

Issuer:	Riigikogu
Type:	act
In force from:	01.01.2019
In force until:	In force
Translation published:	10.01.2019

Precious Metal Articles Act

Passed 22.01.2003

RT I 2003, 15, 85

Entered into force pursuant to section 58.

Amended by the following acts

Passed	Published	Entry into force
20.11.2003	RT I 2003, 75, 500	15.04.2004
17.12.2003	RT I 2003, 88, 591	01.01.2004
10.03.2004	RT I 2004, 18, 131	15.04.2004
24.01.2007	RT I 2007, 12, 66	01.01.2008
22.11.2007	RT I 2007, 66, 408	01.01.2008
20.12.2007	RT I 2008, 3, 23	15.04.2008
26.11.2009	RT I 2009, 62, 405	01.01.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date determined by the Decision of the Council of the European Union on abrogation of a derogation established in respect of the Republic of Estonia on the basis of Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision No. 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, pp. 24–26).
20.05.2010	RT I 2010, 31, 158	01.10.2010
23.02.2011	RT I, 25.03.2011, 1	01.01.2014; date of entry into force amended 01.07.2014 [RT I, 22.12.2013, 1]
05.12.2013	RT I, 22.12.2013, 1	01.01.2014
19.02.2014	RT I, 13.03.2014, 4	01.07.2014, in part 23.03.2014
05.06.2014	RT I, 29.06.2014, 1	01.07.2014
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, titles of ministers replaced on the basis of § 107 ³ (4) of the Government of the Republic Act
21.11.2018	RT I, 12.12.2018, 3	01.01.2019

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application of Act

(1) This Act provides for the requirements for the handling of articles of precious metal and for the determining and assaying of fineness of precious metal, organisation of supervision over compliance with this Act, and liability for violation of this Act.

(2) The provisions of this Act do not apply to:

- 1) precious metals, products containing precious metals or articles of precious metal used for the needs of manufacture, science and medicine;
 - 2) materials used for the manufacture of articles of precious metal;
 - 3) waste containing precious metals generated upon the manufacture and processing of articles of precious metal and products containing precious metals, and to articles of precious metal which have become unusable;
 - 4) investment gold;
 - 5) legal tender of Estonia and other countries and antiquarian coins and medals which are made of precious metal;
 - 6) badges of honour and decoration as well as sports and culture awards which are made of precious metal;
 - 6¹) articles of precious metal of historical or cultural value;
- [RT I 2008, 3, 23 – entry into force 15.04.2008]
- 7) musical instruments and their parts which are made of precious metal;
 - 8) the export of articles of precious metal;
 - 9) the import of such articles of precious metal which a traveller imports for personal use or which are contained in a postal consignment sent from one natural person to another natural person on an occasional basis if, on the basis of the nature and quantity of the articles of precious metal, it is evident that they are intended for the personal or family use of the traveller or the consignee.

(3) The provisions of the Administrative Procedure Act apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

(4) Where the handling of articles of precious metal is governed by the Money Laundering and Terrorist Financing Prevention Act, this Act shall be applied with the specifications arising from the Money Laundering and Terrorist Financing Prevention Act.
[RT I, 29.06.2014 – entry into force 01.07.2014]

§ 2. Definitions

For the purposes of this Act, definitions are used in the following meaning:

- 1) “precious metal” means pure gold, silver, platinum and palladium and their alloys;
- 2) “fineness of precious metal” means a number indicating the content of pure gold, silver, platinum or palladium measured in terms of parts per thousand by weight of alloy of the precious metal;
- 3) “standard of fineness of precious metal” means the fineness of precious metal specified in subsections 4 (2) and (2¹) of this Act;
[RT I 2008, 3, 23 – entry into force 15.04.2008]
- 4) “article of precious metal” means an object which is wholly or partially manufactured from one or several precious metals with at least the minimum standard of fineness permitted in subsections 4 (2) and (2¹) of this Act;
[RT I 2008, 3, 23 – entry into force 15.04.2008]
- 5) “handling” means the manufacture, import, offer for sale and transfer for a charge of articles of precious metal;
- 6) “manufacture” means the manufacture of new articles of precious metal for the purpose of transfer for a charge, and the repair, remaking and restoration of used articles of precious metal;
- 7) “import” means the transportation of articles of precious metal into Estonia in order to make them accessible for the purpose of putting them into service or distribution;
- 8) “offer for sale” means the activity in the course of which the manufacturer, importer, wholesaler or retailer of articles of precious metal offers the articles of precious metal for transfer for a charge;
- 9) “investment gold” means gold, in the form of a bar or a wafer, of a purity equal to or greater than 995 thousandths, and gold coins which are minted after 1800, are or have been legal tender, are of a purity equal to or greater than 900 thousandths and are not sold for numismatic interest;
- 10) “placing on the market” means an activity by which an article of precious metal is made accessible in a State Party to the European Economic Area Agreement or in Turkey for the first time for the purpose of distribution or putting it into service.
[RT I 2008, 3, 23 – entry into force 15.04.2008]

