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# Earth's Crust Act<sup>1</sup>

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## Chapter 1 General Provisions

### § 1. Purpose and scope of application of Act

(1) The purpose of this Act is to ensure sustainable and economically efficient use of the earth's crust and to reduce environmental nuisances arising thereby to the greatest extent possible.

(2) This Act regulates:

- 1) geological investigation;
- 2) geological exploration of mineral resources;
- 3) extraction of mineral resources;
- 4) the rights of the owner of an immovable upon use of mineral resources within the boundaries of the owner's immovable;
- 5) reclamation of the explored land and land disturbed by extraction;
- 6) use of the earth's crust not related to the extraction of mineral resources, except in the part regulated by other Acts;
- 7) protection of the earth's crust;
- 8) prevention of environmental threats and reduction of environmental risks involved in the use of the earth's crust, unless regulated by other Acts;
- 9) organisation of state supervision over compliance with the requirements provided for in this Act;
- 10) liability for violation of the requirements provided for in this Act.

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

(4) Chapter 5 of the General Part of the Environmental Code Act applies to the proceedings regarding the environmental permit issued for the extraction of mineral resources (hereinafter extraction permit) prescribed in this Act, taking account of the specifications provided for in this Act.

(5) Removal of mineral resources or rock, sediments, liquid or gas not registered as mineral resources from the natural state is not deemed to be a significant environmental nuisance within the scope of application of this Act.

### § 2. Earth's crust

For the purposes of this Act, earth's crust means the upper layer of the ground technically and economically accessible for human activity on land, in internal and transboundary water bodies, on the territorial sea, in inland maritime waters and in the exclusive economic zone.

### § 3. Mineral resources

Mineral resources mean natural rock, sediments, liquid or gas the characteristics of which comply with the requirements specified in § 22 of this Act or established on the basis thereof or the requirements established by the person who orders the exploration and the body or a part of the body of which has been entered in the environmental register as a mineral deposit (hereinafter registered).

### § 4. Geological investigation and geological exploration of mineral resources

(1) Geological investigation means scientific research or geological operations conducted to establish the geological structure of the earth's crust or the occurrence of mineral resources.

(2) Geological exploration of mineral resources (hereinafter geological exploration) means geological operations conducted in order to extract and commence use of mineral resources.

## **§ 5. Mineral deposit**

Mineral deposit means the body or a part of the body of mineral resources delimited and explored by a geological investigation or geological exploration and registered in the environmental register, together with the interbeds.

## **§ 6. Extraction and use of mineral resources**

(1) Extraction of mineral resources (hereinafter extraction) means the operations performed for preparation of the removal of mineral resources from the natural state, removal of mineral resources from the natural state as well as transport and initial processing of the extracted mineral matter within the boundaries of the mining claim and the mine service plot.

(2) Extracted mineral matter means a solid component of any rock or sediment which is removed from the natural state.

(3) Use of mineral resources means the consumption of mineral resources without the transfer thereof or use of mineral resources in the natural state.

## **§ 7. Geological exploration area and service plot of geological exploration area**

(1) Geological exploration area means the part of the earth's crust designated for geological operations by a permit for geological investigation or an exploration permit.

(2) Service plot of a geological exploration area means the territory above the geological exploration area designated for geological operations by a permit for geological investigation or an exploration permit.

## **§ 8. Mining claim and mine service plot**

(1) Mining claim means the part of the earth's crust which is designated for extraction by an extraction permit.

(2) Mine service plot means an area around or above and around the mining claim designated for extraction by an extraction permit.

## **§ 9. Reclamation of land disturbed by extraction**

Reclamation of land disturbed by extraction means to render the land usable for its former or new purpose.

## **§ 10. Overburden covering mineral resources**

Overburden covering mineral resources (hereinafter overburden) means any rock and sediments covering mineral resources which need to be removed upon open-cast mining.

## **§ 11. Ownership of mineral resources and earth's crust**

(1) The following belong to the state:

- 1) bedrock mineral resources;
- 2) mineral resources in public water bodies.

(2) The natural body of bedrock, sediments, liquid or gas which is not registered belongs to the state and immovable property ownership does not extend thereto, unless the purpose of use of the immovable requires this.

(3) Bedrock means a rock created in a preglacial period which is opening on the ground or buried under Quaternary cover.

(4) The mineral resources belonging to the state specified in subsection (1) of this section are not in commerce in their natural form.

(5) If a permit is required in order to remove mineral resources in state ownership from the natural state, the extracted mineral matter generated upon mining on the basis of the permit belongs to the holder of the permit.

(6) If a permit is required in order to remove mineral resources in state ownership from the natural state, the extracted mineral matter generated upon mining without the permit belongs to the state.

## **§ 12. Mineral Resources Commission**

(1) The Mineral Resources Commission shall be established within the area of government of the Ministry of the Environment. The main function of the Mineral Resources Commission is advising the Ministry of the

Environment and authorities within the area of administration thereof on the issues of the exploration, use and protection of the earth's crust and keeping records of mineral resources.

(2) The statutes of the Mineral Resources Commission shall establish the rights, obligations and rules of procedure of the commission, including the procedure for adopting resolutions and the operations procedure, and if necessary, the procedure for remuneration of the commission.

(3) Experts of geology, extractive industry, environmental protection and other specialities shall be appointed as members of the Mineral Resources Commission.

(4) The composition and the statutes of the Mineral Resources Commission shall be approved by the minister responsible for the area.

## **Chapter 2**

### **Principles and principal obligations**

#### **§ 13. Principle of reducing environmental nuisances**

Administrative authorities shall be guided in their activities addressing the use of the earth's crust by the principle that any environmental nuisances caused by the use of the earth's crust must be reduced to the greatest extent possible, paying particular attention to such environmental nuisances which affect water, air, soil, natural objects subject to protection and the right of people to the environment conforming to the needs of human health and well-being. If alternative solutions exist, preference should be given where possible to the solution which involves less environmental nuisances.

#### **§ 14. Principles of protection of earth's crust and mineral resources**

(1) Upon organisation of activities affecting the condition and use of the earth's crust, the administrative authorities shall ensure:

- 1) preservation of the mineral resources such that they can be extracted unless the mineral resources are being extracted, otherwise removed from the natural state, used or consumed to the extent permitted by or on the basis of this Act;
- 2) access to the mineral resources;
- 3) economically efficient and sustainable use of the mineral resources.

(2) The Ministry of the Environment or the authority authorised by the minister responsible for the area may allow activities affecting the condition and use of the earth's crust only if the planned activities:

- 1) do not deteriorate the current situation as regards preservation of the mineral resources or access to the mineral resources;
- 2) deteriorate the current situation as regards access to the mineral resources, but the activities are not of a permanent nature; or
- 3) deteriorate the current situation as regards preservation of the mineral resources or access to the mineral resources, but it involves the construction of a construction work of predominant public interest, including utility lines, a civil engineering work or a construction work that serves national defence purposes within the meaning of the Building Act (hereinafter construction work that serves national defence purposes), for which there is no reasonable alternative location.

(3) Mineral resources shall not be excluded from a mining claim if extraction of such mineral resources would not be economically or technologically justified in the future.

(4) The provisions of subsection (3) of this section are not applied to the extent which is necessary to ensure safe working environment, preservation of property, prevention of environmental threats or reduction of environmental risks.

#### **§ 15. Permitting of activities and approving of plans affecting condition and use of earth's crust**

(1) A permit of the Ministry of the Environment or the authority authorised by the minister responsible for the area is required for the activities affecting the condition and use of the earth's crust. A permit shall be applied for inter alia:

- 1) if a person wishes to perform an activity affecting the condition and use of the earth's crust on a mineral deposit and a building notice must be submitted or a building permit, another permit or another administrative act must be obtained for such activity;
- 2) for alteration of intended purpose of a cadastral unit if a mineral deposit or a part thereof is located on an immovable;
- 3) in the case provided for in subsection 3 (2) of the Act on Acquisition of Land Subject to Usufruct in Land Reform.

(2) In order to obtain the permit specified in subsection (1) of this section, the administrative authority organising the proceeding specified in subsection (1) of this section shall submit during the proceeding to the Ministry of the Environment or the authority authorised by the minister responsible for the area the documents related to the appropriate proceeding which are necessary for deciding on the issue of the permit.

(3) If the proceeding specified in subsection (1) of this section is not conducted, the person interested in constructing shall submit prior to beginning the construction, for the purpose of obtaining the permit specified in subsection (1) of this section, an application to the Minister of the Environment or the authority authorised by the minister responsible for the area, together with the documents associated with the appropriate proceeding which are necessary for deciding on the grant of the permit. Beginning of the construction is not permitted before obtaining the permit specified in subsection (1) of this section.

(4) The issue of or refusal to grant the permit specified in subsection (1) of this section shall be decided by the Ministry of the Environment or the authority authorised by the minister responsible for the area within 30 days after the receipt of the corresponding application or the documents necessary for issue of the permit.

(5) The Ministry of the Environment or the authority authorised by the minister responsible for the area may extend the term provided for in subsection (4) of this section if there appear circumstances which do not allow deciding on the grant of or refusal to grant the permit within this term.

(6) The Ministry of the Environment or the authority authorised by the minister responsible for the area shall send the decision on issue of or refusal to issue the permit specified in subsection (1) of this section to the person who has submitted the application and, where appropriate, also to the administrative authority organising the proceeding specified in subsection (1) of this section.

(7) If a mineral deposit or a part thereof is situated in a planned area, the county-wide spatial plan, comprehensive plan or detailed plan or the special plan of the state or the local government is to be approved by the Ministry of the Environment or the authority authorised by the minister responsible for the area pursuant to the procedure provided for in the Planning Act.

(8) If the activities specified in clauses 1) and 2) of subsection (1) of this section have been approved by the Ministry of the Environment or the authority authorised by the minister responsible for the area through the plan, the permit specified in subsection (1) of this section is not required for these activities.

(9) The authority authorised by the Ministry of the Environment or by the minister responsible for the area shall refuse to grant the permit specified in subsection (1) of this section or shall refuse to give approval in the case specified in subsection (7) of this section if the principles specified in § 14 of this Act are not complied with.

#### **§ 16. Principal obligations relating to use of earth's crust**

(1) In addition to the provisions of clauses 14 (1) 1) and 2) of this Act, as small adverse impact as possible on the environment, human health, well-being and property shall be ensured to the reasonable extent upon use of the earth's crust.

(2) Use of the earth's crust only for the purpose of removal of soil from the earth's crust is prohibited.

(3) Upon extraction of mineral resources, preservation of the mineral resources remaining in the mineral deposit such that they can be used and extracted shall be ensured.

(4) Mineral resources shall be extracted or removed from the natural state on another basis and used in as economically efficient and sustainable manner as possible.

(5) The provisions of subsection (3) of this section are not applied to the extent which is necessary to ensure safe working environment, preservation of property, prevention of environmental threats or reduction of environmental risks.

## **Chapter 3 Geological Investigation and Geological Exploration**

### **Division 1 General Provisions**

#### **§ 17. Right to carry out geological investigation and geological exploration**

(1) Geological investigation is permitted on the basis of a permit for geological investigation, with the exception of geological investigation where field work has not been planned or the work is limited to the description of natural or artificial exposures and the collection of pieces of rock from an outcrop in order to explore the rock or the collection of fossils from the ground.

(2) Geological exploration is permitted on the basis of a geological exploration permit (hereinafter exploration permit).

(3) Geological investigation and geological exploration shall be organised and managed by the person having the appropriate expertise, skills and experience (hereinafter competence). The person's competence must enable the person to be aware of the risks associated with the area of activity, be able to identify and avoid the realisation of the risks. Competence presumes expertise and skills acquired by professional training and work experience.

(4) Hydrogeological operations may be carried out on the basis of a permit for geological investigation or an exploration permit by the person who has an authorisation pursuant to clauses 123 1), 3) and 5) of the Water Act.

## **§ 18. General requirements for geological investigation and geological exploration**

The holder of a permit for geological investigation or an exploration permit has the right, in the course of operations, to take and use for the operations the body of rock, sediments, liquid or gas within the boundaries of the geological exploration area in an amount which is necessary to determine their characteristics, whether they can be enriched and their usability.

## **§ 19. Geological investigation**

(1) Geological investigation shall be carried out pursuant to the requirements and procedure for geological investigations.

(2) According to the objective of the operation, the operations carried out in the course of geological investigation are:

- 1) geological mapping;
- 2) prospecting;
- 3) geophysical survey;
- 4) geochemical survey;
- 5) other geological operations for specific purposes, except geotechnical site investigations and geodetic surveys.

(3) The requirements and procedure for geological investigations shall be established by a regulation of the minister responsible for the area.

(4) The regulation specified in subsection (3) of this section shall establish:

- 1) the requirements for geological mapping;
- 2) the requirements for prospecting;
- 3) the requirements for the contents, submission and review of reports on geological investigation.

## **§ 20. Geological exploration**

(1) Geological exploration shall be carried out pursuant to the requirements and procedure for geological explorations.

