, the administrative proceedings shall be conducted as follows:
1) proceedings concerning a person or his or her movable property shall be conducted by the administrative authority in whose territorial jurisdiction the most recent residence or seat of the person is or was;
2) proceedings concerning immovable property shall be conducted by the administrative authority in whose territorial jurisdiction the property is located.

(3) In the case of changes in the competence of an administrative authority, the administrative authority which accepted to conduct proceedings in a matter shall complete the proceedings. If the activities of an administrative authority are terminated, adjudication of the matter shall be transferred to a competent administrative authority.

§ 10. Removal

(1) A person acting on behalf of an administrative authority shall not participate in an administrative proceeding if:
1) he or she is a participant in the proceeding or acts as a representative of a participant in the proceeding;
2) he or she is a relative (parent, child, adoptive parent, adopted child, brother, sister, grandparent or grandchild), spouse , registered partner or relative by marriage (the spouse’s or registered partner’s parent, child, adoptive parent, adopted child, brother, sister, grandparent or grandchild), or if he or she is a family member of a party to proceedings or of a representative of a party to proceedings;
[RT I, 06.07.2023, 6 – entry into force 01.01.2024]
3) he or she is in a professional, service or other dependent relationship with a participant in the proceeding or his or her representative;
4) he or she is in any other manner personally interested in the resolution of the matter or other circumstances give reason to doubt his or her impartiality.

(2) Within the meaning of this Act, a family member is a person who lives with a participant in proceedings and they have a shared household.

(3) An administrative authority which is required to submit to the administrative authority which hears a matter an opinion on or approval for issue of an administrative decision, entry into an administrative contract or taking a measure is not deemed to be a participant in proceedings specified in clauses 1–3 of subsection 1 of this section.

(4) If circumstances specified in subsection 1 of this section become evident or if a participant in proceedings submits an application for removal of an official on the bases listed in subsection 1 of this section, the official is required to notify thereof an official who has the right to appoint or elect him or her to office. The specified person shall decide on the necessity of removal within three working days as of submission of the application for removal.

(5) A person shall not be removed if he or she cannot be substituted.

(6) This section does not apply to members of the Government of the Republic or members of local government councils and governments.

Subchapter 4
Participants in Proceedings

§ 11. Participants in proceedings

(1) The following are participants in an administrative proceeding:
1) a person applying for the issue of an administrative decision or the taking of a measure, or a person who makes a proposal for entry into an administrative contract (applicant);
2) a person at whom an administrative decision or measure is directed or to whom an administrative authority makes a proposal for entry into an administrative contract (addressee);
3) a person whose rights or obligations the administrative decision, administrative contract or measure may affect (third person);
4) an administrative authority which, according to an Act or regulation, is required to submit to an administrative authority which hears the matter its opinion on or approval for issue of a legal act or for taking of a measure.

(2) An administrative authority may involve other persons and bodies whose interests may be affected by an administrative decision, administrative contract or administrative measure as participants in proceedings.

§ 12. Passive legal capacity and active legal capacity in administrative procedure

(1) The provisions of the Act on the General Part of the Civil Code apply to passive and active legal capacity in administrative procedure.

(2) A minor or any other person with restricted active legal capacity shall not perform procedural acts in administrative proceedings independently unless otherwise prescribed by law. An administrative authority shall ensure legal representation in administrative proceedings.
[RT I 2002, 53, 336 – entry into force 01.07.2002]

§ 13. Representation and authorisation in administrative procedure

(1) In administrative procedure, a participant in proceedings has the right to representation. A representative may represent a participant in proceedings in all procedural acts which, arising from law, need not be performed personally by the participant in the proceeding.

(2) Right of representation in administrative procedure is granted by a written authorisation document.

(3) In administrative procedure, the provisions of the Act on the General Part of the Civil Code apply to representation.
[RT I 2002, 53, 336 – entry into force 01.07.2002]

Subchapter 5
Proceeding with Matter in Administrative Procedure

§ 14. Application

(1) A request (application) in a freely chosen form shall be submitted to an administrative authority for the commencement of administrative proceedings, or in the course of administrative proceedings. A mandatory form for an application may be prescribed by an Act or on the basis of an Act. A person is required to appear before an administrative authority in order to submit an application only in the cases provided by law.

(2) An administrative authority shall take minutes of oral applications.

(3) A written application shall set out the following:
1) the name of the person submitting the application;
2) the clearly worded content of the application;
3) the date of submission of the application, and the signature of the applicant;

4) the desired manner of delivery of an administrative decision or other document, and the details necessary for delivery;
5) other data prescribed by legislation.

(4) A digital signature and, if necessary, an electronic seal shall be added to an electronically transmitted application. A digital signature and electronic seal need not be added, if the application has been submitted by an electronic channel, and the administrative authority has identified the applicant in a secure manner.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

(5) The term for submission of applications shall be established by an Act or on the basis of an Act.

(6) An administrative authority shall return an application without review:
1) if the term for submission of applications has expired and is not restored;
2) in other cases prescribed by law.

(7) An applicant shall be notified of refusal to review an application. The refusal to review an application for issue of an administrative decision shall be reasoned in writing.

(8) An applicant may withdraw his or her application at any time before administrative proceedings are terminated.

§ 15. Deficiencies in application

(1) An administrative authority is required to accept an application addressed to the administrative authority regardless of the deficiencies in the application, unless otherwise prescribed by law.

(2) If a person fails to submit the required information or documents together with an application or if the application contains any other deficiencies, an administrative authority shall, at the first opportunity, designate a term to the applicant for elimination of the deficiencies and explain that upon failure to eliminate the deficiencies within the term the administrative authority may refuse to review the application.

(3) If deficiencies are eliminated within a designated term, the application is deemed to have been submitted on time. If deficiencies are not eliminated within the term, the administrative authority may refuse to review the application.

(4) If adjudication of an application does not fall within the competence of an administrative authority, the administrative authority shall refuse to review the application and shall explain to the applicant which administrative authority has the competence to hear the matter, or forward the application to the competent administrative authority and notify the applicant thereof. If the application is forwarded to the competent administrative authority, the term for adjudication of the matter shall commence from the moment the application is received by the competent administrative authority.
[RT I 2002, 61, 375 – entry into force 01.08.2002]

§ 16. Approval and opinion

(1) If an approval or opinion of another administrative authority is required for adjudication of an application and such approval or opinion is not granted, the administrative authority shall forward a copy of the application together with documents to another administrative authority and indicate a term within which a resolution concerning grant of approval shall be made or an opinion shall be provided. An applicant may take own initiative to obtain an approval or opinion if this is necessary in the interests of the promptness and economy of the proceedings.

(2) Unless another administrative authority refuses to grant approval within a designated term or extends such term, approval is deemed to be granted. Unless another administrative authority provides its opinion within a designated term or extends such term, the application may be adjudicated without the opinion of the other administrative authority.

§ 17. Summons

(1) An administrative authority has the right to summon persons as participants in proceedings, witnesses, experts, interpreters or translators.

(2) A summons shall be in writing and shall set out the following:
1) the name of the administrative authority;
2) the name of the person summoned;
3) the place and time of required appearance;
4) the matter concerning which the person is summoned, the role of the person in the proceedings and the purpose of the summons;

5) the consequences of failure to appear.

§ 18. Minutes

(1) Minutes shall be taken of a procedural act if:
1) a participant in proceedings submits a reasoned application for taking of minutes;
2) the administrative authority which hears the matter deems it necessary to take minutes;
3) the content of the procedural act is provision of a statement, opinion or explanation to an administrative authority;
4) the duty to take minutes arises from an Act or regulation.

(2) Minutes shall include:
1) the time and place of performance of the procedural act;
2) the name of the administrative authority performing the procedural act, and the names of participants in proceedings, interpreters and translators, experts and witnesses present;
3) the purpose of the procedural act;
4) the applications submitted in the course of the procedural act;
5) the content of explanations of participants in the proceedings, statements given by experts or witnesses or the results of the on-the-spot visit of inspection.