Chapter 2

REQUIREMENTS FOR HANDLING OF ARTICLES OF PRECIOUS METAL

Subchapter 1

General Requirements

§ 3. Notification obligation

[Repealed – RT I, 29.06.2014 – entry into force 01.07.2014]

§ 4. Article of precious metal permitted to be handled

(1) An article may be offered for sale or transferred for a charge as an article of precious metal if the article complies with the requirements of this Act and compulsory marks prescribed by this Act have been affixed to the article.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

(2) The standards of fineness of articles of precious metal are:

- 1) 375, 500, 585, 750, 916 or 999 in the case of articles of gold;
- 2) 800, 830, 925 or 999 in the case of articles of silver;
- 3) 850, 950 or 999 in the case of articles of platinum;
- 4) 500, 950 or 999 in the case of articles of palladium.

(2¹) Articles manufactured in a State Party to the European Economic Area Agreement or in Turkey shall be deemed to be manufactured from precious metal conforming to the standard of fineness if precious metal with the standard of fineness established by the legislation of the country where the articles have been manufactured or placed on the market, or specified in subsection (2) of this section has been used in these articles.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

(3) Precious metal used for the manufacture of an article of precious metal conforms to the standard of fineness if the pure gold, silver, platinum or palladium content thereof is equal to or greater than the standard of fineness.

(4) The non-precious metal parts of an article of precious metal offered for sale or transferred for a charge, except for springs, pins and other details essential in the construction, shall bear a mark “MET” or another mark designating non-precious metals.

(5) [Repealed – RT I 2008, 3, 23 – entry into force 15.04.2008]

§ 5. Articles not permitted to be handled

(1) An article of precious metal is not permitted to be offered for sale or transferred for a charge if:

- 1) precious metal the fineness of which is lower than the standard of fineness indicated by the fineness mark of the article of precious metal has been used for the manufacture of the article of precious metal;
 - 2) [repealed – RT I 2008, 3, 23 – entry into force 15.04.2008]
 - 3) metal has been permanently fused with the article of precious metal by soldering, welding or any other method and the metal, due to its colour, may be considered the same precious metal from which the article of precious metal has been manufactured;
- [RT I 2008, 3, 23 – entry into force 15.04.2008]
- 4) the fineness of the solder used for the manufacture of the article of gold, platinum or palladium is lower than the fineness of precious metal used for the manufacture of the article of precious metal;
 - 5) the article of precious metal is coated with nickel.

(2) The following is not permitted to be marked as articles of precious metal, offered for sale or transferred for a charge:

- 1) articles the pure gold, silver, platinum or palladium content of which is lower than the minimum standard of fineness of precious metal specified in subsection 4 (2) of this Act or the minimum standard of fineness of precious metal permitted by legislation in a State Party to the European Economic Area Agreement or in Turkey;

[RT I 2008, 3, 23 – entry into force 15.04.2008]

- 2) articles manufactured from metal of which less than 50 per cent is the part made of precious metal, except for silverware, watches and other case articles;

- 3) articles covered with precious metal and made of other metal.

Subchapter 2 Marks on Article of Precious Metal

§ 6. Marks used on article of precious metal

(1) Marks used on an article of precious metal are:

- 1) marks without which the article of precious metal may not be offered for sale or transferred for a charge (compulsory marks);
- 2) marks which, in the cases and pursuant to the procedure provided for in this Act, may be affixed to the article of precious metal (voluntary marks);
- 3) marks not regulated by this Act (hereinafter *other marking*).

[RT I 2008, 3, 23 – entry into force 15.04.2008]

(2) Sponsor's marks and fineness marks of undertakings manufacturing articles of precious metal in Estonia (hereinafter *manufacturer*) or undertakings importing articles of precious metal into Estonia (hereinafter *importer*) are compulsory marks.

(3) Control marks and date letters are voluntary marks.