(2) In the course of geological explorations:

- 1) the bedding conditions, composition and technological characteristics of natural bodies, including mineral resources, shall be established and the possible areas of use of the explored natural bodies, including mineral resources, shall be determined;
- 2) the hydrological and hydrogeological conditions of the geological exploration area and its vicinity and the possible changes thereto in the course of mining shall be assessed and the extent of the circle of influence of mining shall be determined;
- 3) measures shall be planned to prevent potential environmental threats arising in the earth's crust upon extraction and to reduce environmental risks to the greatest extent possible;
- 4) a proposal for determination of a category for mineral reserves shall be made;
- 5) all mineral resources and natural bodies found in the geological exploration area shall be explored to the accuracy which corresponds to the requirements established for prospecting if usability of the mineral resources and natural bodies cannot be preserved in terms of mining engineering in the course of the later extraction of the explored body of mineral resources or rock, sediments, liquid or gas.

(3) The requirements and procedure for geological explorations of mineral resources shall be established by a regulation of the minister responsible for the area.

(4) The regulation specified in subsection (3) of this section shall establish:

- 1) the areas of use of mineral resources and the requirements for determining these;

- 2) the requirements for the preparation and carrying out of geological explorations, including topographic work and calculation of the amount of mineral resources;
- 3) the requirements for the preparation of mineral deposits for use;
- 4) the special requirements for the geological exploration of each mineral resource;
- 5) the requirements for the contents, submission and review of reports on geological exploration.

## **§ 21. Records of mineral resources**

(1) Records of mineral resources shall be kept on the basis of the geological information obtained by geological investigations, geological explorations, reports on the volume of extraction of mineral resources and, if consented by the Environmental Board, mine survey measurement pursuant to the procedure provided for in the Environmental Register Act.

(2) The making of entries in the environmental register about lacustrine lime, lake mud, sea mud, gravel, sand, limestone, dolostone, clay and peat shall be decided by the authorised processor of the environmental register mineral deposits list.

(3) The making of entries in the environmental register about the rock, sediments, liquid or gas not specified in subsection (2) of this section shall be decided by the minister responsible for the area, asking for an opinion of the Mineral Resources Commission.

(4) The consent of the owner of an immovable is required for making an entry concerning private or municipal land in the environmental register on the basis of geological information obtained on the basis of office studies without a permit for geological investigation or an exploration permit if the entry results in the creation of a mineral deposit on the immovable.

## **§ 22. Requirements for registration of mineral resources**

(1) Mineral resources shall be registered if the mineral resources comply with the requirements specified in this section or established on the basis thereof or, to the extent determined on the basis of subsection (4) of this section, with the requirements of the applicant for or holder of a permit for geological investigation or an exploration permit.

(2) Mineral resources shall be registered together with the interbeds, unless it is unjustified.

(3) The requirements for the characteristics of phosphate rock, metal raw material, oil shale, crystalline building stone, lacustrine lime, lake mud, sea mud, gravel, sand, limestone, dolostone, clay and peat for registration as mineral resources shall be established by a regulation of the minister responsible for the area.

(4) The minister responsible for the area shall establish by the regulation specified in subsection (3) of this section to which extent the applicant for or the holder of a permit for geological investigation or an exploration permit may set the requirements which differ from the requirements established by this regulation.

(5) The requirements for the characteristics of natural rock, sediments, liquid or gas not specified in subsection (3) of this section for registration as mineral resources shall be established by the minister responsible for the area upon receiving an application in compliance with subsection 27 (4) of this Act, involving an expert if necessary. The proceeding for the issue of a permit shall be suspended for the time of setting the requirements.

## **§ 23. Categories of mineral reserves**

(1) The quantity of the registered mineral resources (hereinafter mineral reserves) is divided, based on the detail of exploration, into proved reserves and probable reserves. Reconnaissance resources may be designated in areas bordered by a mineral deposit.

(2) Proved reserves are mineral reserves the detail of the geological exploration of which allows the receipt of the information necessary for the extraction and use of mineral reserves. Proved reserves are registered on the basis of geological exploration.

(3) Probable reserves are mineral reserves the detail of the geological exploration of which allows the receipt of the information necessary to assess the perspectives of the mineral reserves and to direct the further geological explorations. Probable reserves are registered on the basis of geological investigation or geological exploration.

(4) Reconnaissance resources shall be defined in areas bordered by a mineral deposit outside of the outline of proved reserves and probable reserves or in regions where, on the basis of occurrence of mineral resources, the existence of a new mineral deposit may be presumed. Reconnaissance resources allow assessment of the possibility to increase mineral reserves in a mineral deposit or discover a new mineral deposit and are the basis upon directing prospecting or geological explorations. Reconnaissance resources are not registered.

(5) The proved reserves and probable reserves are divided as economic and potentially economic on the basis of their possibilities of use.

(6) Mineral reserves are deemed to be potentially economic if the mining and use of the reserves is prohibited under legislation or not possible from the standpoint of environmental protection. In other cases, mineral reserves are economic.

(7) The dividing of proved reserves and probable reserves as economic or potentially economic shall be decided by the person deciding on making the entry in the environmental register on the basis of the results of the geological investigation or geological exploration and other information available at the time of making the entry in the environmental register.

(8) If the circumstances serving as a basis for determining mineral reserves have changed or if the use of oil shale reserves which have been designated as potentially economic from the economical aspect and which by other requirements correspond to economic reserves is applied for, the issuer of extraction permits shall, on the basis of an application of the applicant for or the holder of an extraction permit or a person interested in submitting the application, make a proposal to the person deciding on making entries in the environmental register to change the information in the environmental register. The proceeding concerning the application for a permit shall be suspended for the time of the proceeding for changing the data in the environmental register.

(9) The application specified in subsection (8) of this section shall be submitted together with the application for the grant or amendment of an extraction permit or as a separate written application if an application for an extraction permit has not been submitted yet.

#### **§ 24. Declaring of probable reserves to be minable and usable**

(1) On the basis of an application of the applicant for or the holder of an extraction permit or a person interested in submitting the application, the minister responsible for the area or the authorised processor of the environmental register mineral deposits list may declare economic probable reserves to be minable and usable mineral reserves without demanding an additional geological exploration if all of the following conditions are met:

- 1) the mineral deposit in which the probable reserves are located is simple and uniform in structure;
- 2) the probable reserves are directly bordered by the proved reserves of the same mineral resources or located on the base or in the lap seam of the proved reserves;
- 3) the appropriateness of declaring the probable reserves to be minable and usable is proven by mining in the same mineral deposit;
- 4) the probable reserves are located at the verge of a mineral deposit and the purpose of declaring it minable and usable is sustainable use of the mineral resources.

(2) The proceeding for the grant or amendment of an extraction permit shall be suspended for the time of the proceeding for declaring probable reserves as minable and usable mineral reserves until the data in the environmental register are amended.

#### **§ 25. Preservation of geological data**

(1) Reports on geological investigation and reports on geological exploration shall be submitted to the authorised processor of the environmental register mineral deposits list at the earliest opportunity after the completion of the report, but no later than 30 days after the expiry of the permit.

(2) If a report on geological investigation or a report on geological exploration contains a proposal on making an entry in the environmental register concerning a rock, sediment, liquid or gas not specified in subsection 21 (2) of this Act, the report shall be submitted within the term provided for in subsection (1) of this section to the authorised processor of the environmental register mineral deposits list and the Ministry of the Environment.

(3) If a geological investigation, geological exploration or a report on the geological investigation or geological exploration does not comply with the requirements provided for in this Act or established on the basis thereof, the authorised processor of the environmental register mineral deposits list and the Ministry of the Environment have the right to demand amendment of the report or supplementing of the data serving as a basis for preparing the report. Such demand must be submitted within 30 days after receipt of the report.

(4) Any information on the rock material, drilling cores, samples and other geological data obtained upon carrying out a geological investigation or geological exploration (hereinafter collected material) must be preserved for at least 30 days after the making of the decision on the proposal provided in the report on the geological investigation or geological exploration. If no amendments are required in the environmental register on the basis of the proposal made in the report on geological investigation or geological exploration, the collected material must be preserved for at least 30 days after submission of the report on geological investigation or geological exploration to the authorised processor of the mineral deposits list.

(5) The authorised processor of the environmental register mineral deposits list shall decide within the term provided for in subsection (4) of this section whether the collected material must be preserved in the environmental register. If demanded by the authorised processor of the environmental register mineral deposits

list, the holder of the permit shall transfer the collected material to the authorised processor for preservation to the extent and at the place determined by the authorised processor.

(6) The holder of the permit shall transfer the collected material together with packaging and labels.

## **Division 2**

### **Permit for geological investigation and exploration permit**

#### **§ 26. Issuer of permit for geological investigation and exploration permit**

A permit for geological investigation and an exploration permit shall be issued by the Environmental Board.

#### **§ 27. Applying for permit for geological investigation and exploration permit**

(1) In order to receive a permit for geological investigation or an exploration permit, an application shall be submitted to the issuer of permits.

(2) The issuer of permits shall immediately send the application for a permit for geological investigation or an exploration permit for an opinion to the authorised processor of the environmental register mineral deposits list, who shall submit an opinion in writing within ten days after receipt of the application.

(3) The issuer of permits shall send the application for a permit for geological investigation or an exploration permit to the administrator of state assets of the location of the geological exploration area and its service plot, who shall give or refuse to give a consent to the use of the immovable in state ownership within 30 days after receipt of the application. The provisions of this subsection do not apply to the land still in state ownership.

(4) The issuer of permits shall immediately send the application for a permit for geological investigation or an exploration permit concerning the rock, sediment, liquid or gas not specified in subsection 21 (2) of this Act for an opinion to the minister responsible for the area, who shall submit an opinion in writing within 30 days after receipt of the application.

(5) If the geological exploration area or its service plot is located on the land of a construction work that serves national defence purposes or its protection zone, the issuer of permits shall send the application for a permit for geological investigation or an exploration permit for an opinion to the Ministry of Defence, who shall submit an opinion in writing within 30 days after receipt of the application.

(6) If the geological exploration area or its service plot is located on an immovable monument or in a heritage conservation area or a protected zone thereof, the issuer of permits shall send the application for a permit for geological investigation or an exploration permit for an opinion to the National Heritage Board, who shall submit an opinion in writing within 30 days after receipt of the application.

(7) The issuer of permits shall send the application for a permit for geological investigation or an exploration permit and the draft administrative act to be issued in respect of the application for an opinion to the local government of the location of the geological exploration area applied for, who shall submit an opinion in writing within two months after receipt of the draft administrative act to be issued in respect of the application.

(8) The issuer of permits shall send the application for a permit for geological investigation or an exploration permit and the draft administrative act to be issued in respect of the application for an opinion to the Mineral Resources Commission, who shall submit an opinion in writing within two months after receipt of the application and the draft administrative act to be issued in respect of the application.

(9) The issuer of permits shall send the draft administrative act to be issued in respect of the application for a permit for geological investigation or an exploration permit concerning the rock, sediment, liquid or gas not specified in subsection 21 (2) of this Act to approval of the draft administrative act to the minister responsible for the area, who shall approve or refuse to approve the draft administrative act within 30 days after receipt of the draft administrative act to be issued in respect of the application.

(10) If the geological exploration area or its service plot is located on the land of a construction work that serves national defence purposes or its protection zone, the issuer of permits shall send the draft administrative act to be issued in respect of the application for a permit for geological investigation or an exploration permit for approval to the Ministry of Defence, who shall approve or refuse to approve the draft administrative act within 30 days after receipt of the draft administrative act to be issued in respect of the application.

(11) If the geological exploration area or its service plot is located on an immovable monument or in a heritage conservation area or a protected zone thereof, the issuer of permits shall send the draft administrative act to be issued in respect of the application for a permit for geological investigation or an exploration permit for approval to the National Heritage Board, who shall approve or refuse to approve the draft administrative act within 30 days after receipt of the draft administrative act to be issued in respect of the application.

(12) The issuer of permits shall also send the application for a permit for geological investigation required for prospecting oil shale, phosphate rock or metal raw material or the application for an exploration permit for exploring oil shale, phosphate rock or metal raw mineral and the draft administrative act to be issued in respect of the application for approval to the Ministry of Economic Affairs and Communications and if necessary to other appropriate state authorities, who shall approve or refuse to approve the draft administrative act within 30 days after receipt of the application and the draft administrative act to be issued in respect of the application.

## **§ 28. Application for permit for geological investigation and exploration permit**

(1) An application for a permit for geological investigation or an exploration permit consists of a completed application form, a letter of explanation and a graphical annex.

(2) The following shall be provided on the form for application for a permit for geological investigation or an exploration permit:

- 1) the business name, registry code and address or the name, personal identification code and address of the applicant for a permit and the person carrying out the geological investigation or geological exploration;
- 2) information concerning the geological exploration area and the service plot of the geological exploration area and, in the case of prospecting, on the estimated quantity of the mineral resources;
- 3) if the geological exploration area is located on a mineral deposit, information concerning the mineral deposit and the mineral resources;
- 4) information concerning the nature and volume of the geological investigation or geological exploration.