(3) The minutes are signed by the person who took minutes. Digital minutes need not be signed with a digital signature if the person who took the minutes has been identified in a secure manner.
[RT I, 03.02.2023, 1 – entry into force 01.05.2023]

§ 19. Preservation of documents relevant to administrative proceedings

(1) An administrative authority shall preserve requests, applications, evidence, minutes, information concerning the delivery of summonses and documents, and other documents relevant to the administrative proceedings, and create a file if necessary.

(2) An administrative authority shall make notations in a file concerning facts relevant to the administrative proceeding which are not evident from the documents contained in the file.

(3) The documents specified in subsection 1 of this section shall be preserved pursuant to the procedure prescribed in the Archives Act and the archival rules established on the basis thereof.
[RT I 2002, 61, 375 – entry into force 01.08.2002]

§ 20. Language of administrative proceedings

(1) The language of administrative proceedings shall be Estonian.

(2) Foreign languages shall be used in administrative proceedings pursuant to the procedure provided for in the Language Act.

§ 21. Translators and interpreters

(1) If a participant in proceedings or his or her representative does not know the language of the proceedings, an interpreter or translator shall be involved in the proceedings at the request of the participant in the proceedings.

(2) A participant in proceedings who applies for the involvement of an interpreter or translator shall bear the costs of involvement of the interpreter or translator, unless otherwise provided by an Act or regulation or unless an administrative authority resolves otherwise. The administrative authority may establish a condition that the right granted to the person by an administrative decision does not arise before the costs of involvement of the interpreter or translator are paid.

Subchapter 6
Official Certification

§ 22. Official certification

(1) “Official certification” means the certification by an administrative authority of the authenticity of a signature, copy, print-out or extract.

(2) The probative value of official certification is restricted to the circumstances specified in the notation concerning certification.

(3) Official certification does not replace notarisation.

(4) Notarisation replaces official certification.

§ 23. Official certification of authenticity of signature

(1) Administrative authorities determined by the Government of the Republic have the right to certify officially the authenticity of signatures. The following shall not be officially certified:
1) a signature without an accompanying text;
2) a signature the authenticity of which must be notarially attested.

(2) The authenticity of a signature shall be certified only if the signature is given or acknowledged in the presence of the official certifying the signature.

(3) The authenticity of a signature shall be certified with a notation concerning certification added immediately after the signature which shall include:
1) certification of the authenticity of the signature;
2) the name and personal identification code of the person whose signature is certified; in the absence of the personal identification code, the year, month and day of birth of the person;
3) certification that the signatory has been identified and that the signature is given or acknowledged in the presence of the official certifying the signature;
4) the place and time of certification, the name and signature of the official certifying the signature and the seal of the agency.
[RT I 2002, 61, 375 – entry into force 01.08.2002]

§ 24. Official certification of copy, extract and print-out

(1) An administrative authority which has the right to issue official documents or which preserves documents as records may also issue copies of and extracts from such documents and officially certify the authenticity thereof.

(2) An administrative authority which accepts documents from persons may make copies of or extracts from such documents and officially certify the authenticity thereof. If the original document is submitted to the administrative authority together with a copy, the administrative authority may not require official certification or notarisation of the copy.

(3) An administrative authority may officially certify the authenticity of print-outs from an automated database maintained by the administrative authority.

(4) In the cases provided by an Act or regulation, an administrative authority may officially certify the authenticity of copies of or extracts from documents issued by another administrative authority or the authenticity of print-outs from an automated database maintained by another administrative authority.

(5) In order to officially certify the authenticity of a copy, a notation concerning certification shall be added to the end of the text, and the notation shall include:
1) information concerning the issuer of the document, the date of issue and reference to the location of the document in the document register;
2) certification that the copy is identical with the original;
3) if the original document is not issued by the administrative authority certifying the authenticity of the copy, a notation that the copy is issued solely for submission to the administrative authorities specified in the notation;
4) information on gaps, strikethrough, insertions, illegible sections and traces of erasure contained in the document, other circumstances which refer to changes in the original content of the document or on disassembly of a document consisting of several pages;
5) the place and time of certification, the name and signature of the official certifying the copy and the seal of the agency.

(6) Subsection 5 of this section also applies to the official certification of extracts and print-outs.
[RT I 2002, 61, 375 – entry into force 01.08.2002]

§ 24^1. [Repealed – RT I 2009, 27, 164 – entry into force 01.01.2010]

Subchapter 7
Service of Documents

§ 25. Methods of service

(1) Administrative decisions, summonses, notices and other documents shall be served on the participants in proceedings either by post, by the administrative authority which issued the document or by electronic means.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

(2) In the cases provided by law, documents shall be delivered to a summoned participant in proceedings against his or her signature or published in a newspaper.

(2^1) If a participant in proceedings has a representative or a participant in proceedings has designated a person for the receipt of documents, a document may be served only on the representative or the person designated for the receipt of documents, and the document is deemed to be served also on the participant in proceedings. In case of several representatives or designated persons, the service on one of them is sufficient.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

(3) A document shall be delivered in the cases when delivery is prescribed by an Act or regulation. In other cases, providing information concerning the document in a chosen form is sufficient.

§ 26. Delivery by post

(1) In the case of delivery of a document by post, the document shall be sent by registered letter to a participant in proceedings to the address indicated in the application. In the cases provided by law or a regulation, a document may be sent by unregistered letter or by registered letter with advice of delivery.
[RT I 2002, 61, 375 – entry into force 01.08.2002]

(2) [Repealed – RT I, 28.12.2017, 2 – entry into force 01.02.2018]

(3) A document is deemed to be delivered to a participant in proceedings if it is delivered at the address of residence or seat of the participant in proceedings or handed over to the participant in proceedings against his or her signature in a post office.

(4) If a participant in proceedings does not inform the administrative authority of changes in his or her address, a document shall be sent to the most recent address known to the administrative authority and the document is thereby deemed to be delivered.

§ 27. Delivery by electronic means

(1) Upon delivery of a document by electronic means, the document shall be made available in the relevant information system or the Estonian information gateway, or sent to the e-mail address of a participant in proceedings. A digital signature and, if necessary, an electronic seal or, in justified cases, only an electronic seal shall be added to the document.

(2) A document made available or transmitted by electronic means is deemed to be delivered in the following cases:
1) the relevant information system has registered the opening or acceptance of the document;
2) the recipient has confirmed the receipt of the document transmitted by electronic means;
3) the document or notice on making the document available has been forwarded to the e-mail address of a company entered in the commercial register;
4) the document or notice on making the document available has been forwarded to the e-mail address of a legal person in public law, advocate, auditor, notary, enforcement agent, trustee in bankruptcy, patent attorney or sworn translator entered in the commercial register or stated by the specified person.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

§ 28. Delivery by administrative authority

(1) Upon delivery of a document to a participant in proceedings by an administrative authority which issued the document, the document shall be delivered to the participant in proceedings against his or her signature on the notice which sets out the time of delivery of the document. The notice shall be preserved pursuant to § 19 of this Act.

(2) A document is deemed to be delivered to a participant in proceedings by an administrative authority which issued the document also if another administrative authority delivers the document in professional assistance.

(3) [Repealed – RT I 28.12, 2017, 2 – entry into force 01.02.2018]

(4) A document is also deemed to be delivered to a participant in proceedings if it is delivered against signature to a family member of at least ten years of age who lives with the participant in proceedings.

(5) In the case when a participant in proceedings is temporarily absent and if a document could not be delivered to a person specified in subsection 4 of this section, an administrative authority delivering the document shall indicate the time and date when the delivery of the document failed on the notice appended to the document. In the specified case, the participant in proceedings may be summoned for delivery of the document.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

§ 29. Time of delivery by administrative authority

(1) Administrative authorities may deliver documents on working days between 8 a.m. and 8 p.m.

(2) Between 8 p.m. and 8 a.m. or on days off, a document may be delivered with the consent of the addressee or in order to avoid the damage arising from delay and with a written permission of the head of an administrative authority.

(3) Upon delivery of a document between 8 p.m. and 8 a.m. or on days off, a permission specified in subsection 2 of this section shall be presented.