(4) Compulsory marks prescribed by this Act need not be affixed to an article of precious metal marked pursuant to legislation in a State Party to the European Economic Area Agreement or in Turkey with marks having a meaning identical to the one of sponsor's marks and fineness marks.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

(5) Other marking is permitted on an article of precious metal if the marking, due to its shape or location, does not reduce the visibility, legibility or understanding of the meaning of the marks specified in subsections (2) to (4) of this section.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

(6) Compulsory and voluntary marks affixed to an article of precious metal shall be clearly legible and, as for the shape, the marks shall conform to the requirements of this Act and legislation established on the basis thereof and, as for the shape and the manner of wearing, the marks shall conform to the sponsor's mark entered in the state register of sponsor's marks. If compulsory marks prescribed by this Act have not been affixed to an article of precious metal, the marks specified in subsection (4) of this section shall be clearly legible.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

§ 7. Marking with compulsory marks

(1) The manufacturer or the importer of an article of precious metal shall ensure that the article of precious metal is marked with compulsory marks.

(2) By marking an article of precious metal with compulsory marks, the compliance of the precious metal used for the manufacture of the article of precious metal with the fineness specified in subsections 4 (2) and (2¹) of this Act is attested and the person responsible for the conformity of the article of precious metal is indicated.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

(3) An article of precious metal is marked with compulsory marks if the article bears:

- 1) the sponsor's mark and fineness mark of the manufacturer or the importer or
- 2) the combined sponsor's mark and fineness mark of the manufacturer or the importer (hereinafter *combined sponsor's and fineness mark*).

(4) An article of precious metal to which, due to its small size, both the sponsor's mark and the fineness mark or the combined sponsor's and fineness mark cannot be affixed, may bear only the fineness mark.

(5) The list of articles of precious metal which may be offered for sale or transferred for a charge without compulsory marks because of an already existent marking or because marking is not permitted or purposeful for technical, esthetical or other reasons and the requirements for attestation of the conformity of the fineness marks of precious metal used for the manufacture of the articles included in the list shall be established by the Government of the Republic or, on the authorisation thereof, by the minister responsible for the field by a regulation.

§ 8. Sponsor's mark

(1) A sponsor's mark is a permanent mark affixed to an article of precious metal which indicates the manufacturer or the importer who is responsible for the conformity of the article of precious metal.

(2) A letter, combination of letters or a symbol which is clearly distinguishable from other sponsor's marks and which is entered in the state register of sponsor's marks may be a sponsor's mark.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

(3) A manufacturer or an importer may use the registered trade mark thereof as a sponsor's mark if the mark complies with the requirements specified in subsection (2) of this section and has been entered in the state register of sponsor's marks.

(4) An importer may register, within the meaning of the sponsor's mark of the importer, the sponsor's mark of the undertaking which manufactured the imported article of precious metal (hereinafter *sponsor's mark of the importer*) if the undertaking has granted the written consent thereof for entry of the sponsor's mark in the state register of sponsor's marks in such manner.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

§ 9. Fineness mark

(1) A fineness mark is a permanent mark affixed to an article of precious metal which indicates the precious metal used for the manufacture of the article of precious metal and its standard of fineness.

(2) The shape of fineness marks is different for different precious metals. The shape of fineness marks and combined sponsor's and fineness marks and the procedure for the marking of articles of precious metal with sponsor's marks and fineness marks or with combined sponsor's and fineness marks shall be established by the Government of the Republic or, on the authorisation thereof, by the minister responsible for the field by a regulation.

§ 10. Control mark

(1) A control mark is a permanent mark affixed to an article of precious metal by which a company operating in the field of attestation of the conformity of precious metal fineness marks to the standard (hereinafter *precious metal assayer*) attests that the fineness of precious metal used for the manufacture of the article of precious metal conforms to the standard.

(2) A control mark is the Estonian assay mark. A mark with the image of the lion passant guardant in an oval hollow is a control mark.

(3) A control mark is deemed to be affixed to an article of precious metal if the article bears:

- 1) a control mark; or
- 2) a control mark together with a fineness mark (hereinafter *combined fineness and control mark*).

(3¹) A control mark is deemed to be affixed to an article of precious metal if in a State Party to the European Economic Area Agreement or in Turkey a control mark of the relevant country is affixed on the article by a duly authorised independent person and negative error of the standard of fineness is not permitted in that country. [RT I 2008, 3, 23 – entry into force 15.04.2008]

(4) The procedure for the analyses and marking with control marks of articles of precious metal shall be established by the Government of the Republic or, on the authorisation thereof, by the minister responsible for the field by a regulation.

§ 11. Date letter

(1) A date letter is a permanent mark affixed to an article of precious metal which indicates the year of manufacture of the article of precious metal.

(2) Capital letters of the Estonian alphabet in the alphabetical order are date letters. Date letters shall be established by the Government of the Republic or, on the authorisation thereof, by the minister responsible for the field by a regulation.