(3) A letter of explanation to an application for a permit for geological investigation or an exploration permit shall set out:

- 1) the primary purpose of the geological investigation or geological exploration;
- 2) information concerning the nature and volume of the geological investigation or geological exploration;
- 3) the description of the geological investigation or geological exploration;
- 4) a brief overview of exploration of the geological exploration area in the past;
- 5) in the case of a geological investigation for prospecting or a geological exploration, information concerning the mineral resource to be explored;
- 6) information concerning the exploration methods used;
- 7) information concerning environmental nuisances that may be involved in a geological investigation or geological exploration and measures for reduction thereof;
- 8) analysis of socioeconomic impact involved in the geological investigation or geological exploration of oil shale, phosphate rock or metal raw material;
- 9) work schedule;
- 10) the desired manner of delivery and the details necessary for delivery of the permit for geological investigation or exploration permit;
- 11) information concerning mining waste generated during the geological investigation or geological exploration.

(4) The following shall be provided on a graphical annex to an application for a permit for geological investigation or an exploration permit:

- 1) the boundary of the geological exploration area and the service plot of the geological exploration area;
- 2) the outlines of the existing mineral deposit and blocks of mineral resources explored earlier;
- 3) the boundaries of the valid areas of investigation or exploration and mining claims and cadastral units.

(5) If mining waste is generated during geological investigation or geological exploration and the place of stockpiling the waste is not a waste disposal site within the meaning of § 352 of the Waste Act, a mining waste management plan shall be appended to the application for a permit for geological investigation or an exploration permit. Preparation, submission and approval of the waste management plan shall be based on the requirements provided for in § 421 of the Waste Act.

(6) The procedure for submission of applications for permits for geological investigation and exploration permits, the format of the applications and the detailed requirements for applications for permits for geological investigation and exploration permits shall be established by a regulation of the minister responsible for the area.

## **§ 29. Open proceedings**

Permits for geological investigation for prospecting and exploration permits shall be issued in open proceedings, except in the case provided for in this Act.

## **§ 30. Informing public about proceedings for issue of permit for geological investigation or exploration permit in case of open proceedings**

(1) If an application for a permit for geological investigation or an exploration permit meets the requirements provided by legislation, the issuer of permits for geological investigation or exploration permits shall, in case of

open proceedings, immediately publish a notice concerning the submission of the application for a permit for geological investigation or an exploration permit which sets out:

- 1) the name of applicant for a permit;
- 2) information concerning the location of the planned activities;
- 3) a short description of the planned activities;
- 4) the applied term of validity of a permit for geological investigation or an exploration permit;
- 5) reference to the website, where the application for a permit is available;
- 6) the right of everyone to participate in open proceedings;
- 7) the time and place of displaying the draft administrative act to be issued in open proceedings and the application if environmental impact shall not be assessed in order to decide on the issue of the permit and the draft administrative act is prepared by the time of publication of the notice or the time of its preparation is known;
- 8) the term and addressee for the submission of proposals, objections and questions if information concerning the time and place of the public display is published in the notice;
- 9) appropriate information if it is known at the time of publication of the notice that the application for a permit for geological investigation or an exploration permit and the draft administrative act to be issued in respect of the application will not be displayed for public examination.

(2) The notice specified in subsection (1) of this section shall be published in the official publication *Ametlikud Teadaanded*. If necessary, a notice may also be published in a local, county or national newspaper, and a reference to the notice published in the official publication *Ametlikud Teadaanded* shall be added thereto.

(3) The issuer of permits for geological investigation or exploration permits shall immediately publish on its website a notice on the receipt of an application, and a reference to the notice published in the official publication *Ametlikud Teadaanded* shall be added thereto. The notice shall be available on the website until a decision is made on the application.

(4) The rural municipality or city government shall publish an easily accessible notice about receipt of an application for a permit for geological investigation or an exploration permit on the website of the rural municipality or city government within seven days after receipt of the application for a permit for geological investigation or an exploration permit, and a reference to the notice published in the official publication *Ametlikud Teadaanded* shall be added thereto. The notice shall be available on the website until a decision is made on the application.

(5) If the time and place of displaying the draft administrative act to be issued in respect of an application for a permit for geological investigation or an exploration permit and the application, the term and addressee for the submission of proposals, objections or questions and the information that the application and the draft administrative act to be issued in respect of the application are not displayed for public examination are not published in the notice specified in subsection (1) of this section, a notice with this information shall be published pursuant to the procedure provided for in subsections (2) to (4) of this section immediately after preparation of the draft administrative act.

### **§ 31. Discussion of matter in public session and taking account of results of open proceedings**

(1) The issue of a permit for geological investigation or an exploration permit may be decided without a discussion in a public session, unless the activities permitted by the permit for geological investigation or exploration permit may result in significant regional or national environmental nuisances.

(2) If the application for a permit for geological investigation or an exploration permit or the draft administrative act to be issued in respect of the application is substantially amended after the public display, the issuer of permits for geological investigation or exploration permits may repeat the public display, taking into account how the amendments are expected to affect the interests of the persons concerned and the applicant for the permit for geological investigation or exploration permit.

### **§ 32. Term for deciding on issue of permit for geological investigation or exploration permit**

(1) The issue of a permit for geological investigation or an exploration permit shall be decided within one year after receipt of a due application, unless otherwise provided by law.

(2) The issuer of permits may extend the term provided for in subsection (1) of this section if there appear circumstances which do not allow deciding on the issue of the permit within this term.

### **§ 33. Right to receive permit for geological investigation or exploration permit**

(1) For geological exploration of a part of the earth's crust belonging to the state the holder of a permit for geological investigation for that part of the earth's crust has the priority right to receive an exploration permit during the term of validity of the permit for geological investigation and until one year after expiry of the specified permit.

(2) The issuer of permits shall process an application of the person specified in subsection (1) of this section in the priority order before the applications of other persons if the application was submitted at the time of validity of the priority right specified in subsection (1) of this section.

(3) In respect of a part of the earth's crust for the exploration of which an exploration permit has been issued, no permit for geological investigation shall be issued for prospecting and no exploration permit shall be issued to other persons.

(4) In respect of a part of the earth's crust for the exploration of which a permit for geological investigation for prospecting has been issued, no exploration permit shall be issued to other persons.

(5) In respect of a part of the earth's crust for the exploration of which a permit for geological investigation for prospecting has been issued, a permit for geological investigation for prospecting may be granted to another person if this does not significantly restrict performance of the rights or obligations arising from the permit issued earlier.

(6) The issuer of permits shall return an application of another person for a permit for geological investigation or an exploration permit submitted in respect of the same or partly overlapping part of the earth's crust without reviewing the application:

- 1) in the case specified in subsection (1) of this section if it is submitted for geological investigation for prospecting or exploration of the same mineral resources;
- 2) in the cases specified in subsections (3) and (4) of this section.

(7) If, in the case not specified in subsection (1) of this section, another application for a permit for geological investigation for prospecting or an exploration permit is submitted for the same part of the earth's crust belonging to the state within 30 days after informing the public of the application for a permit for geological investigation or an exploration permit which was submitted first, and the submitted applications cannot be satisfied simultaneously, the person whose application the issuer of permits continues to process shall be determined by auctioning of the right to receive a permit for geological investigation or an exploration permit in accordance with § 34 of this Act.

#### **§ 34. Auctioning of right to receive permit for geological investigation or exploration permit**

(1) The purpose of auctioning of the right to receive a permit for geological investigation or an exploration permit is to determine the applicant whose application the issuer of permits continues to process.

(2) An auction shall be organised by the issuer of permits for geological investigation or exploration permits.

(3) The issuer of permits shall publish a notice concerning the organisation of the auction in the official publication *Ametlikud Teadaanded*. The notice shall set out information concerning the object of the auction, the starting price, the time and place of the auction, the deposit amount, the contact details of the organiser of the auction and other information relevant for organising the auction.

(4) An auction shall be organised for the persons who have submitted the application specified in subsection 33 (7) of this Act.

(5) An auction shall be organised for due applications to which such bases for refusal to issue a permit for geological investigation or an exploration permit arising from this Act which can be assessed at the time of organising the auction do not apply.

(6) Upon organising an auction, processing of an application for a permit for geological investigation or an exploration permit shall be suspended until the winner of the auction is announced or the auction is declared to have failed.

(7) The issuer of permits may establish a deposit for participation in an auction. The deposit shall be equal to all participants in an auction and shall not be greater than 1600 euros. After the winner of the auction has been ascertained, the deposit shall be returned to other participants in the auction. The deposit shall be set off against the purchase price of the auction. The deposit shall not be returned to persons who have contributed to the failure of the auction.

(8) An auction is deemed to have failed if, in the course of the auction, the winner of the auction is not ascertained regardless of the reasons therefor. An application of an applicant who has contributed to the failure of the auction shall be returned to the applicant within 14 days after the auction is declared to have failed.

(9) After the winner of an auction is announced, the issuer of permits shall continue to process the application of the winner of the auction. Other applications shall be returned to the applicants within 14 days after the winner of the auction is announced.

(10) Upon failure of an auction or if the winner withdraws the bid, a new auction is organised if necessary.

(11) The detailed requirements and procedure for auctioning the right to receive a permit for geological investigation or an exploration permit shall be established by a regulation of the minister responsible for the area.

### **§ 35. Refusal to issue permit for geological investigation or exploration permit**

(1) Issue of a permit for geological investigation or an exploration permit shall be refused if at least one of the following grounds exists:

- 1) the administrator of state assets has not granted the consent thereof;
- 2) the geological exploration area or its service plot is located on the land of a construction work that serves national defence purposes or its protection zone and the planned activities may endanger the construction work that serves national defence purposes, the performance of the functions determined or planned for the construction work that serves national defence purposes or the operation capacity of the construction work that serves national defence purposes;
- 3) the geological exploration area or its service plot is located on an immovable monument or in a heritage conservation area or a protected zone thereof, and the planned activities may endanger the immovable monument or the heritage conservation area or the preservation thereof in their unique environment;
- 4) the activity results in an environmental threat which cannot be avoided, unless the interest in the issue of a permit for geological investigation or an exploration permit is overriding and the activity has no reasonable alternative and measures have been taken to reduce the threat;
- 5) the applicant wishes to carry out geological investigation or geological exploration in an area where it is prohibited;
- 6) a permit is being applied for the part of the earth's crust for use of which another person has already submitted an application for an extraction permit or for use of which an extraction permit has already been issued to another person;
- 7) a permit for geological investigation is being applied for the part of the earth's crust for use of which a permit for geological investigation for prospecting has already been issued to another person and the issue of the applied permit would significantly restrict performance of the rights or obligations arising from the permit issued earlier;
- 8) it appears that the applicant for a permit has knowingly submitted false information in the application or falsified documents;
- 9) the issue of the permit is contrary to the national interest;
- 10) the local government does not consent to the issue of the permit for geological investigation for prospecting or exploration permit;
- 11) operations on the basis of the applied permit for geological investigation or exploration permit may significantly adversely affect a protected natural object and such adverse affect cannot be avoided otherwise than by refusing to issue a permit.

(2) Issue of a permit for geological investigation or exploration permit may be refused if at least one of the following reasons exists:

- 1) more than one punishment has been imposed on the applicant for a criminal act or misdemeanour in the area of geological investigation, exploration or handling of mining waste and the corresponding information has not been expunged from the criminal records database;
- 2) the operations to be carried out on the basis of the applied permit for geological investigation or exploration permit may significantly adversely affect a natural object for placing of which under protection proceedings have been initiated in accordance with subsection 9 (1) of the Nature Conservation Act and such adverse effect cannot be avoided otherwise than by refusing to issue a permit;
- 3) the operations to be carried out on the basis of the applied permit for geological investigation or exploration permit may significantly adversely affect a thing of cultural value which has been placed under temporary protection on the basis of the Heritage Conservation Act and such adverse effect cannot be avoided otherwise than by refusing to issue a permit.

(3) If a local government does not consent to the issue of a permit for geological investigation for prospecting or an exploration permit, the issuer of permits may, on the proposal of the applicant, apply for a consent of the Government of the Republic to the issue of a permit. The Government of the Republic shall give a consent to the issue of a permit if there is overriding national interest therein.

(4) The issuer of permits may refuse to apply for a consent of the Government of the Republic provided for in subsection (3) of this section if, according to the minister responsible for the area, there is clearly no national interest in the issue of a permit.

### **§ 36. Permit for geological investigation and exploration permit**

(1) The following shall be provided in a permit for geological investigation and an exploration permit:

- 1) the business name and registry code or the name and personal identification code and address of the holder of the permit and the person carrying out the geological investigation or geological exploration;
- 2) the term of validity of the permit;
- 3) information concerning the geological exploration area necessary for the geological investigation or geological exploration and the area and location of its service plot;
- 4) the nature and volume of the geological investigation or geological exploration, such as the number and depth of boreholes and exploration workings, the name and extent of geophysical prospecting methods, hydrogeological operations, other operations for specific purposes;

5) measures for ensuring the protection of the earth's crust and reduction of environmental nuisances.