(4) If a document is delivered in violation of the provisions of this section, but the person who receives the document does not refuse to accept the document, the document is deemed to be delivered.

§ 30. Consequences of refusal to accept document

If a participant in proceedings refuses to accept a document, the person who delivers the document shall identify the person who refuses to accept the document, make a notation on the document and certify it with his or her signature. The person who delivers the document shall return the document with the notation to the administrative authority. In such case, the document is deemed to be delivered to the participant in proceedings, except if acceptance of the document is refused due to violation of subsections 1–3 of § 29 of this Act.

§ 31. Publication of documents in newspaper

(1) The resolution contained in a document shall be published in a national daily newspaper or, in the cases provided by law, in the official publication *Ametlikud Teadaanded*if:
1) the document needs to be delivered to more than one hundred persons;
2) there is no information concerning the address or e-mail address of a participant in proceedings or the participant in proceedings does not reside at the address known to the administrative authority or if a natural person does not confirm the receipt of a document transmitted by electronic means and his or her actual whereabouts are unknown, and the document cannot be delivered in any other manner;
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]
3) an administrative decision must be made public and is not subject to publication in Riigi Teataja.

(2) If a document concerns only local matters, the resolution contained in document may be published in a local newspaper.

(3) The resolution contained in a document is deemed to have been published after the publication thereof for the first time.

(4) The person who delivers a document shall bear the costs of publishing the document.

(5) A document is deemed to have been delivered when it has been published.

(6) A document shall be published in such extent that it does not contain information specified in subsection 3 of § 7 of this Act.
[RT I 2002, 61, 375 – entry into force 01.08.2002]

§ 32. Delivery in foreign states

(1) Documents shall be delivered in foreign states pursuant to the procedure provided for in international agreements.

(2) If agreements specified in subsection 1 of this section have not been entered into, documents shall be delivered through diplomatic channels. A competent agency shall forward a document together with the corresponding application to the Ministry of Foreign Affairs which forwards the document to a representation.

(3) If agreements specified in subsection 1 of this section have not been entered into and if law or a regulation prescribes that a document be delivered by post or electronic means, the document shall be delivered pursuant to the procedure provided for in § 26 or 27 of this Act.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

Subchapter 8
Calculation and Restoration of Term for Proceedings

§ 33. Beginning and end of term for proceedings

(1) The provisions of the Code of Civil Procedure apply upon calculation of terms in administrative proceedings.

(2) A term shall commence on the day following the calendar day or the event with which the beginning of the term is determined. A term specified in days ends on the last day of the term.

(3) If the end of a term for proceedings does not fall on a working day, the term shall end on the first working day following the due date.

(4) If an application submitted to an administrative authority is in a foreign language and the administrative authority requests submission of a translation, a term for proceedings shall commence on the day following the day when the translation of the application is received by the administrative authority.

(5) An administrative authority may, on its own initiative, extend the terms for proceedings designated thereby.

(6) An administrative authority may bind the extension of a term for proceedings to secondary conditions specified in subsection 1 of § 53 of this Act.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 34. Restoration of terms for proceedings

(1) If a term for a proceeding is allowed to expire with good reason, an administrative authority may restore the term on its own initiative or at the request of a participant in the proceeding.

(2) A reasoned request for restoration of a term for a proceeding shall be submitted within two weeks after the circumstances impeding performance of a procedural act cease to exist. An administrative authority may require a participant in the proceeding to perform the procedural act the restoration of a term for which is applied for concurrently with submission of a request for restoration of the term.

(3) A term for a proceeding shall not be restored if more than one year has passed from the original date prescribed for performance of a procedural act.

(4) The head of an administrative authority which performs a procedural act or a person authorised thereby shall decide on restoration of a term for a proceeding.

(5) The cases in which a term for a proceeding cannot be restored may be prescribed by law.

Chapter 2
CONDUCTING OF ADMINISTRATIVE PROCEEDINGS

§ 35. Commencement of proceedings

(1) Administrative proceedings for issue of an administrative decision or taking a measure shall commence as follows:
1) by submission of an application to an administrative authority;
2) in administrative proceedings commenced on the initiative of an administrative authority, by notifying a participant in the proceedings of the proceedings;
3) in administrative proceedings commenced on the initiative of an administrative authority, by the performance of the first procedural act with regard to a participant in the proceedings.

(2) An administrative authority shall notify participants in proceedings of submission of an application for issue of an administrative decision or taking a measure.

(3) Administrative proceedings for entry into an administrative contract shall commence by a proposal for entry into the administrative contract.

(4) The term for administrative proceedings which commence by submission of an application shall be calculated as of the moment of registration of the received document.
[RT I 2002, 61, 375 – entry into force 01.08.2002]

§ 36. Duty of administrative authority to give explanations

(1) An administrative authority shall explain the following to a participant in proceedings or to a person who considers submission of an application, at the request of the person:
1) the rights and duties of the participant in the proceeding in administrative procedure;
1^1) the personal data processed in administrative procedure and the rights of the data subjects;
[RT I, 13.03.2019, 2 - entry into force 15.03.2019]
2) within which term the administrative proceeding is presumably conducted and which are the possibilities to expedite the administrative proceeding;
3) which applications, evidence and other documents must be submitted in the administrative proceeding;
4) which procedural acts must be performed by participants in the proceedings.

(2) If it is necessary, in order to issue an administrative decision or take a measure which is applied for, to issue another administrative decision beforehand, the administrative authority shall promptly explain the procedure for application for the necessary administrative decision and for review of the application, and other conditions for issue of the other administrative decision.

§ 37. Examination of documents

(1) Everyone has the right, in all stages of administrative proceedings, to examine documents and files, if such exist, which are relevant in the proceedings and which are preserved with an administrative authority.

(2) An administrative authority shall prohibit examination of a file, document or a part thereof if disclosure of information contained therein is prohibited by an Act or on the basis of an Act.

(3) Files and documents shall generally be examined in the workrooms of the administrative authority and in the presence of an official. The administrative authority may make exceptions to this procedure.

(4) Extracts from and copies of documents shall be made and related costs shall be compensated pursuant to the procedure provided for in the Public Information Act.

§ 38. Evidence

(1) In administrative proceedings, an administrative authority has the right to require participants in proceedings and other persons to provide evidence and information which is known to them and on the basis of which the administrative authority establishes the facts relevant for adjudication of the matter.

(2) Explanations of participants in proceedings, documentary evidence, physical evidence, on-the-spot visit of inspections, testimonies of witnesses and opinions of experts may serve as evidence.

(3) A participant in proceedings is required to present evidence to an administrative authority and notify it of facts which are known to him or her and are relevant to the proceedings. Upon failure by a participant in proceedings to perform this duty, the administrative authority may refuse to review the application upon issue of an alleviating administrative decision.

§ 39. Experts and witnesses in administrative proceedings

(1) An administrative authority shall involve experts and witnesses in administrative proceedings with their consent unless their obligation to participate in proceedings is prescribed by law. Persons who may not be heard as witnesses pursuant to the Code of Civil Procedure shall not be involved in the proceedings as witnesses.

(2) If the participation of an expert in administrative proceedings is prescribed by law, the expert may refuse to provide an opinion on the bases provided for in the Code of Civil Procedure.

(3) Witnesses shall be heard pursuant to the procedure provided for in the Code of Civil Procedure.

(4) Experts and witnesses have the right to receive a fee or compensation for the performance of their duties on the bases provided for in the Code of Civil Procedure.

(5) The procedure for payment of sums to witnesses and experts shall be established by the Government of the Republic. If an expert or witness participates in administrative proceedings outside the location of his or her residence, he or she shall be compensated for travel and accommodation expenses and provided with a daily allowance in the amount established by a regulation of the Government of the Republic.

(6) The expenses for the involvement of an expert or witness shall be borne by the person or administrative authority at whose request the witness or expert is involved.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 40. Hearing of opinions and objections of participants in proceedings

(1) An administrative authority shall, before issue of an administrative decision, grant a participant in proceedings a possibility to provide his or her opinion and objections in a written, oral or any other suitable form.