(3) [Repealed – RT I 2008, 3, 23 – entry into force 15.04.2008]

Subchapter 3 State Register of Sponsor's Marks

§ 12. General principles of operation of state register of sponsor's marks

(1) The purpose of the state register of sponsor's marks is to:

- 1) preserve data concerning the sponsor's marks of manufacturers and importers;
 - 2) enable processing of data concerning sponsor's marks entered in the register;
 - 3) preserve sample imprints and comparison imprints of the sponsor's marks submitted to the register;
 - 4) enable the comparison of sponsor's marks affixed to articles of precious metal with sample imprints and comparison imprints of the sponsor's marks maintained in the register.
- [RT I 2008, 3, 23 – entry into force 15.04.2008]

(2) The state register of sponsor's marks shall be established, the statutes for maintenance of the register shall be established, and the controller and processor of the register shall be appointed by the Government of the Republic pursuant to the procedure provided for in the Public Information Act.

§ 13. Registration application

An undertaking who wishes to enter its sponsor's mark in the state register of sponsor's marks shall submit to the processor of the state register of sponsor's marks a written application which shall set out:

- 1) an application for the registration of the sponsor's mark;
- 2) a magnified image of the sponsor's mark on paper on a scale of 20:1.

§ 14. Application for registration of sponsor's mark

- (1) An application for the registration of a sponsor's mark shall contain the following information:
- 1) the name and registry code of the undertaking, the name of the corresponding register, and the address and other contact details of the undertaking;
 - 2) the clearly worded content of the application;
 - 3) the date of submission of the application, and signature;
 - 4) the name, official title and contact details of the person who signed the application.
- (2) An undertaking who submits a registration application shall be liable for the correctness of the information submitted thereby to the state register of sponsor's marks.

§ 15. Register entry

- (1) A register entry shall be made in the state register of sponsor's marks on the basis of a registration application submitted by an undertaking on the condition that:
- 1) the application for the registration of a sponsor's mark complies with the requirements;
 - 2) the design of the sponsor's mark of the undertaking which submitted the registration application is clearly distinguishable from other sponsor's marks entered in the register;
 - 3) the undertaking which submitted the registration application has paid the state fee; and
 - 4) sample imprints of a sponsor's mark which have been stuck on a metal plate pursuant to the characteristics provided for in the statutes of the state register of sponsor's marks have been submitted.
- [RT I 2008, 3, 23 – entry into force 15.04.2008]

(2) If the requirements specified in clauses (1) 1) to 3) of this section are fulfilled, the processor of the state register of sponsor's marks shall communicate to the undertaking which submitted a registration application a corresponding notice by post or by electronic means within five working days after the receipt of the application, and shall grant a period of time of no less than one month for the submission of sample imprints of the sponsor's mark. If a requirement specified in clause (1) 1), 2) or 3) is not fulfilled, the processor of the register shall designate a period of time of no less than two weeks for the undertaking to eliminate the deficiencies.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

(3) If the state fee is paid, a register entry shall be made within two working days after the receipt of the sample imprints specified in clause (1) 4) of this section.

- (4) Information to be entered in the state register of sponsor's marks (hereinafter *registration information*) is:
- 1) the registration number;
 - 2) the registration date;
 - 3) the name and registry code of the undertaking, the name of the corresponding register, and the address and other contact details of the undertaking;
 - 4) the image of the registered sponsor's mark on a scale of 20:1.

(5) Sample imprints of registered sponsor's marks which are stuck on a metal plate pursuant to the characteristics provided for in the statutes of the state register of sponsor's marks shall be entered in the collection of objects of the state register of sponsor's marks.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

(6) A notice of registration shall be forwarded by post or by electronic means to the undertaking which submitted a registration application no later than on the working day following the date of making the register entry.

(7) The registration information specified in subsection (4) of this section shall be published on the website of the state register of sponsor's marks.

(8) The processor of the state register of sponsor's marks shall make official extracts from the registration information regarding an undertaking if the undertaking so requests.

§ 16. Refusal to register

- (1) Registration shall be refused if:
- 1) an application for the registration of a sponsor's mark does not comply with the requirements and the period of time designated for the elimination of deficiencies therein has expired;
 - 2) the design of a sponsor's mark of the undertaking which submitted a registration application is identical with or confusingly similar to a sponsor's mark already entered in the state register of sponsor's marks and the period of time designated for the elimination of deficiencies therein has expired;
 - 3) the undertaking which submitted a registration application has not paid the state fee;
 - 4) the undertaking which submitted a registration application has not submitted sample imprints of the sponsor's mark of the undertaking within the period of time granted to the undertaking.

(2) A reasoned notice concerning refusal to register shall be sent by post or by electronic means to the undertaking which submitted the registration application no later than on the working day following the date of making the decision to refuse registration.