(2) The graphical annex to an application for a permit, which is amended during the process of issuing a permit if necessary, is an integral part of a permit for geological investigation or an exploration permit. If submission of a mining waste management plan is required, the waste management plan prepared and approved in accordance with the requirements established by § 421 of the Waste Act is also an integral part of the permit for geological investigation or the exploration permit.

(3) The territory of the areas of geological investigation granted to one person for prospecting the same mineral resource by permits for geological investigation shall not be larger than 100 square kilometres.

(4) A permit for geological investigation and an exploration permit shall be issued for up to five years.

(5) The format of permits for geological investigation and exploration permits shall be established by a regulation of the minister responsible for the area.

### **§ 37. Disclosure of issue and refusal to issue permit for geological investigation and exploration permit**

(1) A permit for geological investigation or an exploration permit or a decision on refusal to issue a permit shall be delivered to the participant in the proceeding in accordance with §§ 25 to 30 and 32 of the Administrative Procedure Act.

(2) In addition to the provisions of subsection (1) of this section, a notice on the issue or refusal to issue a permit for geological investigation or an exploration permit shall be published in the official publication *Ametlikud Teadaanded*. If necessary, a notice may also be published in a local, county or national newspaper, and a reference to the notice published in the official publication *Ametlikud Teadaanded* shall be added thereto.

## **Division 3 Amendment, Revocation and Re-registration of Permit for Geological Investigation and Exploration Permit**

### **§ 38. Amendment of permit for geological investigation or exploration permit**

(1) A permit for geological investigation or an exploration permit shall be amended if at least one of the following reasons exists:

- 1) the information specified in clause 36 (1) 1) of this Act has changed;
- 2) the activity permitted by the permit results in an environmental threat or significant environmental nuisances and the interest in not amending the permit is not overriding;
- 3) the issuer of permits would have had the right not to issue a permit due to circumstances which changed later or a change in the extent of the environmental risk or on the basis of a legal provision which changed later and the amendment of the permit is justified by the necessity to protect the environment to a larger extent or another interest which outweighs the person's certainty that the permit remains in force;
- 4) it is necessary to change the requirements indicated in the permit due to changes in the mining waste management plan or submission of a new waste management plan.

(2) The issuer of permits for geological investigation or exploration permits may amend a permit if at least one of the following reasons exists:

- 1) it appears that the permit was unlawful at the time of its issue;
- 2) the legislation which constituted the basis for the requirements set by the permit has been amended;
- 3) the holder of the permit has submitted a reasoned application therefor.

(3) Amendment of a permit for geological investigation or an exploration permit shall be decided without open proceedings in the following cases:

- 1) amendment of a permit for geological investigation or an exploration permit does not affect the extent of the environmental risk, no environmental impact assessment is made upon amendment of the permit and there is no other significant public interest in organising an open proceeding;
- 2) conducting the proceeding faster is necessary for preventing environmental threat; or
- 3) in the case referred to in clause (1) 1) of this section.

### **§ 39. Revocation of permit for geological investigation or exploration permit**

(1) The issuer of permits for geological investigation or exploration permits shall revoke a permit if at least one of the following reasons exists:

- 1) the holder of a permit applies for the revocation of the permit;
- 2) the holder of a permit dies and the activity permitted by the permit is related to the holder of the permit in person or the passive legal capacity of the holder of a permit terminates without legal succession;

3) geological investigation or geological exploration is not commenced within one year after the beginning of the period of validity of the permit;  
4) it appears that the holder of a permit has knowingly submitted false information in the application or falsified documents;  
5) a required amendment of the mining waste management plan has not been submitted or the submitted waste management plan does not conform to the requirements and the deficiencies are not eliminated during the term set for the purpose;  
6) the handling of mining waste does not correspond to the mining waste management plan;  
7) the holder of the permit must also hold a waste permit in accordance with clause 73 (2) 8) of the Waste Act or an integrated environmental permit for operation of a waste disposal site, but there is no waste permit.

(2) The issuer of permits for geological investigation and exploration permits may revoke a permit:

1) on the bases provided for in clauses 38 (1) 2) and 3) and (2) 1) and 2) of this Act if the interest of public or a third party cannot be efficiently protected by amendment of the permit;  
2) if the holder of a permit fails to comply with the requirements established by the permit or legislation and revocation of the permit is in significant public interest; or  
3) more than one punishment has been imposed on the holder of a permit for a criminal act or misdemeanour in the area of geological investigation, exploration or handling of mining waste and the corresponding information has not been expunged from the criminal records database.

(3) Upon application of clause (2) 3) of this section each offence related to a permit is accounted separately.

(4) The issuer of permits shall notify the local government of the location of the geological exploration area, the Land Board, the Ministry of the Environment and the Environmental Inspectorate of revocation of a permit.

#### **§ 40. Requirements for application for amendment or revocation of permit for geological investigation or exploration permit**

The requirements established in Division 2 of Chapter 3 of this Act for applications for permits for geological investigation and exploration permits apply to the submission and processing of applications for amendment or revocation of permits for geological investigation and exploration permits to the applicable extent unless otherwise provided for in this Act or on the basis thereof.

#### **§ 41. Re-registration of permit for geological investigation or exploration permit**

(1) The issuer of a permit for geological investigation or an exploration permit may, at the joint request of a holder of a permit for geological investigation or an exploration permit and the person wishing to acquire the permit for geological investigation or the exploration permit, re-register the permit to another person. A permit shall be assigned together with the geological data obtained in the course of the geological investigation or geological exploration.

(2) The documents proving the right to use the geological exploration area and its service plot shall be appended to the application specified in subsection (1) of this section.

(3) A permit for geological investigation or an exploration permit shall not be re-registered if requirements have been established for the holder of the permit by this Act with which the applicant for the permit does not comply.

(4) Upon re-registration of a permit, all the rights and obligations related to the permit shall transfer to the new holder of the permit.

(5) The rights and obligations of the current holder of a permit for geological investigation or an exploration permit are deemed terminated as of re-registration of the permit.

(6) The right to carry out geological investigation or geological exploration arises on the working day following the re-registration of the permit, unless a later date arises from an application, or after obtaining the right to use land if such right is acquired after the re-registration of the permit.

(7) Re-registration of a permit for geological investigation or an exploration permit means amendment of the data of the holder of the permit and if necessary the data of the person who carries out the exploration. Re-registration proceedings shall not be conducted as open proceedings.

(8) Upon re-registration of a permit for geological investigation or an exploration permit, the mining waste management plan which is appended to the permit and the graphical annexes are also deemed to be binding on the person acquiring the permit.

## **Chapter 4 Mining**

### **Division 1**

## **General Provisions**

### **§ 42. Mining right**

- (1) A person must have an extraction permit in order to mine, unless otherwise provided by this Act.
- (2) Unless otherwise provided by this Act, only mineral resources which have been registered as economic proved reserves or declared as minable and usable as economic probable reserves may be mined.
- (3) The holder of an extraction permit has, on the basis of the permit, the right to:
  - 1) prepare the mining claim for the removal of mineral resources from the natural state;
  - 2) remove any rock or sediments in the mine service plot beyond the boundaries of the mining claim only for compliance with the soil protection requirements and construction of ditches, settlement tanks and roads;
  - 3) remove mineral resources and any rock or sediments not registered as mineral resources from the natural state within the boundaries of the mining claim;
  - 4) stockpile extracted mineral matter in the mining claim and its service plot, subject to the appropriate requirements provided for in the Waste Act and established on the basis thereof;
  - 5) organise transport of the extracted mineral matter within the boundaries of the mining claim and the mine service plot;
  - 6) prepare the extracted mineral matter for further processing or use;
  - 7) carry out additional geological exploration within the boundaries of the mining claim without an exploration permit.

### **§ 43. General requirements for mining**

- (1) Necessary measures for preventing environmental threats and appropriate measures for reducing environmental risk shall be implemented upon mining.
- (2) The holder of an extraction permit is required to apply measures in order to forecast and prevent environmental damage, eliminate or alleviate the caused environmental damage and monitor any potential environmental nuisances after extraction.

### **§ 44. Soil protection requirements**

- (1) Mining shall not cause soil degradation.
- (2) Soil within the boundaries of the structures located in the mining claim and the mine service plot and related to mining and soil in the overburden shall be removed.
- (3) Upon extraction of mineral resources, the soil removed from within the boundaries of the mining claim and the mine service plot may by the holder of an extraction permit:
  - 1) be temporarily stockpiled within the mine service plot;
  - 2) be used for the reclamation of the land where extraction has been carried out on the basis of a permit issued thereto;
  - 3) be transferred or used outside the mine service plot.

### **§ 45. Extraction of peat**

- (1) An extraction permit may be applied for the extraction of peat only in an area or mineral deposit which has been entered in the list of peat areas disturbed by extraction and abandoned or the list of peat areas suitable for extraction.
- (2) The issuer of permits shall return applications for peat extraction permits submitted for an area or mineral deposit not entered in the list of peat areas specified in subsection (1) of this section without reviewing the applications.
- (3) A peat deposit or a part thereof or another peat area which has been impacted by human activity and which is not presumed to have a significant value in terms of nature conservation is entered in the list of peat areas suitable for extraction.
- (4) Extraction permits are issued for peat deposits entered in the list of peat areas suitable for extraction within the limits of the annual rate of extraction of peat.
- (5) Upon the issue of a peat extraction permit, a mining claim is granted up to the base.
- (6) The list of peat areas disturbed by extraction and abandoned shall be established by a regulation of the minister responsible for the area.

(7) The list of peat areas suitable for extraction shall be established by a regulation of the minister responsible for the area.

#### **§ 46. Annual rate of extraction of oil shale and peat**

(1) The annual rate of extraction of oil shale and peat means the maximum amount of oil shale or peat which is permitted to be extracted in a calendar year in total. The annual rate of extraction of peat shall be established by counties.

(2) The annual rate of extraction of peat shall be established by a regulation of the Government of the Republic.

(3) The annual rate of extraction of oil shale is 20 million tons.

(4) The annual rate of extraction of oil shale is permitted to be exceeded to the extent and pursuant to the procedure provided for in § 63 of this Act.

#### **§ 47. Oil shale sectoral development plan**

(1) For the purpose of strategic development of the oil shale sector, an oil shale sectoral development plan shall be prepared.

(2) The preparation of the development plan specified in subsection (1) of this section shall be organised by the Ministry of the Environment.

(3) The oil shale sectoral development plan shall be approved by the Riigikogu.

(4) Proceeding from the report on implementation of the oil shale sectoral development plan and results of achievement of the set aims, the Government of the Republic may make a proposal on amendment of the development plan to the Riigikogu.

## **Division 2**

### **Applying for Extraction Permit, Issue and Refusal to Issue Extraction Permit, Period of Validity of Extraction Permit and Extraction Charge**

#### **§ 48. Issuer of extraction permit**

Extraction permits shall be issued by the Environmental Board.

#### **§ 49. Applying for extraction permit**

(1) In order to receive an extraction permit, an applicant shall submit an application to the issuer of extraction permits.

(2) The issuer of extraction permits shall immediately send the application for an extraction permit for an opinion to the authorised processor of the environmental register mineral deposits list, who shall submit an opinion in writing within ten days after receipt of the application.

(3) The issuer of extraction permits shall immediately send the application for an extraction permit concerning the rock, sediment, liquid or gas not specified in subsection 21 (2) of this Act for an opinion to the minister responsible for the area, who shall submit an opinion in writing within 30 days after receipt of the application.

(4) If the mining claim or its service plot is located on the land of a construction work that serves national defence purposes or its protection zone, the issuer of extraction permits shall send the application for an extraction permit for an opinion to the Ministry of Defence, who shall submit an opinion in writing within 30 days after receipt of the application.

(5) If the mining claim or its service plot is located on an immovable monument or in a heritage conservation area or a protected zone thereof, the issuer of extraction permits shall send the application for an extraction permit for an opinion to the National Heritage Board, who shall submit an opinion in writing within 30 days after receipt of the application.

(6) The issuer of extraction permits shall send the application for an extraction permit and the draft administrative act to be issued in respect of the application for an opinion to the local government of the location of the planned place of extraction, who shall submit an opinion in writing within two months after receipt of the draft administrative act to be issued in respect of the application.

(7) The issuer of extraction permits shall send the application for an extraction permit and the draft administrative act to be issued in respect of the application for an opinion to the Mineral Resources

Commission, who shall submit an opinion in writing within two months after receipt of the application and the draft administrative act to be issued in respect of the application.

(8) The issuer of extraction permits shall send the draft administrative act to be issued in respect of the application for an extraction permit concerning the rock, sediment, liquid or gas not specified in subsection 21 (2) of this Act for approval of the draft administrative act to the minister responsible for the area, who shall approve or refuse to approve the draft administrative act within 30 days after receipt of the draft administrative act to be issued in respect of the application.