(2) Before taking any measures which may damage the rights of a participant in proceedings, the administrative authority shall grant him or her a possibility to provide his or her opinion and objections.

(3) An administrative proceeding may be conducted without hearing the opinions and objections of a participant in the proceeding in the following cases:

1) if prompt action is required for prevention of damage arising from delay or for the protection of public interests;
2) if there is no deviation from the information provided in the application or explanation of the participant in the proceeding and there is no need for additional information;
3) if the resolution is not made against the participant in the proceeding;
4) if notification of the administrative decision or measure, which is necessary to allow submission of opinions or objections, does not enable achievement of the purpose of the administrative decision or measure;
5) if the participant in the proceeding in not known or if the measure taken affects an infinite number of persons and identification of the persons is impossible within a reasonable period of time;
6) if an administrative decision is issued as a general order or the number of participants in the proceeding exceeds fifty;
7) in other cases provided by law.

§ 41. Term for conducting of administrative proceedings

If an administrative decision cannot be issued or a measure cannot be taken within a prescribed term, an administrative authority shall promptly give notice of the probable time of issue of the administrative decision or taking of the measure and indicate the reasons for failure to comply with the prescribed term.

§ 42. Failure to appear for conduct of procedural act

(1) When summoned by an administrative authority, a person is required to appear at the time indicated in the summons and at the place prescribed in the summons.

(2) If a participant in proceedings cannot appear following the summons, he or she shall promptly notify the administrative authority thereof. The administrative authority shall decide whether the reason for failure to appear is good or not and shall promptly notify the participant in the proceeding thereof.

(3) If a participant in proceedings fails to appear for conduct of a procedural act without good reason, the administrative authority shall adjudicate the matter without his or her presence.

(4) If a person who applies for the issue of an administrative decision or the taking of a measure fails to appear at a procedural act without good reason, the administrative authority may refuse to review the application and terminate the proceedings.

§ 43. Termination of proceedings

(1) Proceedings for issue of an administrative decision shall terminate:
1) by making the administrative decision public;
2) upon withdrawal of the application by the applicant;
3) upon refusal of an administrative authority to review the application;
4) upon death or dissolution of the addressee of the administrative decision if the administrative decision concerns the addressee.

(2) If a decision is made not to issue an administrative decision applied for, a respective administrative decision shall be issued concerning such decision. If, in an administrative proceeding commenced on the initiative of an administrative authority, a decision is made not to issue an administrative decision, the addressee shall be notified thereof and the administrative proceeding shall terminate.

(3) Proceedings for entry into an administrative contract shall terminate:
1) by entry into the administrative contract;
2) by an agreement or decision of one party not to enter into the administrative contract;
3) upon death or dissolution of a party to the administrative contract.

(4) Proceedings for the taking of an administrative measure shall terminate:
1) by taking the measure;
2) upon a reasoned resolution not to take the measure;
3) upon withdrawal of the application by the applicant;
4) upon refusal of an administrative authority to review the application;
5) upon death or dissolution of the addressee of the measure if the taking of the measure concerns the addressee.

§ 44. Resumption of proceedings

(1) An administrative authority shall resume administrative proceedings at the request of a person if:
1) the circumstances or legislative or procedural provisions which are the basis for issue of the administrative decision which imposes permanent restrictions on the rights of the person who submits the application cease to exist;
2) new significant evidence in the matter becomes evident and the person was not aware of the evidence during the administrative proceedings;
3) a court judgment which has entered into force establishes that the administrative decision was issued or measure was taken as a result of deceit, threat or exercise of any other unlawful influence on the administrative

authority, or that the person acting on behalf of the administrative authority committed a criminal offence during the administrative proceedings;
4) a court judgment which has entered into force annuls the court judgment on which the administrative decision is based.

(2) An administrative authority shall hear a matter in resumed proceedings, taking into account the provisions of Subchapters 3 and 4 of Chapter 4 of this Act.

(3) An application for resumption of administrative proceedings shall be submitted to an administrative authority conducting the administrative proceedings within one month as of the moment when the person became aware of the circumstances constituting basis for resumption of the administrative proceedings.

(4) Procedural acts which are not related to the reasons for the resumption of proceedings shall not be repeated.

§ 45. Hearing of matter at session

(1) A matter subject to administrative proceedings shall be heard at a session:
1) in the case of contradicting interests of participants in the proceedings unless this causes excessive delay of the proceedings;
2) in the cases prescribed by an Act or regulation;
3) in the cases when it is necessary for the prompt and fair adjudication of the matter pursuant to a resolution of the administrative authority.

(2) An administrative authority shall hold a session in the most expedient and simple manner, while ensuring the rights of participants in the proceedings.

(3) In addition to the representatives of an administrative authority and participants in proceedings, also representatives of an administrative authority exercising supervision over the administrative authority may participate in a session. The administrative authority may permit other persons to participate in the session if no participant in the proceeding objects thereto.

(4) The chairman of a session may remove from the session a person who does not comply with the procedure for holding a session determined by the chairman of the session.

(5) Minutes shall be taken of the sessions.

Chapter 3
OPEN PROCEEDINGS

§ 46. Conducting of open proceedings

(1) In the cases provided by law, administrative proceedings for the issue of a legal act shall be conducted as open proceedings. If this is necessary for the adjudication of a matter and does not damage the rights of participants in the proceedings, an administrative authority may conduct open proceedings also in other cases.

(2) If conducting of open proceedings is mandatory for the issue of a legal act, open proceedings shall also be conducted in order to amend and repeal the legal act.

(3) An administrative authority may refuse to satisfy a clearly unfounded application without conducting open proceedings. In such case, the opinion and objections of the applicant shall be heard.

(4) In addition to the provisions of this Chapter, other provisions regulating administrative proceedings also apply to open proceedings according to the purpose and nature of the open proceedings.

§ 47. Commencement of open proceedings and notification thereof

(1) An application for issue of a legal act by way of open proceedings shall be submitted in writing.

(2) An administrative authority shall notify the following persons of the commencement of open proceedings:
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]
1) the addressee of the administrative decision to be issued by way of open procedure;
2) persons whose rights may be restricted by the administrative decision;
3) the administrative authority which is required to approve the issue of the administrative decision or provide its opinion on the draft thereof, and to the administrative authority the issue of whose administrative decision is required for the issue of the legal act by way of open procedure.

(3) An administrative authority shall publish a notice concerning commencement of open proceedings in at least one national newspaper. A notice on commencement of open proceedings which concern only local matters may be published in a local or county newspaper.

(4) A notice shall briefly set out the content of the application, the date and place of displaying the draft of the legal act to be issued by way of open proceedings and the application, and the term for submission of proposals and objections.

(5) The applicant shall bear the costs of publishing the notice.

§ 48. Display of draft of legal act and application for issue thereof

(1) An application for issue of a legal act and the draft of the legal act together with an explanatory memorandum shall be displayed for public examination; the possibility to examine the specified documents shall be ensured to the public at least until the end of the term for submission of proposals and objections.

(2) In addition to the documents set out in subsection 1 of this section, other relevant and important documents appended to applications and submitted to an administrative authority in the course of proceedings or prepared by the administrative authority shall be displayed for public examination.

(3) Information the disclosure of which is prohibited by an Act or on the basis of an Act shall not be displayed for public examination.

(4) An administrative authority conducting open proceedings is responsible for the display of draft of a legal Act and application for issue thereof.

§ 49. Submission of proposals and objections in open proceedings

(1) Interested persons and persons whose rights may be affected by a legal act issued by way of open proceedings have the right, within a designated term, to submit to the administrative authority conducting the proceedings proposals and objections concerning the draft of the legal act or application for issue thereof.

(2) An administrative authority shall designate a term for the submission of proposals and objections, which shall not be shorter than two weeks as of the display of the draft of the legal act and application for issue thereof. Upon notification of commencement of proceedings after the beginning of the display, the term shall not be shorter than two weeks as of notification of commencement of the proceedings.

(3) An applicant shall be granted a possibility to examine proposals and objections and provide an opinion thereon before a decision is made in the matter.