§ 17. Registration application of sponsor's mark of importer

[RT I 2008, 3, 23 – entry into force 15.04.2008]

(1) In the case provided for in subsection 8 (4) of this Act, an importer shall submit to the processor of the state register of sponsor's marks an application which shall set out:

1) an application for the registration of the sponsor's mark of the importer;

[RT I 2008, 3, 23 – entry into force 15.04.2008]

2) a magnified image of the sponsor's mark of the manufacturer of imported articles of precious metal on paper on a scale of 20:1;

3) a document certifying that the manufacturer of imported articles of precious metal agrees to the entry of the sponsor's mark thereof in the state register of sponsor's marks as a sponsor's mark of the importer.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

(2) An application for the registration of a sponsor's mark of an importer shall set out the following information:

1) the name and registry code of the importer, the name of the corresponding register, and the address and other contact details of the importer;

2) the clearly worded content of the application;

3) the name of the holder of the sponsor's mark;

4) the date of submission of the application, and signature;

5) the name, official title and contact details of the person who signed the application.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

(3) An importer shall submit, together with a registration application, sample imprints of the sponsor's mark of the manufacturer of imported articles of precious metal, which are stuck on a metal plate pursuant to the characteristics provided for in the statutes of the state register of sponsor's marks.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

§ 18. Register entry concerning sponsor's mark of importer

(1) The requirements of sections 15 and 16 of this Act apply to the procedure for registration of a sponsor's mark of an importer, taking account of the specifications provided for in subsections (2) and (3) of this section.

(2) A register entry shall be made concerning the sponsor's mark of an importer in the state register of sponsor's marks on the basis of a registration application submitted by an undertaking on the condition that:

1) the application for the registration of a sponsor's mark complies with the requirements;

2) the undertaking which submitted the registration application has paid the state fee;

3) sample imprints of registered sponsor's marks which are stuck on a metal plate pursuant to the characteristics provided for in the statutes of the state register of sponsor's marks have been submitted.

(3) In addition to the information specified in subsection 15 (4) of this Act, the name of the holder of the sponsor's mark shall be entered in the state register of sponsor's marks concerning the sponsor's mark of an importer.

(4) The registration of the sponsor's mark of an importer shall be refused if:

1) an application for the registration of a sponsor's mark does not comply with the requirements and the period of time designated for the elimination of deficiencies therein has expired;

2) the undertaking which submitted a registration application has not paid the state fee;

3) the undertaking which submitted a registration application has not submitted sample imprints of the sponsor's mark of the undertaking within the period of time granted to the undertaking.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

§ 19. Deletion of registration information

(1) Registration information entered in the state register of sponsor's marks shall be deleted:

1) on the basis of an application of an undertaking whose sponsor's mark is entered in the register;

2) if it becomes evident that an undertaking whose sponsor's mark is entered in the register has submitted in the registration application of the undertaking inaccurate information which was relevant to the making of the registration;

3) [repealed – RT I, 29.06.2014 – entry into force 01.07.2014]

4) if the notice specified in subsection 20 (1) and the comparison imprint of the sponsor's mark in the cases prescribed is not submitted within 30 days after the receipt of the notice specified in subsection 20 (2) of this Act.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

(2) A reasoned notice concerning the deletion of registration information shall be communicated to the undertaking whose sponsor's mark had been entered in the register by post or by electronic means no later than on the working day following the date of deletion of the registration information.

[RT I, 29.06.2014 – entry into force 01.07.2014]

(3) The processor of the state register of sponsor's marks shall preserve the registration information concerning sponsor's marks deleted from the register on its webpage with a notation “*Registrist kustutatud*” [“Deleted from the register”] within three years after the date of deletion of the registration information.

§ 20. Obligation to confirm validity of registration

(1) By 15 April each year, a person whose sponsor's mark is entered in the register is required to notify the processor of the register of the wish to preserve the registration of the sponsor's mark in the register if more than four months have passed since the entry of the sponsor's mark in the state register of sponsor's marks. The person shall submit comparison imprints of his or her sponsor's mark which are stuck on a metal plate to the processor of the state register of sponsor's marks together with the notice. Comparison imprints need not be submitted concerning the sponsor's mark of an importer.

(2) If the person specified in subsection (1) of this section fails to perform the obligation provided for in subsection (1), the processor of the register shall immediately inform the person of non-performance of the obligation.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

Subchapter 4 Import of Articles of Precious Metal

[RT I, 29.06.2014, 1 - entry into force 01.07.2014]

§ 21. Right to manufacture and import articles of precious metal

[Repealed – RT I, 29.06.2014 – entry into force 01.07.2014]

§ 22. Registration application

[Repealed – RT I, 29.06.2014 – entry into force 01.07.2014]

§ 23. Registration procedure and registration information

[Repealed – RT I, 29.06.2014 – entry into force 01.07.2014]

§ 23¹. Obligation to preserve information

An importer of articles of precious metal shall have information on who is the holder of the sponsor's mark affixed to the articles of precious metal imported by the importer and in which country is the sponsor's mark registered, and the importer shall submit the information at the request of a state supervisory authority.