(9) If the mining claim or its service plot is located on the land of a construction work that serves national defence purposes or its protection zone, the issuer of extraction permits shall send the draft administrative act to be issued in respect of the application for an extraction permit for approval to the Ministry of Defence, who shall approve or refuse to approve the draft administrative act within 30 days after receipt of the draft administrative act to be issued in respect of the application.

(10) If the mining claim or its service plot is located on an immovable monument or in a heritage conservation area or a protected zone thereof, the issuer of extraction permits shall send the draft administrative act to be issued in respect of the application for an extraction permit for approval to the National Heritage Board, who shall approve or refuse to approve the draft administrative act within 30 days after receipt of the draft administrative act to be issued in respect of the application.

(11) The issuer of extraction permits shall also send an application for an oil shale, phosphate rock or metal raw material extraction permit and the draft administrative act to be issued in respect of the application for approval to the Ministry of Economic Affairs and Communications and if necessary to other state authorities concerned, who shall approve or refuse to approve the draft administrative act within 30 days after receipt of the application and the draft administrative act to be issued in respect of the application.

## **§ 50. Application for extraction permit**

(1) An application for an extraction permit consists of a completed application form, a letter of explanation and a graphical annex.

(2) In addition to the information specified in clause 42 (1) 4) of the General Part of the Environmental Code Act, the following shall be provided on the form for application for an extraction permit:

- 1) the name, personal identification code or registry code, address and contact details of the applicant and the mining company;
- 2) information concerning the mineral deposit, mining claim and mine service plot;
- 3) information concerning the mineral resources, including the quantity of minable mineral resources;
- 4) information concerning the average and maximum annual rates of extraction and the duration of extraction;
- 5) information concerning the area of use of the mineral resources.

(3) In addition to the information specified in clauses 42 (1) 3) and 5) to 15) of the General Part of the Environmental Code Act, a letter of explanation to the application for an extraction permit shall include the following information:

- 1) the technologies planned to be used and the potential extent of the environmental impact arising from the planned extraction;
- 2) the measures applied to prevent and reduce the possible changes in the earth's crust and environmental nuisances;
- 3) socioeconomic impact involved in the extraction of oil shale, phosphate rock or metal raw material and the analysis serving as a basis thereof;
- 4) the purpose of further use of the land disturbed by extraction, its technical and biological reclamation, formation of water regime of the land to be reclaimed and the expected cost of the reclamation works;
- 5) the mining waste generated during extraction;
- 6) the contents of investigations of the impact of planned extraction on the achievement of the environmental objectives specified in §§ 35 to 37 of the Water Act and a list of such investigations;
- 7) compliance with the conditions provided for in clauses 312 (1) 1), 3) and 4) of the Water Act.

(4) The graphical annex to an application for an extraction permit consists of the location plan and geological cross sections of the mining claim applied for and the plan of reclaimed land.

(5) A report on geological investigation or a report on geological exploration, if it exists, containing a proposal on the basis of which a decision has been made to register the mineral resources for the extraction of which the permit is being applied for, shall be appended to the application for an extraction permit electronically.

(6) If mining waste is generated during extraction and such waste is stockpiled on the mine service plot which is not a waste disposal site within the meaning of § 352 of the Waste Act, a mining waste management plan shall be appended to the application. Preparation, submission and approval of the waste management plan shall be based on the requirements provided for in § 421 of the Waste Act.

(7) If an extraction permit is being applied for within the boundaries of a geological exploration area determined by a valid permit for geological investigation issued for prospecting or an exploration permit or within one year after the expiry of such permit and the applicant is not the holder of such permit, the applicant for an extraction permit shall submit the consent of the holder of such permit for geological investigation or extraction permit.

(8) In the case of mineral resources in the ownership of a person in private law, if the mineral resources do not belong to the applicant for an extraction permit, the consent of the owner of the immovable of the location of the mining claim and the mine service plot to the use of the immovable in the ownership thereof shall be presented to the issuer of extraction permits during the processing of the application for an extraction permit.

(9) The procedure for submission of applications for extraction permits and the detailed requirements for applications for extraction permits shall be established by a regulation of the minister responsible for the area.

#### **§ 51. Disclosed information concerning proceeding for issue of extraction permit in case of open proceeding and upon announcement of extraction permit**

Upon informing the public about a proceeding for the issue of an extraction permit in the case of open proceeding and upon announcement of an extraction permit, the name of the mining company shall also be disclosed in addition to the information provided for in subsections 47 (1) and 58 (4) of the General Part of the Environmental Code Act.

#### **§ 52. Term for deciding on issue of extraction permit**

(1) Subsections 49 (1), (3) and (4) of the General Part of the Environmental Code Act do not apply to the issue of extraction permits.

(2) The issue of an extraction permit shall be decided within one year after receipt of a due application, unless otherwise provided by law.

(3) The issuer of extraction permits may extend the terms provided for in subsection (2) of this section and subsection 49 (2) of the General Part of the Environmental Code Act if there appear circumstances which do not allow deciding on the issue of a permit within this term.

#### **§ 53. Right to receive extraction permit**

(1) The holder of a permit for exploring mineral resources in the given area has the priority right to receive a permit for extraction of the given mineral resources belonging to the state during the term of validity of the exploration permit and until one year after expiry of the specified permit.

(2) The issuer of extraction permits shall process an application of the person specified in subsection (1) of this section in the priority order before the applications of other persons if the application was submitted at the time of validity of the priority right specified in subsection (1) of this section.

(3) In the case not specified in subsection (1) of this section the person who has submitted an application for the extension of a mining claim in conformity with the requirements on the extension of mining claims specified in § 68 of this Act has the priority right to receive a permit for the extraction of mineral resources belonging to the state.

(4) In respect of a part of a mineral deposit, for which an extraction permit has been issued, no extraction permit shall be issued to other persons.

(5) The person whose application for an extraction permit the issuer of extraction permits continues to process shall be determined by auctioning the right to receive an extraction permit in accordance with § 54 of this Act if:

1) in the case provided for in subsection (3) of this section, another application for the extension of a mining claim in conformity with the requirements on the extension of mining claims specified in § 68 of this Act is submitted for the same or partially overlapping part of the mineral deposit within 60 days after informing the public of the application for the extension of a mining claim which was submitted first, and the submitted applications cannot be satisfied simultaneously, except in the case provided for in subsection 68 (6) of this Act;

2) in the case not specified in subsections (1) and (3) of this section, another application for an oil shale extraction permit is submitted for the same or partially overlapping part of a mineral deposit within 60 days after informing the public of an application for an oil shale extraction permit, and the submitted applications cannot be satisfied simultaneously;

3) in the case not specified in subsections (1) and (3) of this section and in clause 2) of this subsection, another application for a permit for extracting the same mineral resources is submitted for the same or partially overlapping part of a mineral deposit within 30 days after informing the public of an application for a permit for extracting mineral resources belonging to the state which was submitted first, and the submitted applications cannot be satisfied simultaneously.

(6) The issuer of extraction permits shall return without reviewing:

1) in the case provided for in subsections (1) and (4) of this section, applications of other persons submitted for the same or partially overlapping mining claim;

- 2) in the case provided for in subsection (3) of this section, applications of other persons submitted for the same or partially overlapping mining claim, except in the case provided for in clause (5) 1) of this section;
- 3) an application for the extension of a mining claim which is submitted more than 60 days after informing the public of an application for an extraction permit already submitted for the same or partially overlapping part of the mineral deposit;
- 4) applications submitted after the expiry of the term specified in clauses (5) 1) and 3) of this section.

#### **§ 54. Auctioning of right to receive extraction permit**

- (1) The purpose of auctioning of the right to receive an extraction permit is to determine the applicant whose application the issuer of extraction permits continues to processes.
- (2) An auction shall be organised by the issuer of extraction permits.
- (3) The issuer of extraction permits shall publish a notice concerning the organisation of the auction in the official publication *Ametlikud Teadaanded*. The notice shall set out information concerning the object of the auction, the starting price, the time and place of the auction, the deposit amount, the contact details of the organiser of the auction, other information relevant for organising the auction and in the case provided for in clause 53 (5) 2) of this Act also the due date for submission of additional applications for extraction permits.
- (4) In the case provided by clauses 53 (5) 1) and 3) of this Act the auction shall be organised among the persons who have submitted the applications specified in the referred subsections.
- (5) In the case provided for in clause 53 (5) 2) of this Act the auction shall be organised among the persons who have submitted applications for extraction permits by the due date set out in the notice specified in subsection (3) of this section. Applications submitted after the due date shall be returned by the issuer of extraction permits without reviewing the applications.
- (6) The auction shall be organised for applications to which such bases for refusal to issue an extraction permit arising from this Act which can be assessed at the time of organising the auction do not apply.
- (7) Upon organising an auction, processing of an application for an extraction permit shall be suspended until the winner of the auction is announced or the auction is declared to have failed.
- (8) Subsections 34 (7) to (10) of this Act apply to the organisation of an auction.
- (9) The detailed requirements and procedure for auctioning the right to receive an extraction permit shall be established by a regulation of the minister responsible for the area.

#### **§ 55. Refusal to issue extraction permit**

- (1) The issue of an extraction permit shall be refused in the cases provided for in clauses 52 (1) 1) and 3) to 10) of the General Part of the Environmental Code Act.
- (2) The issue of an extraction permit shall also be refused if at least one of the following grounds exists:
  - 1) the mining claim or its service plot is located on the land of a construction work that serves national defence purposes or its protection zone and mining may endanger the construction work that serves national defence purposes, the performance of the functions determined or planned for the construction work that serves national defence purposes or the operation capacity of the construction work that serves national defence purposes;
  - 2) the mining claim or its service plot is located on an immovable monument or in a heritage conservation area or a protected zone thereof, and mining may endanger the immovable monument or the heritage conservation area or the preservation thereof in their unique environment;
  - 3) the sum of maximum annual rates of extraction entered on all the peat extraction permits for the extraction peat exceeds or would exceed in the case of issue of this permit the annual rate of extraction of peat established on the basis of § 46 of this Act and the issue of this permit would result in the increase of the sum of maximum annual rates of extraction entered on all peat extraction permits;
  - 4) no part of the annual rate of extraction of oil shale has been assigned to the applicant for the permit on the basis of subsection 61 (1) of this Act within 90 days after submission of an application for an oil shale extraction permit;
  - 5) the quantity of minable mineral resources remaining within the boundaries of a mining claim is greater than one is able to extract such mineral resources within the term of validity of the permit, taking account of the average annual rate of extraction or the maximum annual rate of extraction set out in the application, except in the case provided for in subsection 59 (3) of this Act;
  - 6) the operations to be carried out on the basis of the applied extraction permit significantly restrict performance of the rights or obligations arising from an extraction permit issued earlier;
  - 7) preservation of a mineral resource which is not subject to extraction on the basis of another permit such that it is usable has not been planned in the area affected by extraction;

8) the permit is applied for such that a part of the mineral resources which later independent use is not economically justified is excluded from the mining claim and exclusion of the mineral resources from the mining claim does not arise from law or is not necessary for the protection of property or the environment;  
9) land disturbed by extraction cannot be reclaimed to be usable with reasonable expenses;  
10) extraction is contrary to the national interest;  
11) the local government does not consent to the issue of an extraction permit;  
12) the operations to be carried out on the basis of the applied extraction permit may significantly adversely affect a protected natural object and such adverse effect cannot be avoided otherwise than by refusing to issue a permit.

(3) The issue of an extraction permit may be refused if at least one of the following reasons exists:

1) more than one punishment has been imposed on the applicant for a criminal act or misdemeanour in the area of extraction or handling of mining waste and the corresponding information has not been expunged from the criminal records database;  
2) the operations to be carried out on the basis of the applied extraction permit may significantly adversely affect a natural object for placing of which under protection proceedings have been initiated in accordance with subsection 9 (1) of the Nature Conservation Act and such adverse effect cannot be avoided otherwise than by refusing to issue a permit;  
3) the operations to be carried out on the basis of the applied extraction permit may significantly adversely affect a thing of cultural value which has been placed under temporary protection on the basis of the Heritage Conservation Act and such adverse effect cannot be avoided otherwise than by refusing to issue a permit.

(4) If a local government does not consent to the issue of an extraction permit, the issuer of extraction permits may, on the proposal of the applicant, apply for a consent of the Government of the Republic to the issue of a permit. The Government of the Republic shall give a consent to the issue of a permit if there is overriding national interest therein.

(5) The issuer of extraction permits may refuse to apply for a consent of the Government of the Republic provided for in subsection (4) of this section if, according to the minister responsible for the area, there is clearly no national interest in the issue of a permit.