(4) If, after display, a draft of a legal act or application for issue thereof is amended to the detriment of a person whose rights the draft or application affects, the administrative authority shall inform the person thereof and shall grant the person a possibility to examine the draft of the legal act and application for issue thereof and to submit proposals and objections concerning the draft or the application.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

(5) Minutes shall be taken of oral opinions, objections and proposals.

§ 50. Hearing of matter at public session

(1) In the case of open proceedings, an administrative authority shall resolve the issue of a legal act after hearing of the matter at a public session. The administrative authority shall give notice of the session pursuant to the procedure prescribed in § 47 of this Act. Participants in proceedings have the right to submit oral opinions on the matter at the session.

(2) Issue of a legal act may be resolved without hearing of the matter at a public session if:
1) no proposals or objections are submitted within the designated term and participants in proceedings withdrew from hearing of the matter at a public session;
2) such possibility is prescribed by law.

(3) A participant in proceedings is deemed to have withdrawn from hearing of a matter at a public session if, at the beginning of display or upon notification of proceedings, the administrative authority has proposed to resolve the matter without holding a public session and the participant in proceedings has not submitted objections thereto within the term for the submission of proposals and objections.

(4) If the time of a public session is not set out in the notice concerning commencement of proceedings, a summons shall be delivered to a participant in the proceedings at least ten days before the session pursuant to the procedure provided for in Subchapter 7 of Chapter 1 of this Act. If open procedure is prescribed by an Act or regulation, an administrative authority may require witnesses to participate in the session.

Part 2

SPECIAL PART

Chapter 4
ADMINISTRATIVE ACT

Subchapter 1
General Provisions

§ 51. Definition of administrative decision

(1) An administrative decision is an order, resolution, precept, directive or other legal act which is issued by an administrative authority upon performance of administrative functions in order to regulate individual cases in public law relationships and which is directed at the creation, alteration or extinguishment of the rights and obligation of persons.

(2) A general order is an administrative decision which is directed at persons determined on the basis of general characteristics or at changing the public law status of things.

§ 52. Partial and preliminary administrative decision

(1) Before final adjudication of a matter, an administrative authority may:
1) adjudicate the matter partially (partial administrative decision);
2) ascertain in a legally binding manner the circumstances essential for final adjudication of the matter (preliminary administrative decision).

(2) The provisions concerning administrative decisions apply to partial and preliminary administrative decisions.

§ 53. Secondary condition of administrative decision

(1) The secondary conditions of an administrative decision are:
1) restriction of the validity of the administrative decision based on an established due date or an event that may take place in the future;
2) an additional duty related to the principal regulation of the administrative decision;
3) a supplementary condition for the creation of a right arising from the principal regulation of the administrative decision;
4) provision of an opportunity for later amendment or repeal of the administrative decision or imposition of a secondary condition.

(2) A secondary condition may be imposed on an administrative decision:
1) in the cases provided by an Act or regulation;
2) if the administrative decision cannot be issued without the secondary condition;
3) if issue of the administrative decision must be resolved on the basis of the administrative right of discretion.

(3) If an administrative decision becomes unlawful after a secondary condition expires, the administrative authority shall promptly repeal the administrative decision or establish a new secondary condition.

Subchapter 2
Lawfulness of Administrative Act

§ 54. Prerequisites for lawfulness of administrative decision

An administrative decision is lawful if it is issued by a competent administrative authority pursuant to legislation in force at the moment of the issue, is in accordance with the legislation in force, is proportional, does not abuse discretion, and is in compliance with the requirements for formal validity.

§ 55. Form of administrative decision

(1) An administrative decision shall be clear and unambiguous.

(2) An administrative decision shall be issued in writing, unless otherwise provided by an Act or regulation. An administrative decision may be issued in any other form if it is necessary to issue an order which allows no postponement. At the request of a person with legitimate interest, an administrative decision issued in other form than written shall be subsequently prepared in writing without delay.

(3) An administrative decision in writing may be issued in electronic form. The requirements set for written administrative decisions apply to electronic administrative decisions, taking into account the specifications arising from the electronic form of documents.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

(4) A written administrative decision shall set out the name of the administrative authority which issued it, the name and signature of the head of the administrative authority or a person authorised thereby, the time of issue of the administrative decision and other information prescribed by a legal act. A digital signature need not be added to an electronic administrative decision if the head of an administrative authority or a person authorised thereby can be identified in a secure manner.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

(5) A certificate issued with regard to issue of an administrative decision is not an administrative decision.

§ 56. Reasoning of administrative decision

(1) Written reasoning shall be provided for the issue of a written administrative decision and refusal to issue an alleviating administrative decision. The reasoning for the issue of an administrative decision shall be included in the administrative decision or in a document accessible by participants in proceedings and the administrative decision shall contain a reference to the document.

(2) The reasoning for the issue of an administrative decision shall set out the factual and legal basis for the issue.

(3) The reasoning for the issue of an administrative decision issued on the basis of the right of discretion shall set out the considerations from which the administrative authority has proceeded upon issue of the administrative decision.

(4) A reasoning need not set out the factual basis for issue of an administrative decision if the application of the addressee of the administrative decision is satisfied and the rights and freedoms of third persons are not restricted.

§ 57. Reference to challenge

(1) An administrative decision shall contain a reference to the possibilities and place of and term and procedure for the challenging of the administrative decision.

(2) Absence of a reference to challenge does not affect the validity of an administrative decision or alter a term for challenging thereof, or bring about other legal consequences.

(3) Absence of a reference to challenge may be deemed to be a good reason for allowing the term for challenging to expire, if the term is allowed to expire due to absence of a reference to challenge.

§ 58. Consequences of violation of procedural requirements and requirements for formal validity

Repeal of an administrative decision cannot be demanded solely for the reason that procedural requirements are violated upon issue of the administrative decision or the administrative decision does not comply with the requirements for formal validity if the above-mentioned violations cannot affect the resolution of the matter.

§ 59. Correction of obvious inaccuracies in administrative decisions

An administrative authority shall correct spelling mistakes and other obvious inaccuracies which do not affect the content of the administrative decision without observing the procedure prescribed for the amendment of administrative decisions by law. The administrative authority shall notify the addressee of the administrative decision of correction of the administrative decision.

Subchapter 3
Validity of Administrative Act

§ 60. Content of validity

(1) Only a valid administrative decision creates legal consequences and is mandatory for execution.

(2) The resolution contained in a valid administrative decision is mandatory for everyone, including administrative and state authorities. The resolution contained in an administrative decision is a part

which contains the rights and obligations determined by the administrative decision. The other parts of an administrative decision, including circumstances identified in the reasoning of the administrative decision, have independent legal meaning only in the cases provided by law.

§ 61. Prerequisites for validity

(1) An administrative decision is in force as of notification thereof or delivery to the addressee, unless a later entry into force is prescribed in the administrative decision. Unless otherwise provided by law, an administrative decision which is made public enters into force on the tenth day after it is made public.

(2) An administrative decision is valid until repeal thereof, expiry of its validity or the final execution of the right or obligation granted by the administrative decision, unless otherwise provided by law.

§ 62. Notification of administrative decision or refusal to issue administrative decision

(1) Participants in proceedings shall be notified of an administrative decision in a freely chosen form, unless otherwise provided by an Act or regulation.

(2) The following persons shall be notified of an administrative decision by delivery pursuant to the procedure provided for in Subchapter 7 of Chapter 1 of this Act:
1) persons whose rights are restricted by the administrative decision or to whom additional duties are imposed by the administrative decision;
2) persons against whose interests an earlier administrative decision is repealed or amended.

(3) An administrative authority shall make an administrative decision public:
1) in the cases provided for in clauses 1 and 2 of subsection 1 of § 31 of this Act;
2) if so demanded by a person with legitimate interest;
3) if making of the administrative decision public is prescribed by an Act or regulation.

(4) In the case provided for in clause 2 of subsection 3 of this section, a person who demands making of an administrative decision public shall bear the related costs.

(5) A person whose application for issue of an administrative decision is not satisfied is notified of refusal to issue the administrative decision by delivery.