[RT I 2008, 3, 23 – entry into force 15.04.2008]

§ 24.–§ 25.[Repealed – RT I 2004, 18, 131 – entry into force 15.04.2004]

Subchapter 5 Retail and Wholesale of Articles of Precious Metal

[RT I 2004, 18, 131 - entry into force 15.04.2004]

§ 26. Right of retail and wholesale of articles of precious metal

[Repealed – RT I, 29.06.2014 – entry into force 01.07.2014]

§ 27. Application to be submitted for obtaining right of retail and wholesale of articles of precious metal

[Repealed – RT I, 29.06.2014 – entry into force 01.07.2014]

§ 28. Registration procedure

[Repealed – RT I, 29.06.2014 – entry into force 01.07.2014]

§ 29.–§ 32.[Repealed – RT I 2004, 18, 131 – entry into force 15.04.2004]

§ 33. Restrictions on retail of articles of precious metal

Retail of articles of precious metal is not permitted:

- 1) on markets;
- 2) in street trading;
- 3) [repealed – RT I 2008, 3, 23 – entry into force 15.04.2008]
- 4) by contracts negotiated away from business premises within the meaning of section 46 of the Law of Obligations Act;
- 5) at public events, except for events where retail of articles of precious metal is appropriate arising from the purpose of the event;
- 6) in stands, except for in stands located in a building.
[RT I 2008, 3, 23 – entry into force 15.04.2008]

§ 34. Requirements for documents and for submission of information upon retail and wholesale of articles of precious metal

(1) Upon retail of articles of precious metal, the seller shall issue to the purchaser a document certifying payment for the article of precious metal, and upon wholesale, an accompanying document which contains at least the following information concerning the article of precious metal:

- 1) the name of the article of precious metal;
- 2) the name and fineness of the precious metal used for the manufacture of the article of precious metal;
- 3) the weight of the article of precious metal.

(2) The minister responsible for the field may establish detailed requirements for the information to be submitted with respect to articles of precious metal upon sale of articles of precious metal.

(3) The requirements established on the basis of subsection (2) of this section may also include requirements for information to be submitted with respect to crystalline or organic substances added to articles of precious metal.
[RT I 2008, 3, 23 – entry into force 15.04.2008]

Subchapter 6 Other Requirements

§ 35. [Repealed – RT I 2008, 3, 23 – entry into force 15.04.2008]

§ 36. Settlement upon import and wholesale of articles of precious metal

Upon import and wholesale of articles of precious metal if the transaction value exceeds 500 euros, payment for articles of precious metal shall be made by way of non-cash settlement.
[RT I, 29.06.2014 – entry into force 01.07.2014]

§ 37. Requirements for presentation of weight of article of precious metal

In the retail and wholesale documentation of an article of precious metal, the weight of the article of precious metal shall be presented to at least one decimal place of grams.
[RT I 2008, 3, 23 – entry into force 15.04.2008]

§ 38. Expert on articles of precious metal

(1) An expert assessment by an expert on articles of precious metal may be conducted in order to ascertain the existence of defects which have occurred upon the use of an article of precious metal for its intended purpose, and to ascertain the reasons for the defects or the compliance and authenticity of the article of precious metal, its parts and the markings.

(2) An expert on articles of precious metal shall be impartial, adhere to the principles of equal treatment and be independent of the manufacturer, importer, seller and consumer of the article of precious metal appraised by the expert.

(3) An expert on articles of precious metal shall be competent and acquainted with the principles of the manufacture of articles of precious metal. The competence of an expert on articles of precious metal is deemed to be proved if:

- 1) the expert is accredited to examine articles of precious metal by an accreditation body specified in clause 40 (2) 8) of this Act;

- 2) the natural person who is an expert is certified for examinations by an undertaking accredited for the certification of personnel; or
- 3) the natural person who is an expert has been employed for no less than 10 years as a jeweller or in a field of activity directly related to the manufacturing technology or examination of articles of precious metal.
- [RT I 2008, 3, 23 – entry into force 15.04.2008]

Chapter 3

ATTESTATION OF CONFORMITY OF PRECIOUS METAL FINENESS TO STANDARD OF FINENESS

§ 39. Attestation of conformity of precious metal fineness to standard of fineness

(1) Attestation of the conformity of a precious metal fineness mark to the standard means proceedings in the course of which a precious metal assayer analyses the precious metal content of the alloy used for the manufacture of the article of precious metal and attests the conformity of the alloy to the standard with a control mark affixed to the article.