#### **§ 56. Extraction permit**

(1) In addition to the information provided for in clauses 53 (1) 1), 4) and 5) of the General Part of the Environmental Code Act, the following shall be provided in an extraction permit:

1) the name and personal identification code or registry code of the mining company;  
2) the address and contact details of the holder of the permit and the mining company;  
3) the location of the mining claim and the mineral resources, including the quantity of minable mineral resources;  
4) the area of the mining claim;  
5) the area and location of the mine service plot necessary for the extraction of mineral resources;  
6) the area of use of the mineral resources;  
7) the average annual rate of extraction or the maximum annual rate of extraction;  
8) the purpose of use of the land being reclaimed;  
9) the measures taken to ensure the protection of the earth's crust and rational use of the mineral resources and to reduce the environmental nuisances arising from extraction to human health, property and the environment.

(2) In addition to the information specified in subsection (1) of this section, an extraction permit may set out:

1) the safety measures and measures for mitigating the consequences of accidents which are applied when carrying out the operations;  
2) the health and environmental protection measures to be applied upon commencement and termination of operations;  
3) environmental monitoring requirements;  
4) the requirements for submission of information to the issuer of extraction permits;  
5) other secondary conditions of the extraction permit.

(3) The graphical annex to an application for a permit, which is amended during the process of issuing a permit if necessary, is an integral part of the extraction permit. If submission of a mining waste management plan is required, the waste management plan prepared and approved in accordance with the requirements established by § 421 of the Waste Act is also an integral part of the extraction permit.

#### **§ 57. Average annual rate of extraction**

(1) The average annual rate of extraction means the average quantity of mineral resources to be extracted on an average per year, which extraction ensures exhaustion of the mineral resources of the mining claim during the period of validity of the permit.

(2) The average annual rate of extraction shall be calculated by the applicant for an extraction permit in the application for an extraction permit, taking account of the quantity of the mineral resources to be extracted, the technology to be used for extraction and the time needed for reclamation of the land.

(3) If the issuer of extraction permits finds that an error has been made in the calculation of the average annual rate of extraction, it has the right to make a proposal to the applicant for a permit to adjust the application for an extraction permit.

#### **§ 58. Maximum annual rate of extraction**

(1) The maximum annual rate of extraction means the maximum quantity of mineral resources which is permitted to be extracted on the basis of a permit per year.

(2) The maximum annual rate of extraction shall be established upon extraction of peat and oil shale. Upon extraction of other mineral resources, the maximum annual rate shall be established if necessary for compliance with the environmental requirements.

(3) The maximum annual rate of extraction entered on a peat extraction permit can, in justified circumstances, be transferred to another peat extraction permit of the same person in part or in whole.

(4) The holder of a peat extraction permit has the right to extract the quantity of mineral resources which failed to be extracted of the maximum annual rate within the next three years. Upon retroactive extraction of the mineral resources which failed to be extracted, the total quantity of mineral resources to be extracted during a current year shall not exceed the maximum permitted annual rate of extraction established for compliance with the environmental requirements, provided that such rate is determined by the extraction permit.

#### **§ 59. Movable mineral resources**

(1) Movable mineral resources mean the mineral resources within the boundaries of a mining claim from which the mineral resources remaining in the bodies delimited in the letter of explanation to the application for an extraction permit and in the graphical annexes to the application and extraction permit are excluded. It is not permitted to extract the mineral resources excluded from the movable mineral resources.

(2) The quantity of movable mineral resources in a mining claim shall not exceed the average annual rate of extraction or the maximum annual rate of extraction multiplied by the period of validity of the extraction permit recalculated into years.

(3) The requirement provided for in subsection (2) of this section does not apply to peat and oil shale extraction permits.

#### **§ 60. Period of validity of extraction permit**

(1) An extraction permit is issued for up to 30 years.

(2) A permit for the extraction of sand, gravel, lacustrine lime, lake mud or sea mud is issued for up to 15 years.

(3) If, upon processing an application for an extraction permit, it becomes evident that the mineral resources cannot be exhausted within a period provided for in subsection (1) or (2) of this section and extraction of the remaining mineral resources on the basis of another extraction permit is economically unjustified, the issuer of extraction permits has the right to issue the permit for a period which is longer by up to five years.

#### **§ 61. Use of annual rate of extraction of oil shale**

(1) The part of the annual rate of extraction of oil shale to be used by a holder of an oil shale extraction permit shall be determined by a directive of the minister responsible for the area.

(2) In order to find the part of the annual rate of extraction of oil shale to be used by a holder of an oil shale extraction permit, the proportion of the sum of maximum annual rates entered on all oil shale extraction permits of each single permit holder in the sum of maximum annual rates entered on all oil shale extraction permits of all permit holders shall be determined as a percentage. Then the part of the annual rate of extraction of oil shale which corresponds to the resulting percentage is determined numerically.

(3) Mining is permitted on the basis of an oil shale extraction permit if the part of the annual rate of extraction of oil shale has been determined to the holder of a permit on the basis of subsection (1) of this section.

(4) The holder of an oil shale extraction permit shall not extract during a year on the basis of all the oil shale extraction permits issued thereto more than the part of the annual rate of extraction of oil shale determined thereto on the basis of subsection (1) of this section, except in the case provided for in § 63 of this Act.

(5) The part of the annual rate of extraction of oil shale determined on the basis of subsection (1) of this section shall not be altered due to the amendment or expiry of an extraction permit or due to the issue of a new extraction permit.

(6) A person to whom the part of the annual rate of extraction of oil shale has been determined on the basis of subsection (1) of this section may transfer it or a part of it to a person who holds an oil shale extraction permit or whose application for an oil shale extraction permit has been accepted for processing. The transferor and the transferee shall submit the transfer contract to the minister responsible for the area.

(7) If a person to whom the part of the annual rate of extraction of oil shale has been determined on the basis of subsection (1) of this section waives it in part or in full, the part of the annual rate of extraction of oil shale which has become available shall be sold by auctioning.

(8) If all oil shale extraction permits of a person have expired and the person has not submitted a new application for an oil shale extraction permit within three months after the expiry of the latest permit, the part of the annual rate of extraction of oil shale determined thereto on the basis of subsection (1) of this section shall be sold by auctioning.

(9) The minister responsible for the area shall change the part of the annual rate of extraction of oil shale determined on the basis of subsection (1) of this section and used by the holder of an oil shale extraction permit in the cases provided for in subsections (6) to (8) of this section on the basis of a transfer contract or a decision on approving auctioning results within 30 days after receipt of the transfer contract or the decision on approving auctioning results.

## **§ 62. Auctioning of part of annual rate of extraction of oil shale**

(1) The auction specified in subsections 61 (7) and (8) of this Act shall be organised by the issuer of extraction permits.

(2) The decision on organising the auction specified in subsection 61 (7) of this Act shall be made no later than 60 days after the person has waived a part of the annual rate of extraction of oil shale.

(3) The decision on organising the auction specified in subsection 61 (8) of this Act shall be made no later than 60 days after the expiry of the latest oil shale extraction permit of the person.

(4) The decision on organising the auction shall set out information concerning the object of the auction, the starting price, the deposit amount, the time and place of the auction, the contact details of the person organising the auction, the manner of payment of the auction price and other information relevant for organising the auction.

(5) The deposit amount for participation in an auction shall be established on the basis of the provisions of subsection 34 (7) of this Act.

(6) The decision on organising the auction shall be published in the official publication *Ametlikud Teadaanded*. The holders of oil shale extraction permits and the persons who have submitted applications for oil shale extraction permits by the time of publication of the decision on organising the auction shall be informed of the decision.

(7) A person who holds an oil shale extraction permit or who has submitted an application for an oil shale extraction permit may participate in the auction.

(8) The person who has made the highest bid for the auctioned part of the annual rate of extraction of oil shale is the winner of the auction.

(9) An auction is deemed to have failed if, in the course of the auction, the winner of the auction is not ascertained regardless of the reasons therefor. Upon failure of an auction, the issuer of extraction permits may organise a new auction.

(10) The revenues generated from the auction shall accrue to the state budget.

(11) The detailed requirements and procedure for auctioning a part of the annual rate of extraction of oil shale and the starting price for the auction shall be established by a regulation of the minister responsible for the area.

## **§ 63. Retroactive extraction of oil shale failed to be extracted of annual rate of extraction of oil shale**

(1) It is permitted to extract the quantity of oil shale which failed to be extracted of the annual rate of extraction of oil shale retroactively within seven years following the year when the quantity failed to be extracted.

(2) The issuer of extraction permits shall maintain records about the annual rate of extraction of oil shale which failed to be extracted and shall publish on 1 August each year on its website the quantities of oil shale which failed to be extracted of the annual extraction rate during the past six calendar years and the quantity of oil shale which failed to be extracted of the annual rate of extraction of oil shale which retroactive extraction is permitted in the following calendar year (hereinafter retroactively extractable quantity of oil shale).

(3) To calculate the retroactively extractable quantity of oil shale, the issuer of extraction permits shall sum up the quantities of oil shale which failed to be extracted of the annual rate of extraction of oil shale during the

past six calendar years from which the quantities of oil shale approved by a decision of the issuer of extraction permits under subsection (6) of this section and subsection 64 (9) of this Act have been subtracted. Subtracting is started from the seventh calendar year counting back from the current year, excluding the current year, and continued if necessary by approaching the current year in time.

(4) The holder of an oil shale extraction permit who wishes to extract in the following calendar year more than the part of the annual rate of extraction of oil shale determined thereto on the basis of subsection 61 (1) of this Act shall submit an application to the issuer of extraction permits no later than on 1 September, which sets out the quantity of oil shale which it wishes to extract retroactively in the following calendar year.

(5) The application specified in subsection (4) of this section shall not be processed in open proceedings.

(6) The issuer of extraction permits shall approve by its decision the quantities of oil shale permitted to be extracted retroactively in the following calendar year in terms of holders of oil shale extraction permits on the basis of the applications within 30 days after receipt of the applications.

(7) The holder of an extraction permit may extract, in the calendar year following the year of making the decision specified in subsection (6) of this section or subsection 64 (9) of this Act, in addition to the part of the annual rate of extraction of oil shale determined thereto on the basis of subsection 61 (1) of this Act, the quantity of oil shale set out in the above decision.

(8) Upon retroactive extraction of oil shale which failed to be extracted of the annual rate of extraction of oil shale, the quantity of oil shale to be extracted annually from the mining claim set out on the extraction permit shall not exceed the maximum annual rate entered on that permit.

#### **§ 64. Auctioning of right to extract retroactively extractable quantity of oil shale**

(1) If the total quantities of oil shale set out in the applications specified in subsection 63 (4) of this Act exceed the retroactively extractable quantity of oil shale as informed in accordance with subsection 63 (2) of this Act, the right to extract the retroactively extractable quantity of oil shale shall be sold by an auction. The persons who have submitted the application specified in subsection 63 (4) of this Act may participate in the auction.

(2) An auction shall be organised by the issuer of extraction permits.

(3) The decision on organising the auction specified in subsection (1) of this section shall be made no later than 60 days after the due date for submission of applications specified in subsection 63 (4) of this Act. The decision on organising the auction shall be sent to the persons who have submitted applications.

(4) The provisions of subsections 62 (4), (5), (9) and (10) of this Act apply to the auction specified in subsection (1) of this section.

(5) The person who has made the highest bid for the mining right per one ton of oil shale is the winner of the auction.

(6) The winner of the auction acquires the mining right for the quantity of oil shale indicated in the bid for the price bid thereby, whereas the quantity of oil shale shall not be greater than the total quantity of the object of the auction.

(7) If the quantity indicated by the winner in the bid is lower than the total quantity of the object of the auction, there may be several winners of the auction. The persons who have made bids are listed in the descending order of the price bid for the mining right per one ton of oil shale, and the bids shall be satisfied in the same order.

(8) The person who has made the next best bid after the highest price bid acquires the mining right at the price and in the quantity indicated in the bid made in the auction thereby or in the quantity remaining after subtracting the quantity acquired by the person or persons who have made a higher bid from the total quantity of the object of the auction. The total quantities of acquired mining rights shall not exceed the total quantity of the object of the auction.

(9) The issuer of extraction permits shall approve by its decision the quantity of oil shale permitted to be extracted more in the following calendar year by the winner of the auction on the basis of the mining right for a quantity of oil shale acquired at the auction. The issuer of extraction permits shall refuse to approve the quantity of oil shale indicated in the applications specified in subsection 63 (4) of this Act for the persons who have not acquired the mining right for oil shale at the auction.

(10) The detailed requirements and procedure for auctioning the right to extract a retroactively extractable quantity of oil shale and the starting price for the auction shall be established by a regulation of the minister responsible for the area.

## **§ 65. Mineral resource extraction charge**

The mineral resource extraction charge shall be calculated and paid pursuant to the Environmental Charges Act and legislation established on the basis thereof.

# **Division 3 Amendment, Suspension, Revocation and Re-registration of Extraction Permit**

## **§ 66. Amendment of extraction permit**

(1) In addition to the provisions of subsection 59 (1) of the General Part of the Environmental Code Act, an extraction permit shall be amended if at least one of the following reasons exists:

- 1) the holder of a permit applies for amendment of the information specified in clause 56 (1) 1) or 2) of this Act;
- 2) measures not specified in the extraction permit need to be applied for accident prevention;
- 3) the requirements indicated in the permit need to be changed due to changes in the mining waste management plan or submission of a new waste management plan;
- 4) information concerning the mineral resources for the extraction of which the permit is issued has been changed in the environmental register by a decision of the person deciding on making the entry, by the chief processor or authorised processor;
- 5) the holder of an extraction permit applies for reduction of the area of a mining claim after the declaration of the obligation to reclaim land disturbed by extraction to be performed.