(6) Upon making of an administrative decision public, the name of the administrative authority which issued the administrative decision, the name of the addressee of the administrative decision, the resolution contained in the administrative decision and a reference to the possibilities to examine the whole administrative decision shall be published.

§ 63. Void administrative decision

(1) A void administrative decision is invalid from inception.

(2) An administrative decision is void if:
1) it does not specify the administrative authority which issued the administrative decision;
2) it does not specify the addressee of the administrative decision;
3) it has not been issued by a competent administrative authority;
4) it requires commission of an offence;
5) the rights and obligations are not specified therein, if obligations are contradictory or the administrative decision cannot be complied with for other objective reasons.

(3) If a part of an administrative decision is void, the whole administrative decision shall be void if the administrative decision had not been issued without the part which is void.

(4) An authority which issued an administrative decision may ascertain voidness of the administrative decision at any time. A person who has legitimate interest therein may demand ascertaining of voidness of the administrative decision from the administrative authority and an administrative court.

Subchapter 4

Amendment and Repeal of Administrative Act

§ 64. Admissibility of repeal

(1) The provisions of this Subchapter apply to the repeal of administrative decisions by administrative authorities. The provisions concerning repeal also apply to amendment of administrative decisions and suspension of administrative decisions by administrative authorities.

(2) An administrative authority shall resolve the repeal of an administrative decision according to the right of discretion, unless repeal of the administrative decision is prohibited by law or repeal of the administrative decision is required by law.

(3) Upon exercise of the right of discretion, the consequences of issue of an administrative decision and repeal of an administrative decision for a person, the completeness of the proceedings for issue of the administrative decision, significance of the reasons for repeal of the administrative decision and the relation thereof with the participation of a person in proceedings for issue of the administrative decision and with the other activities of the person, the time which has passed after issue of the administrative decision and other relevant facts shall be taken into account.

(4) Repeal of an administrative decision in favour of one person and to the detriment of another person shall be based on the provisions regulating repeal of administrative decisions to the detriment of persons.

§ 65. Repeal in favour of person

(1) An administrative decision which was unlawful at the moment of issue may be repealed in favour of a person both proactively and retroactively.

(2) A lawful administrative decision may be repealed proactively in favour of a person, except if an administrative decision with the same content has to be reissued or if repeal is contrary to law.

(3) If the basis for issue of an administrative decision which permanently restricts rights no longer exists due to changes in legal or factual circumstances, the administrative decision shall be repealed at the request of a person as of the moment when changes in the circumstances took place.

§ 66. Repeal to detriment of person

(1) Taking into account the provisions of § 67 of this Act, an unlawful administrative decision may be repealed to the detriment of a person both proactively and retroactively unless otherwise provided by law.

(2) An administrative decision which was lawful at the moment of issue may be proactively repealed to the detriment of a person if:
1) this is permitted by law or a possibility for repeal exists in the administrative decision;
2) the administrative authority had the right not to issue the administrative decision due to factual circumstances which changed later or on the basis of a rule of law which is amended afterwards, and public interest that the administrative decision be repealed outweighs the person's certainty that the administrative decision remains in force;
3) an additional duty is related to the administrative decision and the person fails to perform it;
4) the person does not use the money or thing transferred on the basis of the administrative decision for the intended purpose.

(3) An administrative decision which was lawful at the moment of issue may be repealed to the detriment of a person retroactively in the cases provided for in clauses 1, 3 and 4 of subsection 2 of this section.

(4) An administrative decision may be repealed in the case provided for in clause 2 of subsection 2 of this section after changes in circumstances take place if a person against whom the administrative decision is repealed fails to perform the duty to notify of significant changes in the circumstances with guilt.

§ 67. Consideration of certainty

(1) Upon resolution of repeal of an administrative decision to the detriment of a person, the administrative authority shall, in addition to the provisions of subsection 3 of § 64 of this Act, take into account the person's certainty that the administrative decision remains in force, the public interest and the interest of the person encumbered with the administrative decision that the administrative decision be repealed.

(2) An administrative decision shall not be repealed to the detriment of a person if the person, trusting that the administrative decision remains in force, has used the property acquired on the basis of the administrative decision, performed a transaction to dispose of his or her property or changed his or her way of life in any other manner, and his or her interest that the administrative decision remains in force outweighs the public interest that the administrative decision be repealed.

(3) If an administrative decision is repealed to the detriment of a person due to predominant public interest, proprietary damage which is caused or will certainly be caused to the person due to the person's certainty in the administrative decision shall be compensated for to the person.

(4) A person cannot rely on certainty on repeal of an administrative decision if:
1) the term for filing of actions with an administrative court for repeal of the administrative decision has not yet expired; and also during the hearing of the action for repeal of the administrative decision;
2) the possibility for repeal is prescribed by law or a possibility for repeal exists in the administrative decision;
3) the person does no perform the additional duties related to the administrative decision;
4) the person does not use the money or thing transferred on the basis of the administrative decision for the intended purpose;
5) the person was aware of the unlawfulness of the administrative decision or was unaware thereof due to his or her own fault;
6) the administrative decision is issued on the basis of false or incomplete information submitted by the person, or by deceit or threat, or as a result of exercise of unlawful influence on the administrative authority in any other manner.

(5) Submission of false information does not preclude consideration of certainty if submission of false or incomplete information is caused by an administrative authority and the person was not and need not have been aware of the unlawfulness of the administrative decision.

§ 68. Application for and resolution of repeal

(1) A person has the right to apply for the repeal of an administrative decision only if the person may apply for the resumption of administrative proceedings pursuant to § 44 of this Act.

(2) Repeal of an administrative decision shall be resolved by an administrative authority whose competence would include issue of the administrative decision at the time of repeal. Any other administrative authority may repeal the administrative decision only in the cases provided by law. An administrative decision issued exceeding competence may be repealed by the administrative authority which issued the administrative decision.

(3) An administrative decision is deemed to be invalid as of the moment when its repeal enters into force unless the administrative authority prescribes another time.

§ 69. Return and compensation arising from repeal

(1) Things, money and other benefits transferred to a person on the basis of an administrative decision which is repealed retroactively shall be returned or compensated for according to the private law provisions concerning unjust enrichment.

(2) The State Liability Act applies to the return of and compensation for things and money transferred by a person to an administrative authority on the basis of an administrative decision which is repealed retroactively.

§ 70. Other requirements

(1) An administrative decision shall be repealed by an independent administrative decision to which also other requirements applicable to administrative decisions apply in addition to the provisions of this Subchapter.

(2) In comparison with the provisions of this Subchapter, the bases for the repeal of administrative decisions may be restricted or expanded by law.

Chapter 5
CHALLENGE PROCEEDINGS

Subchapter 1
General Provisions

§ 71. Right to commence challenge proceedings

(1) A person who finds that his or her rights are violated or his or her freedoms are restricted by an administrative decision or in the course of administrative proceedings may file a challenge.

(2) A challenge cannot be filed against an act or measure of an administrative authority over which the Government of the Republic exercises supervisory control.

[RT I 2002, 61, 375 – entry into force 01.08.2002]

§ 72. Object of challenge proceedings

(1) The following may be applied for by way of challenge proceedings:
[RT I, 23.02.2011, 3 – entry into force 01.01.2012]
1) repeal of an administrative decision;
2) repeal of a part of an administrative decision unless partial challenge of the administrative decision is restricted by law;
3) issue of a precept for the issue of an administrative decision, new resolution of a matter or taking a measure.

(2) An act performed in the course of an administrative proceeding shall be challenged together with the administrative decision (formal resolution).

(3) The following may be challenged separately from an administrative decision:
1) delay;
2) omission;
3) refusal to remove an official;
4) return of an application for issue of the administrative decision;
5) other acts provided by law.

§ 73. Jurisdiction

(1) Unless different jurisdiction is provided by law, a challenge shall be filed through the administrative authority which issued the challenged administrative decision or took the challenged measure with an administrative authority which exercises supervisory control over the administrative authority which issued the challenged administrative decision or took the challenged measure.