(2) The bases for the price formation of services related to attestation of the conformity of a precious metal fineness mark to the standard of fineness shall be objective, transparent and non-discriminatory, and the prices shall be such as to ensure that the justified costs related to attestation of the conformity of a precious metal fineness mark to the standard of fineness are covered and that a reasonable profit is ensured for the precious metal assayer.

§ 40. Precious metal assayer

(1) A precious metal assayer is a company which performs the acts of attestation of the conformity of a precious metal fineness mark to the standard of fineness. The said company is an undertaking enjoying exclusive rights within the meaning of the Competition Act.

(2) A precious metal assayer shall comply with the following requirements:

- 1) the company, members of the management board and supervisory board of the company and the employee responsible for attestation of the conformity of a precious metal fineness mark to the standard of fineness shall not engage in the manufacture, import, offer for sale on a wholesale or retail basis or transfer for a charge of articles of precious metal within the scope of application of this Act;
- 2) the employees of the company must have received necessary training and have the necessary education and experience for their work;
- 3) the company shall possess means which enable the acts related to attestation of the conformity of a precious metal fineness mark to the standard to be performed in compliance with the requirements;
- 4) the company shall set prices for the services of attestation of the conformity of a precious metal fineness mark to the standard pursuant to subsection 39 (2) of this Act;
- 5) the company and its employees shall perform the acts related to the attestation of the conformity of a precious metal fineness mark to the standard in a competent, impartial and non-discriminatory manner and must be independent of any influence which could affect their decisions;
- 6) remuneration of the employees of the company may not depend on the number of articles of precious metal which are control marked;
- 7) the company shall ensure that its employees maintain the confidentiality of information of which they become aware in the performance of their official duties, unless the disclosure of such information is prescribed by law;
- 8) the testing laboratory of the company must be accredited to analyse precious metals by an accreditation body meeting the requirements of Regulation (EC) No. 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No. 339/93 (OJ L 218, 13.8.2008, pp. 30–47).

[RT I 2010, 31, 158 – entry into force 01.10.2010]

§ 41. Liability insurance of precious metal assayer

In order to ensure that damage caused by a precious metal assayer is compensated for, the precious metal assayer shall enter into a liability insurance contract according to the following conditions:

- 1) the insurer is a company holding a licence to provide insurance in Estonia;
- 2) the contract covers damage caused by the precious metal assayer in the course of attestation procedure and damage caused by persons for whose activities the precious metal assayer is liable pursuant to law;
- 3) the minimum amount of sum insured for one insured event shall be at least 6390 euros. Liability for intentional breach of official duties need not be insured;

[RT I 2010, 22, 108 – entry into force 01.01.2011]

- 4) in the case of excess policy, the insurer shall compensate for the full amount of the damage and claim the excess from the policyholder.

Chapter 4

STATE SUPERVISION AND LIABILITY

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

Subchapter 1 State Supervision

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

§ 42. State supervision

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(1) Supervision over compliance with the requirements provided for in this Act, except for the requirements pertaining to the import of articles of precious metal, shall be exercised by the Consumer Protection and Technical Regulatory Authority.

[RT I, 12.12.2018, 3 - entry into force 01.01.2019]

(1) Supervision over compliance with the requirements provided for in this Act, except for the requirements pertaining to the import of articles of precious metal, shall be exercised by the Consumer Protection Board.

(2) In addition to that provided by subsection (1) of this section, supervision shall be exercised, according to their competence, by the following law enforcement agencies:

1) the Tax and Customs Board over compliance with the requirements pertaining to the import of articles of precious metal;

2) a rural municipality or city government, in the case of engagement in the area of activity of service within its administrative territory, over compliance with the requirements pertaining to the manufacture of articles of precious metal and the retail of articles of precious metal.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 43. Special state supervision measures

For the performance of state supervision provided by this Act, a law enforcement agency may apply the special state supervision measures provided for in sections 30, 31, 32, 49, 50 and 51 of the Law Enforcement Act on the bases of and pursuant to the procedure provided by the Law Enforcement Act.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 43¹. Specifications of state supervision

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(1) On the conditions provided by section 50 of the Law Enforcement Act, a law enforcement agency may enter:

1) in the presence of the handler of articles of precious metal or a representative of the handler, the buildings and premises where articles of precious metal are stored, offered for sale or transferred for a charge;

2) in the presence of a representative of the precious metal assayer, the buildings and premises where articles of precious metal are assayed.