(2) In addition to the provisions of subsection 59 (2) of the General Part of the Environmental Code Act, an extraction permit may be amended if the holder of the permit applies for:

- 1) the extension of a mining claim;
- 2) the extension of validity of the extraction permit;
- 3) the joining of extraction permits;
- 4) the alteration of the maximum annual rate; or
- 5) has submitted another reasoned application therefor.

(3) In addition to the provisions of subsection 59 (5) of the General Part of the Environmental Code Act, amendment of an extraction permit shall be decided without open proceedings:

- 1) if the holder of an extraction permit applies for amendment of the information specified in clause 56 (1) 1) or 2) of this Act;
- 2) in the cases specified in clauses (1) 4) and 5) of this section; or
- 3) in the case specified in subsection 69 (3) of this Act.

## **§ 67. Extension of validity of extraction permit**

(1) If, during the period of validity of an extraction permit, the minable mineral resources are not completely exhausted within the boundaries of the mining claim or the land disturbed by extraction has not been reclaimed, the issuer of extraction permits shall extend, on the basis of an application of the holder of the permit, the validity of the permit by the period of time which is necessary for exhausting the mineral resources, but no more than by the term provided for in subsections 60 (1) and (2) of this Act. The validity of peat and oil shale extraction permits may be extended by up to 30 years at a time, until the minable mineral resources are exhausted.

(2) The validity of an extraction permit may be extended if the holder of the permit has received, by the time specified in the application:

- 1) in the case of open-cast mining on private or municipal land, the consent of the owner of the immovable of the location of the mining claim and the mine service plot to the use of the immovable thereof;
- 2) in the case of underground mining in private or municipal land, the consent of the owner of the immovable of the location of the mine service plot to the use of the immovable thereof.

(3) The latest mine survey measurement documentation together with a calculation of the residual amount of the mineral resources shall be appended to an application for extension of validity of an extraction permit.

(4) The mine survey measurement documentation for and the calculation of the residual amount of peat appended to an application for extension of validity of a peat extraction permit shall not be compiled earlier than three years before submission of the application for extension of validity of the permit.

(5) An application for extension of validity of an extraction permit shall be submitted at least one year prior to the expiry of the permit. If an environmental impact assessment needs to be made in connection with the planned operations, the application for extension of validity of an extraction permit shall be submitted at least two years prior to the expiry of the permit.

(6) The issuer of extraction permits may, at the request of the holder of a permit, restore the term specified in subsection (5) of this section if the term was allowed to expire with good reason and the validity of the

permit can be extended during the period of validity of the permit. The term specified in subsection (5) of this section shall not be restored if more than six months have passed from the initial due date for submission of the application.

(7) If, during the processing of an application for extending the validity of an extraction permit, it appears that the processing of this application cannot be completed during the period of validity of the extraction permit, the validity of the extraction permit shall extend for the time needed for completing the processing of the application for an extraction permit, but not for more than one year.

(8) Upon extension of the validity of an extraction permit, the existing extraction permit shall be amended by amending, if necessary, also other requirements provided on the extraction permit.

#### **§ 68. Extension of mining claim**

(1) The holder of an extraction permit has the right to extend a mining claim to the adjoining or separate mining claims if the minable mineral resources on the basis of the existing permit last for up to five years.

(2) A mining claim may be extended only within the boundaries of a mineral deposit, where the mining claim entered on the permit is located.

(3) A mining claim may be extended without complying with the conditions specified in subsection (1) of this section if a reasoned application is submitted for extending a mining claim. The issuer of extraction permits shall deem an application to be reasoned *inter alia* if at least one of the following reasons exists:

1) the minable mineral resources on the basis of the existing permit last for up to eight years and it takes more than three years to prepare the mining claim and the mine service plot for removal of the mineral resources from the natural state due to reasons not depending on the holder of the permit;

2) the extension of a mining claim is necessary for extracting such mineral resources which later independent use is not economically justified;

3) a protected area or a special conservation area is formed in a mining claim or a species protection site is placed under protection in a mining claim and this significantly restricts the performance of the rights arising from the extraction permit.

(4) In the case provided for in clause (3) 3) of this section a mining claim shall be extended by a reasonable volume, taking account of the nature and extent of the restrictions to the performance of the rights arising from the extraction permit resulting from the formation of a protected area or a special conservation area or placement of a species protection site under protection.

(5) In the case provided for in clause (3) 3) of this section a mining claim given to the person for the extraction of the same mineral resources shall be extended.

(6) An applicant for the extension of a mining claim on the basis provided for in clause (3) 3) of this section has the priority right to the extension of a mining claim of mineral resources belonging to the state before other applicants for extension of mining claims, except in the case referred to in clause 53 (6) 4) of this Act.

(7) Upon extension of a mining claim, an existing extraction permit shall be amended by amending, if necessary, the period of validity and other requirements indicated on the permit. Determination of the period of validity of the amended permit shall be based on the term provided for in subsection 60 (1) or (2) of this Act and the permit may be further extended if necessary proceeding from subsection 67 (1) of this Act.

#### **§ 69. Joining of extraction permits**

(1) At the request of a holder of permits, the issuer of extraction permits may join the extraction permits issued to the same holder of permits for adjacent mining claims by issuing a new extraction permit which sets out the information entered on the joined extraction permits to the appropriate extent.

(2) Only permits issued within the boundaries of the same mineral deposit may be joined.

(3) There shall be no open proceedings if no amendments are made in the conditions of the permit upon joining of permits other than amendments in the quantity of mineral resources, the area of the mining claim and its service plot and the average annual rate of extraction due to the joining of the permits and the period of validity of the new permit issued as a result of joining permits is the period of validity of the joined permit with the shortest period of validity.

#### **§ 70. Suspension of extraction permit**

(1) On the bases provided for in clause 66 (1) 2) of this Act and clauses 59 (1) 2) and 3) of the General Part of the Environmental Code Act, the issuer of extraction permits may suspend an extraction permit in full or in part for up to three months.

(2) Suspension of an extraction permit shall be decided without open proceedings.

(3) The issuer of extraction permits shall inform the local government of the location of the mining claim, the Land Board, the Ministry of the Environment, the Environmental Inspectorate and the Technical Surveillance Authority of suspension of a permit.

#### **§ 71. Revocation of extraction permit**

(1) In addition to the provisions of clauses 62 (1) 1), 2) and 4) of the General Part of the Environmental Code Act, the issuer of extraction permits shall revoke a permit if at least one of the following reasons exists:

1) a required amendment of the mining waste management plan has not been submitted or the submitted waste management plan does not conform to the requirements and the deficiencies are not eliminated during the term set for the purpose;

2) the activities related to the handling of mining waste do not correspond to the mining waste management plan;

3) the holder of a permit lacks a waste permit required for operation of a waste disposal site in conformity with clause 73 (2) 8) of the Waste Act or an integrated environmental permit.

(2) In addition to the provisions of clause 62 (2) 1) of the General Part of the Environmental Code Act, the issuer of extraction permits may revoke an extraction permit if at least one of the following reasons exist:

1) the holder of a permit has not commenced mining within the boundaries of the mining claim determined by the permit within five years after receipt of the permit without good reason;

2) the holder of a permit fails to comply with the requirements established by the permit or legislation and revocation of the permit is in significant public interest;

3) more than one punishment has been imposed on the holder of a permit for criminal acts or more than two punishments have been imposed on the holder of a permit for misdemeanours in the area of extraction or handling of mining waste and the corresponding information has not been expunged from the criminal records database.

(3) Upon implementation of clause (2) 3) of this section each offence related to a permit is accounted separately.

(4) The issuer of extraction permits shall inform the local government of the location of the mining claim, the Land Board, the Ministry of the Environment, the Environmental Inspectorate and the Technical Surveillance Authority of revocation of a permit.

#### **§ 72. Requirements for application for amendment or revocation of extraction permit**

The requirements established in Division 2 of Chapter 4 of this Act for applications for extraction permits apply to the submission and processing of applications for amendment of extraction permits, including extension of the period of validity of extraction permits, extension of mining claims and joining of extraction permits, and revocation of extraction permits to the applicable extent unless otherwise provided for in this Act or on the basis thereof.

#### **§ 73. Re-registration of extraction permit**

(1) The issuer of extraction permits may, at the joint request of the holder of an extraction permit and the person wishing to acquire the extraction permit, re-register the extraction permit in the name of the other person. Upon re-registration of a permit, all the rights and obligations related to the permit shall transfer to the new holder of the permit.

(2) If it is technically possible in the opinion of the issuer of extraction permits and there are no other hindering circumstances, an extraction permit may also be re-registered in part. In such case all the rights and obligations related to the re-registered part shall transfer to the new holder of the permit.

(3) The draft agreement on partial assignment of the mining right shall be submitted to the issuer of extraction permits for approval. The issuer of extraction permits shall approve or refuse to approve the draft agreement pursuant to the provisions of subsection (2) of this section.

(4) The agreement on assignment of the mining right, the calculation of the residual amount of mineral resources within the boundaries of the mining claim determined by the re-registered extraction permit and the mine survey measurement documentation shall be appended to the application specified in subsection (1) of this section. Residual amount shall be calculated on the basis of the results of mine survey measurement as at the end of the quarter preceding the day of submitting the application for re-registration. The residual amount of peat shall be calculated on the basis of the estimated amount of extracted peat supply, which shall be determined on the basis of the information concerning extraction, production or inventory or the results of measuring stacks.

(5) In the case of partial re-registration of a permit, the calculation of the residual amount of mineral resources and the mine survey measurement documentation shall indicate the quantity of the residual amount to be re-registered.

(6) An application for partial re-registration of an extraction permit shall comply with the requirements provided for in § 50 of this Act and established on the basis thereof.

(7) The issuer of extraction permits shall refuse to re-register an extraction permit if at least one of the following reasons exists:

- 1) the holder of an extraction permit has failed to pay the mineral resource extraction charge by the due date;
- 2) partial re-registration of an extraction permit is applied for and this is not technically possible in the opinion of the issuer of extraction permits or there are other hindering circumstances;
- 3) the circumstance provided for in clause 55 (3) 1) of this Act or clause 52 (1) 1) or 5) of the General Part of the Environmental Code Act exists.

(8) The rights and obligations of the current holder of an extraction permit are deemed terminated as of re-registration of the extraction permit.

(9) The mining right arises on the working day following the re-registration of an extraction permit, unless a later date arises from an application, or after obtaining the right to use land if such right is acquired after the re-registration of the extraction permit.

(10) Re-registration of an extraction permit means that information concerning the holder of the permit and if necessary information concerning the mining company are changed on the permit. Upon partial re-registration of a permit, the person wishing to acquire a permit shall be issued a new permit, on which such conditions shall be entered which shall be based, to the appropriate extent, on the information entered on the partially re-registered permit and the conditions of the permit. There shall be no open proceedings upon re-registration unless the issuer of extraction permits considers it necessary.

(11) Upon re-registration of an extraction permit, the mining waste management plan which is appended to the permit and the graphical annexes are also deemed to be binding on the person acquiring the extraction permit. Upon partial re-registration of a permit, the acquirer of the permit must submit a new mining waste management plan and the acquirer of the permit and the holder of the extraction permit must submit new graphical annexes.

(12) Section 60 of the General Part of the Environmental Code Act does not apply to extraction permits.

## **Division 4**

### **Requirements Relating to Technological Processes of Mining, Submission of Mining Data and Safety Requirements for Mining**

#### **§ 74. Specialist in charge**

(1) A plan for mining shall be prepared, mining shall be organised and managed and mine survey measurement shall be carried out by the person having the appropriate competence (hereinafter specialist in charge).

(2) The requirements provided for in subsection 17 (3) of this Act apply to the assessment and attestation of competence of specialists in charge. It is presumed that the competence of a specialist in charge is attested to the extent that the person has an appropriate profession in accordance with the Professions Act.

(3) A specialist in charge shall be appointed by a mining company in writing. For the purpose of organising and managing safe mining in conformity with the requirements, several specialists in charge shall be appointed if necessary.

(4) A mining company shall ensure that the work load of a specialist in charge enables the specialist in charge to perform the duties with due care corresponding to the nature of work.

#### **§ 75. Plan for mining**

(1) Mining is permitted only in accordance with a plan for mining.

(2) A plan for mining shall be prepared to such an extent and in such a form that mining operations can be carried out on the basis thereof safely and in conformity with the requirements.

(3) A plan for mining shall provide at least the following information and documents:

- 1) relevant geological information;
- 2) location plan of the mining claim and, in the case of a mine, also location plans of workings;
- 3) description, reasoning and schemes of the used technology;
- 4) description of the implemented safety measures;
- 5) in the case of a mine, also procedures for remedying the effects of accidents and for keeping records regarding persons staying underground.