(2) If no authority exercises supervisory control over an administrative authority which issued an administrative decision or took a measure, a challenge shall be adjudicated by the administrative authority which issued the administrative decision or took the measure.

(3) If supervisory control is exercised over an administrative authority by a minister, a challenge shall be adjudicated by the administrative authority which issued the administrative decision or took the measure, unless otherwise provided by law.
[RT I 2002, 61, 375 – entry into force 01.08.2002]

Subchapter 2
Commencement of Challenge Proceedings

§ 74. Commencement of challenge proceedings

Challenge proceedings commence when a person files a challenge with an administrative authority.

§ 75. Term for filing of challenge

Unless otherwise provided by law, a challenge concerning an administrative decision or measure shall be filed within thirty days as of the day when a person becomes or should become aware of the challenged administrative decision or measure.

§ 76. Requirements for challenges

(1) A challenge shall be filed in writing or orally. If a challenge is filed orally, minutes shall be taken of the challenge in the administrative authority and the challenge shall be signed by the person filing it.

(2) A challenge shall set out:
1) the name of the administrative authority with which the challenge is filed;
2) the name, postal address and telecommunications numbers of the person filing the challenge;
3) the content of the challenged administrative decision or measure;
4) the reasons why the person filing the challenge finds that the administrative decision or measure violates the rights of the person;
5) the clearly expressed claim of the person filing the challenge;
[RT I, 23.02.2011, 3 – entry into force 01.01.2012]
6) certification by the person filing the challenge that no judgment has entered into force and no court proceedings are being conducted concerning the matter subject to the challenge;
7) a list of documents annexed to the challenge.

(3) A challenge shall be signed by the person filing the challenge or by the representative of such person. The representative of the person filing a challenge shall append the authorisation document or any other document certifying authorisation unless such document has been submitted before. A digital signature need not be added

to a challenge if the challenge has been filed by an electronic channel, and the administrative authority has identified the person who filed the challenge in a secure manner.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

§ 77. Restoration of term for filing of challenge

The term for filing of a challenge may be restored on the conditions provided for in § 34 of this Act.

Subchapter 3
Preparatory Proceedings

§ 78. Deficiencies in challenge

If a challenge does not comply with the requirements provided for in § 76 of this Act, an administrative authority shall assist the person filing the challenge in eliminating the deficiencies or grant a term of ten days to such person for elimination of the deficiencies.

§ 79. Return of challenge

(1) A challenge shall be returned if:
1) the person does not have the right to file the challenge;
2) the person filing the challenge has failed to eliminate the deficiencies in the challenge within the designated term;
3) the term for filing the challenge has expired and is not restored;
4) a court judgment has entered into force concerning the same matter;
5) judicial proceedings are being conducted concerning the same matter.

(2) If review of a challenge is not within the competence of an administrative authority, the administrative authority shall return the challenge and explain where the person has recourse, or shall deliver the challenge to the competent administrative authority and notify the person who filed the challenge of such delivery.

(3) A person shall be notified of the return of a challenge within seven days after the challenge is filed. The notice shall reason the return of the challenge and explain the procedure for appeal.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

§ 80. Delivery of challenge

(1) If a challenge complies with the requirements provided for in this Act, an administrative authority shall deliver the challenge together with the necessary documents within seven days as of receipt of the challenge to the administrative authority which exercises supervisory control over the administrative authority which issued the challenged administrative decision or took the challenged measure.

(2) If an administrative authority which issued a challenged administrative decision or took a challenged measure finds that the challenge against it is reasoned, the challenge may be satisfied by the authority.

§ 81. Suspension of execution of administrative decision

An administrative authority adjudicating a challenge may suspend execution of an administrative decision if this is necessary for the protection of public interest or for the protection of the rights of the addressee of the administrative decision or of a third person.

§ 82. Preparations for review of challenge

An administrative authority which reviews a challenge shall:
1) request the corresponding administrative authority to submit documents concerning the administrative decision, if necessary;
2) conduct on-the-spot visit of inspection, if necessary;
3) use an expert, if necessary;
4) require written explanations from the administrative authority which issued the challenged administrative decision, if necessary;
5) hear the explanations of interested persons;
6) resolve issues concerning suspension of execution of the administrative decision;
7) notify a person filing a challenge and other interested persons of the time and place of the hearing of the matter;
8) perform other acts provided by law.

Subchapter 4
Review of Challenge

§ 83. Review of challenge

(1) Upon review of a challenge, the lawfulness and purposefulness of the issue of the administrative decision shall be verified.

(2) Upon review of a challenge, documentary evidence shall be examined and explanations of interested persons, opinions of experts and testimonies of witnesses shall be heard, also physical evidence shall be inspected and on-the-spot visits of inspection shall be carried out.

§ 84. Term for review of challenge

(1) Unless otherwise provided by law, a challenge shall be adjudicated within ten days after the challenge is delivered to the administrative authority which reviews the challenge.

(2) If a challenge needs to be further examined, an administrative authority which reviews the challenge may extend a term for review of the challenge by up to thirty days. A notice concerning extension of the term shall be forwarded to the person who filed the challenge.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

§ 85. Authorities of administrative authority upon review of challenge

Upon adjudication of the matter on the merits of a challenge, an administrative authority has the right, by its decision, to:
1) satisfy the challenge and repeal an administrative decision either wholly or partially and eliminate the factual consequences of the administrative decision;
2) issue a precept for issue of an administrative decision, for taking a measure or for new resolution of a matter;
3) issue a precept for reversal of a measure;
4) dismiss the challenge.

§ 86. Decision on challenge

(1) A decision on a challenge shall be prepared in writing and shall indicate the resolution concerning adjudication of the challenge. A decision on a challenge shall be delivered to the person who filed the challenge and to third persons.

(2) Upon dismissal of a challenge, a decision on a challenge shall, in addition to the requirements provided for in subsection 1 of this section, be reasoned and contain an explanation concerning filing of appeals with an administrative court.

(3) An administrative authority shall formalise the return of a challenge according to subsections 1 and 2 of this section.

§ 87. Right to appeal

(1) A person whose challenge is dismissed or whose rights are violated in challenge proceedings has the right to file an appeal with an administrative court under the conditions and pursuant to the procedure provided by the Code of Administrative Court Procedure.

(2) The annulment of a decision on a challenge may be requested in an appeal filed with an administrative court:
1) together with the claim which was partially or completely dismissed by the decision on a challenge, or
2) irrespective of filing the claim specified in clause 1 of this subsection if a decision on a challenge violated the rights of the person in any other way than partial or complete dismissal of the challenge.
[RT I, 23.02.2011, 3 – entry into force 01.01.2012]

Chapter 6
REGULATION

§ 88. Regulation

A regulation is a legal act which is issued by an administrative authority for regulating an unrestricted number of cases.

§ 89. Lawfulness of regulation

(1) A regulation is lawful if it is in accordance with currently valid legislation, complies with the requirements for formal validity and is issued by the administrative authority specified in the provision delegating authority pursuant to the procedure prescribed by law.

(2) The provisions of Part 1 of this Act do not apply to the issue of regulations, except for the provisions of Subchapters 1 and 2 of Chapter 1 and the provisions of Chapter 3.

§ 90. Provision delegating authority

(1) A regulation may be issued only upon existence of a provision delegating authority which is set out in an Act, and in accordance with the limits, concept and objective of the provision delegating authority.

(2) A local government body may issue a regulation in order to organise local issues without a provision delegating authority, except in the cases where a provision delegating authority is prescribed by law.

(3) Subsection 1 of this section does not apply if an administrative authority repeals a regulation issued without a provision delegating authority.

§ 91. Delegation of authorisation

(1) An administrative authority which is authorised to issue a regulation may delegate the issue of the regulation to another administrative authority only if such possibility is prescribed in the provision delegating authority.

(2) If resolution of a matter is placed within the competence of a local government by law, then in each specific case the rural municipality or city council may delegate the issue of a regulation to the rural municipality or city government, if the matter is not placed within the exclusive competence of a rural municipality or city council by law.