(2) A law enforcement agency may:

1) prohibit the offer for sale and transfer for a charge of articles of precious metal not permitted to be handled as specified in subsection 5 (1) of this Act;

2) demand that articles of precious metal are rendered unfit for sale or are exported from Estonia;

3) prohibit the offer for sale and transfer for a charge of products containing precious metals which are specified in subsection 5 (2) of this Act and which are not permitted to be handled as articles of precious metal, and demand, if the products are marked as articles of precious metal, that they be rendered unfit for sale or exported from Estonia;

3¹) prohibit the offer for sale and transfer for a charge of articles of precious metal which have not been properly marked;

[RT I, 29.06.2014 – entry into force 01.07.2014]

4) take samples of precious metal articles without charge and order, to assess their conformity, analyses from a person whose testing laboratory is accredited to analyse precious metals by an accreditation body specified in clause 40 (2) 8) of this Act, and order expert assessments from experts on articles of precious metal.

(3) The law enforcement agency shall cover the costs of analyses or expert assessments ordered in order to assess the conformity of a sample of an article of precious metal taken according to clause (2) 4) of this section, and shall compensate for the cost of the article of precious metal or shall return the article of precious metal in an unaltered condition if according to the results of the analysis or the expert assessment the article of precious metal taken as a sample conforms to the requirements. If according to the results of the analysis or the expert

assessment the article does not conform to the requirements, the law enforcement agency shall return the article of precious metal which proved not to conform to the requirements in a condition which makes it unfit for sale, and the documented costs of the law enforcement agency shall be compensated for by the undertaking liable for the conformity of the article of precious metal.
[RT I, 29.06.2014 – entry into force 01.07.2014]

§ 44. Duties of supervisory authority

[Repealed – RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 45. Rate of non-compliance levy

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

Upon failure to comply with a precept, the upper limit of non-compliance levy imposed pursuant to the procedure provided for in the Substitutional Performance and Non-Compliance Levies Act is 640 euros.
[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 46. Challenge of precept or act

[Repealed – RT I, 13.03.2014, 4 – entry into force 01.07.2014]

Subchapter 2 Liability

§ 47. Violation of requirements for offer for sale and transfer for charge of articles of precious metal

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 48. Forgery and misuse of sponsor's marks

(1) Forgery of a sponsor's mark of the manufacturer or importer of articles of precious metal and use thereof on material not corresponding to the mark for the purpose of transfer of the articles for a charge is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 49. Violation of requirements for marking of articles of precious metal

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 50.–§ 53.[Repealed – RT I 2004, 18, 131 – entry into force 15.04.2004]

§ 54. Procedure

The body conducting extra-judicial proceedings concerning the misdemeanour provided for in section 48 of this Act is, according to its competence:

- 1) the Consumer Protection and Technical Regulatory Authority;
[RT I, 12.12.2018, 3 - entry into force 01.01.2019]
- 2) the Police and Border Guard Board;
- 3) a rural municipality or city government.
[RT I, 12.07.2014, 1 – entry into force 01.01.2015]

Chapter 5 IMPLEMENTING PROVISIONS

§ 55. Transitional provisions

(1) An activity licence issued on the basis of subsections 5 (1) to (5) of the Precious Metal Products Assay Act and a certificate of registration of the Assay Office of Estonia issued on the basis of subsections (8) and (9) of the same section are valid until their holder has been entered in the register of economic activities, but no longer than until the date indicated on the activity licence and certificate of registration.

(2) The sponsor's mark of a manufacturer which according to subsection 8 (1) of the Precious Metal Products Assay Act was registered in the Assay Office of Estonia shall be entered in the state register of sponsor's marks only on the basis of a registration application submitted by the corresponding manufacturer. Entry of sponsor's mark registered in the Assay Office of Estonia into the state register of sponsor's marks is exempt from state fees.

(3) Articles of precious metal which are marked with a control mark according to section 9 of the Precious Metal Products Assay Act before the entry into force of this Act may be offered for sale and transferred for a charge without marking them with a sponsor's mark of the importer.
[RT I 2008, 3, 23 – entry into force 15.04.2008]

(4) In order to grant an exclusive right specified in subsection 40 (1) of this Act, a public competition shall be organised within one year after the entry into force of this Act pursuant to the procedure provided by the Competition Act. Until the exclusive right is granted on the basis of the results of the public competition, the Government of the Republic shall grant the exclusive right to act as a precious metal assayer on the proposal of the minister responsible for the field.

§ 56.–§ 57.[Omitted from this text.]

§ 58. Entry into force of Act

This Act enters into force on 15 April 2004.
[RT I 2003, 75, 500 – entry into force 15.04.2004]