§ 92. Form of regulation

(1) A regulation shall be issued in writing. A regulation in writing may be issued in electronic form. The requirements set for regulations apply to electronic regulations, taking into account the specifications arising from the electronic form of documents.
[RT I, 28.12.2017, 2 – entry into force 01.02.2018]

(2) A regulation shall refer to a provision delegating authority which is the basis for issue of the regulation. If a regulation is issued by an administrative authority on the basis of delegation of authorisation, the delegation of authority shall also be referred to. This requirement does not apply to the repeal of regulations issued without provisions delegating authority.

(3) A regulation shall set out the name of the administrative authority which issued it, the date of issue of the regulation and the number of the regulation. A regulation shall have a title.

(4) A regulation which amends or repeals a regulation shall also indicate the title and number of the regulation to be amended or repealed, the date of issue and a publication citation of such regulation.

(5) A regulation shall be signed and published pursuant to the procedure prescribed by law.

§ 93. Conditions for validity of regulation

(1) A regulation is valid until it is repealed by an administrative authority or the Supreme Court, or until expiry, or until repeal of the provision delegating authority.

(2) A regulation is valid as of (enters into force on) the third day after publication according to the currently valid procedure, unless a later date is provided by an Act or the regulation itself. In the cases prescribed by law, regulations enter into force earlier than provided for in this subsection.

(3) If a regulation is issued on the basis of a provision delegating authority included in an Act which is proclaimed by the President of the Republic but has not yet entered into force, the regulation does not enter into force before entry into force of the Act.

§ 94. Void regulation

(1) If a regulation is void, it is deemed never to have been valid.

(2) A regulation is void if:

1) it has not been published pursuant to the currently valid procedure;
2) the regulation does not set out the administrative authority which issued it.

(3) A void regulation shall not be applied.

Chapter 7
CONTRACT UNDER PUBLIC LAW

§ 95. Definition of administrative contract

An administrative contract is an agreement which regulates administrative law relationships. Administrative contracts may be entered into to regulate individual cases or an unlimited number of cases.

§ 96. Parties to administrative contract

(1) At least one party to an administrative contract shall be the state, a local government, another legal person in public law, legal person in private law or a natural person who performs public administration duties pursuant to law.

(2) An administrative authority whose competence includes the performance of the duty which is the object of an administrative contract shall enter into such contract on behalf of the state or a local government.
[RT I 2002, 61, 375 – entry into force 01.08.2002]

§ 97. Admissibility of entry into administrative contract

(1) In order to regulate an unlimited number of cases, an administrative contract may be entered into only on the basis of a provision delegating authority contained in an Act.

(2) An administrative authority may enter into an administrative contract only within the limits of its competence. An administrative authority may not undertake obligations by an administrative contract which exceed its competence.

§ 98. Entry into administrative contract instead of issue of administrative decision

(1) In order to regulate an individual case, instead of issue of an administrative decision, an administrative authority may enter into an administrative contract with a person at whom the administrative decision would have been otherwise directed, unless only issue of an administrative decision is prescribed by an Act or regulation.

(2) Obligations imposed on a person by an administrative contract entered into instead of issue of an administrative decision shall be in accordance with the objective of the contract and the obligations of the administrative authority arising from the contract.

§ 99. Entry into administrative contract

(1) The provisions of Part 1 of this Act apply to entry into an administrative contract for regulating an individual case in so far as it is not in conflict with the nature of the administrative contract.

(2) In order to regulate an unlimited number of cases, an administrative contract shall be entered into pursuant to the procedure prescribed for entry into civil law contracts.

(3) Administrative contracts shall be entered into in writing.

§ 100. Lawfulness of administrative contract

An administrative contract is lawful if it complies with the requirements provided for in §§ 54–57 or §§ 89–91 and subsection 2 of § 92 of this Act. The specified requirements apply to an administrative contract in so far as they are not in conflict with the nature of the administrative contract.

§ 101. Entry into force of administrative contract

(1) An administrative contract which regulates an individual case enters into force pursuant to the procedure prescribed for entry into force of civil law contracts.

(2) If an administrative contract provided for in subsection 1 of this section restricts the rights of a third person, the contract enters into force only after the third person grants a corresponding written consent thereto.

(3) If an administrative contract is entered into instead of issue of an administrative decision to be issued with the consent of another administrative authority, the administrative decision shall not enter into force before the other administrative authority grants consent thereto.

(4) An administrative contract which regulates an unlimited number of cases enters into force pursuant to the procedure prescribed for entry into force of regulations.

§ 102. Amendment and termination of administrative contracts

(1) An administrative contract shall be amended or terminated pursuant to the procedure provided by civil law, taking into account the specifications established in this section.

(2) An administrative authority may unilaterally amend an administrative contract or terminate an administrative contract if this is absolutely necessary in order to avoid severe damage to predominant public interest.

(3) Upon amendment or termination of an administrative contract in the case specified in subsection 2 of this section, an administrative authority shall reason the amendment or termination of the administrative contract. Upon amendment or termination of an administrative contract, an administrative authority shall compensate for the proprietary damage caused thereby to the other party to the contract.

(4) If performance of an administrative contract becomes considerably more difficult after entry thereinto, the party having difficulties who is not specified in subsection 2 of this section may require amendment of the administrative contract according to the new circumstances. If this is impossible or the other party refuses therefrom, the party having difficulties may file an application for termination of the administrative contract with a court.

§ 103. Void administrative contract

(1) An administrative contract is void:
1) if an administrative decision with the same content is void;
2) upon existence of circumstances rendering the civil law contract void.

(2) The provisions concerning void civil law contracts apply to void administrative contracts.

§ 104. Unlawful administrative contract

(1) An administrative contract which does not conform to the requirements for the lawfulness of administrative contracts but is not void, is valid and shall be performed unless a party to a contract who is an individual was aware of the unlawfulness of the administrative contract upon entry into the administrative contract or the administrative contract was entered into on the basis of false or incomplete information submitted by the individual or as a result of threatening or deceit of the administrative authority or unlawful influence thereto in any other manner.

(2) If an administrative contract is not subject to performance for the reasons specified in subsection 1 of this section, the administrative contract shall be brought into compliance with law or shall be terminated on the basis of a resolution of the administrative authority. Upon termination of the administrative contract, the parties shall return that which is received by the contract, or if this is not possible, shall compensate for that in money.

§ 105. Other provisions applied to administrative contracts

(1) The provisions concerning civil law contracts apply to administrative contracts, taking into account the specifications established by this Act.

(2) In addition to the provisions of subsection 1 of this section, the requirements of the Administrative Co-operation Act apply to administrative contracts for the grant of authority to perform administrative duties of the state or a local government.
[RT I 2003, 20, 117 – entry into force 01.07.2003]

Chapter 8
MEASURE

§ 106. Definition of measure

(1) A measure is an act performed by an administrative authority which is not the issue of a legal act and which is not performed in civil law relationships.

(2) The provisions of this Chapter do not apply to procedural acts.

§ 107. Legally binding effect of measure and right of discretion

(1) A measure shall be in accordance with legislation. A measure may restrict rights and freedoms only if there is a legal basis for such restriction.

(2) An administrative authority shall, at its discretion, determine the manner, extent, time and procedure for taking a measure and shall observe the limits of the right of discretion and the principles of equal treatment and proportionality.

§ 108. Reasoning of measure

(1) If a measure violates the rights of a person, the person has the right to require reasoning of the measure in writing.

(2) A request for reasoning of a measure shall be submitted to an administrative authority in writing promptly after a person becomes aware of the measure.

§ 109. Protection of rights

If a measure violates the rights of a person, the person may require an administrative authority or court to cancel or terminate the performance of a measure and to eliminate the consequences of the measure and compensate for the damages pursuant to the State Liability Act, and the person has recourse to an administrative court pursuant to the procedure prescribed in the Code of Administrative Court Procedure to seek protection of his or her rights.

Part 3
IMPLEMENTING PROVISIONS

§ 110.–§ 111.[Omitted from this text.]

§ 112. Entry into force and implementation of Act

(1) This Act enters into force on 1 January 2002.

(2) This Act applies to administrative procedure regulated by a specific Act if so prescribed by the specific Act.