(4) For the purposes of this Act, mine means a production unit which is engaged in the underground mining of mineral resources and which consists of above-ground and underground construction works required for extraction of mineral resources.

(5) The detailed requirements for plans for mining shall be established by a regulation of the minister responsible for the area.

(6) Holders of extraction permits shall ensure that the location maps of workings of mines are preserved and submitted after the end of mining to the National Archives for permanent preservation.

#### **§ 76. Mine survey measurement**

(1) Mine survey measurement means the surveying carried out upon extracting mineral resources and documentation of the results of surveying.

(2) In the cases provided by law, the requirements established for mine survey measurement also apply to any other measuring of the earth's crust which is carried out within the scope of application of this Act and which in substance corresponds to mine survey measurement.

(3) Mine survey measurement shall be conducted in order to ensure:

- 1) that workings are excavated in accordance with the plan;
- 2) that the results of the work performed are surveyed and documented;
- 3) the quantities of mineral resources are determined.

(4) Mine survey measurement shall be organised such that the surveying results can be controlled.

(5) The holder of an extraction permit must preserve mine survey measurement documentation at least until the expiry of the extraction permit.

(6) The requirement of traceability of measurement results provided for in the Metrology Act applies to the results of mine survey measurement required pursuant to this Act and the Environmental Charges Act and of measurements specified in subsection (2) of this section with the specification that calibration is not required for global navigation satellite systems (hereinafter GNSS) receivers if accuracy of the GNSS receiver measurement results is controlled before and after each measurement at the geodetic point the data of which are in the geodetic point database.

(7) For the purpose of control of the measurement results of GNSS receivers it is permitted to use the points of classes 1 and 2 of the national geodetic base network or the points of the extensive geodetic network or the points of classes 1, 2 and 3 of the local geodetic base network. The difference between the coordinates measured by a GNSS receiver and the coordinates provided in the geodetic point database shall not exceed upon control measurement 25 cm horizontally and 19 cm in height.

(8) Upon control measurement of a GNSS receiver, the coordinates received by the receiver at the control point, the coordinates in the geodetic point database, the make of the receiver used, the time of measurement and the method of measurement shall be documented.

(9) The detailed requirements and procedure for mine survey measurement shall be established by a regulation of the minister responsible for the area.

#### **§ 77. Submission of report on volume of extraction**

(1) The holder of an extraction permit is required to submit a report on the volume of extraction to the Environmental Board once per quarter.

(2) The requirements for reports on the volume of extraction, including their contents, and the format and procedure for submission of reports shall be established by a regulation of the minister responsible for the area.

#### **§ 78. Safety requirements for mining**

(1) Upon mining:

- 1) measures shall be taken to detect, prevent and control the spread of fires, explosions and the creation of environments dangerous to health;
- 2) the existence of adequate warning systems and other systems of communication shall be ensured such that assistance, evacuation and rescue operations can be commenced without delay and performed smoothly;
- 3) hazard zones shall be marked and delimited in the mining claim and its service plot;
- 4) an inrush of water shall be prevented when work is performed in the vicinity of flooded workings;
- 5) the ground shall be prevented from sinking or collapsing, or such situations shall be kept under control.

(2) The holder of an extraction permit is required to mark the boundary of the mining claim and the mine service plot such that it can be controlled.

(3) Records regarding persons staying in the mine shall be kept such that all the persons staying in the mine could be ascertained at any time. Persons staying in the mine shall be equipped with the necessary protective equipment.

(4) Safety requirements for mining shall be established by a regulation of the minister responsible for the area.

#### **§ 79. Rescue work in mine**

(1) Rescue work in the underground workings of a mine shall be organised by the mine rescue service. A mining company shall ensure the functioning of the mine rescue service.

(2) For the purposes of this Act, an underground working means an empty space in the earth's crust created as a result of extraction and covered by a natural layer where persons can stay due to the size and accessibility of the space.

(3) The requirements for rescue work in mines and the procedure for co-operation with rescue service agencies shall be established by a regulation of the minister responsible for the area.

## **Chapter 5 Reclamation of Explored Land and Land Disturbed by Extraction**

#### **§ 80. Obligation to reclaim explored land and land disturbed by extraction**

(1) The holder of a permit for geological investigation, an exploration permit or an extraction permit must reclaim the explored land or land disturbed by extraction during a technologically reasonable period of time. The reclamation obligation shall also continue after expiry or revocation of the permit. If exploration or extraction of the same mineral resource in the same geological exploration area or in the same mining claim continues on the basis of another permit, the reclamation obligation shall transfer to the holder of the new permit.

(2) Upon liquidation of a legal person holding a permit the performance of the obligation to reclaim the explored land and land disturbed by extraction shall be organised by the liquidators.

(3) Explored land or land disturbed by extraction means the land and the earth's crust, the natural state of which has been changed by geological investigation, geological exploration or extraction.

(4) In order to reclaim explored land and land disturbed by extraction:

- 1) any pits, boreholes and other civil engineering works resulting from geological investigation, geological exploration or extraction shall be liquidated or adjusted to the environment of the location;
- 2) land disturbed by extraction shall be adjusted into a wooded area, a body of water, other land having value in use or a landscape of a recognised value.

(5) Works not specified in subsection (4) of this section may be carried out for reclamation of explored land and land disturbed by extraction if such works are required for the purpose of using the land in the future for other purposes. The works shall be prescribed in the project for reclamation of land disturbed by extraction.

(6) Upon reclamation of land disturbed by extraction it must be ensured that the land would fit into the surrounding landscape and would not pose a danger arising from its special character to the persons or animals in the area.

(7) Upon depositing mining waste back in the workings made in the course of open-cast mining or underground mining for the purpose of reclamation of land disturbed by extraction or for the purpose of construction, the holder of an extraction permit shall:

- 1) ensure physical stability of workings and prevent subsidence, taking account of the requirements provided for in § 331 of the Waste Act;
- 2) prevent the pollution of soil, surface water and groundwater;
- 3) ensure the monitoring of mining waste deposited back in the workings after reclamation of land in accordance with the requirements provided for in § 331 of the Waste Act.

(8) For the purpose of preventing deterioration of the status of water and pollution of air and soil, the requirements established on the basis of subsection 331 (8) of the Waste Act apply to the reclamation of land disturbed by extraction.

(9) In the appropriate cases, the requirements for landfills established on the basis of the Waste Act, including clause 33 (1) 1) thereof, apply to the waste other than mining waste used upon filling the workings.

(10) The detailed requirements for reclamation of explored land and land disturbed by extraction shall be established by a regulation of the minister responsible for the area.

#### **§ 81. Conditions for reclamation and project for reclamation of land disturbed by extraction**

(1) Land disturbed by extraction shall be reclaimed in accordance with a project for reclamation of land disturbed by extraction (hereinafter reclamation project).

(2) Preparation of the reclamation project shall be organised by the holder of an extraction permit on the basis of the conditions for reclamation.

(3) Conditions for reclamation shall be presented to the holder of an extraction permit and the consent to implement the reclamation project shall be granted by the Environmental Board.

(4) When presenting the conditions for reclamation, the Environmental Board shall proceed from the recommendations in the environmental impact assessment if environmental impact has been assessed and the direction of reclamation entered on the extraction permit. In justified circumstances another direction of reclamation may be taken as a basis upon presentation of the conditions for reclamation if its impact has been assessed during environmental impact assessment or strategic environmental assessment.

(5) The Environmental Board shall ask for an opinion of the land owner and the local government about the conditions for reclamation and if the land disturbed by extraction is located on the land of a construction work that serves national defence purposes or its protection zone, also the opinion of the Ministry of Defence.

(6) The Environmental Board shall present the conditions for reclamation within six months after receiving a corresponding application from the holder of an extraction permit.

(7) The Environmental Board may extend the term provided for in subsection (6) of this section if there appear circumstances which do not allow presenting the conditions for reclamation within this term.

(8) The Environmental Board shall send the draft consent specified in subsection (3) of this section and the reclamation project for an opinion thereon to the Mineral Resources Commission which shall present its opinion in writing within two months after receiving these.

(9) The requirements for the contents of reclamation projects shall be established by a regulation of the minister responsible for the area.

#### **§ 82. Report on land disturbed by extraction and its reclamation**

(1) The holder of an extraction permit is required to submit a report on land disturbed by extraction and its reclamation prepared on the basis of the mine survey measurement data to the issuer of extraction permits.

(2) The report specified in subsection (1) of this section shall be submitted during the quarter following the quarter of carrying out mine survey measurement together with a report on the volume of extraction.

(3) The procedure for submission of reports on land disturbed by extraction and its reclamation and the format of reports shall be established by a regulation of the minister responsible for the area.

#### **§ 83. Obligation to survey cadastral unit**

The owner of an extraction permit is required, at the demand of the owner of the immovable, after completing the works of reclamation of land disturbed by extraction, to carry out surveying of the cadastral unit and to present the cadastral survey documentation to the owner of the immovable before the commencement of work of the approval commission for reclamation pursuant to the procedure established on the basis of subsection 17 (2) of the Land Cadastre Act.

#### **§ 84. Term for performance of reclamation obligation**

(1) Explored land must be reclaimed before the submission of a geological investigation report or geological exploration report or, if a report is not submitted, before the expiry of the permit for geological investigation or the exploration permit. If a permit for geological investigation or an exploration permit is revoked before the obligation to reclaim explored land is declared performed, the geological exploration area and its service plot shall be reclaimed by the due date set in the decision on revoking the permit.

(2) Land disturbed by extraction shall be reclaimed before the expiry of the extraction permit. If an extraction permit is revoked before the obligation to reclaim land disturbed by extraction is declared performed, the land disturbed by extraction shall be reclaimed by the due date set in the decision on revoking the permit.

#### **§ 85. Transfer of reclamation obligation to owner of immovable**

(1) If the owner of an immovable does not allow reclamation work on the immovable of the owner after the expiry of the permit for geological investigation, the exploration permit or the extraction permit, the obligation to reclaim this immovable transfers to the owner of the immovable.

(2) The owner of an immovable must commence the work of reclaiming explored land or land disturbed by extraction within one year after the transfer of the reclamation obligation thereto.

#### **§ 86. Declaring of obligation to reclaim geological exploration area to be performed**

(1) The person who carries out the reclamation work shall prepare a report concerning the reclamation of the explored land.

(2) The person who carries out the reclamation work shall ask for an opinion of the owner of the immovable about the report specified in subsection (1) of this section. The opinion of the owner of the immovable shall be entered in the report.

(3) The reclamation obligation is performed if a report concerning the reclamation of the explored land has been approved by the Environmental Board.

(4) The Environmental Board shall approve a report concerning the reclamation of the explored land if the explored land has been reclaimed as required.

#### **§ 87. Declaration of obligation to reclaim land disturbed by extraction to be performed and approval commission for reclamation**

(1) The issuer of extraction permits shall declare the obligation to reclaim land disturbed by extraction to be performed, taking account of the proposal of the approval commission for reclamation. The approval commission for reclamation shall be formed and the head of the commission shall be designated by the issuer of extraction permits.

(2) A representative of the issuer of extraction permits, the owner of the immovable of the mining claim and mine service plot or a representative of the owner or, in the case of state land, the administrator of the immovable or a person authorised thereby, a representative of the local government and a necessary number of experts at the discretion of the person who forms the commission shall be appointed as members of the approval commission for reclamation.

(3) The functions of the approval commission for reclamation are to:

- 1) verify whether the reclamation work and the reclaimed land comply with the requirements provided for in § 80 of this Act and established on the basis thereof and the reclamation project;
- 2) make a proposal to the issuer of extraction permits to declare the obligation to reclaim land disturbed by extraction to be performed if it has been reclaimed as required and in compliance with the reclamation project or, if land is not reclaimed as required and in compliance with the reclamation project, make a motivated proposal to refuse to declare the obligation to reclaim land disturbed by extraction to be performed.

(4) The issuer of extraction permits shall send a copy of the decision on declaring the obligation to reclaim land disturbed by extraction to be performed to the authorised processor of the land cadastre.

#### **§ 88. Elimination of unforeseeable reclamation defects**

If, within three years after declaring the obligation to reclaim land disturbed by extraction to be performed, significant environmental nuisances become evident which could not be foreseen at the time of declaring the obligation to reclaim land disturbed by extraction to be performed but which arise from failure to comply with the requirements for reclamation of land disturbed by extraction or the reclamation project, the person who had the reclamation obligation is required to eliminate these.

## **Chapter 6**

### **Relations between Owners of Immovables and Holders of Permits for Geological Investigation, Exploration Permits and**

# **Extraction Permits and Compensation for Damage Caused by Geological Investigation, Geological Exploration or Extraction**

## **§ 89. Right to use immovable**

(1) If geological investigation is not prospecting, the owner of an immovable is required to permit it on the immovable thereof.

(2) Geological investigation, which is not prospecting, shall not be carried out without the consent of the owner of the immovable in yards, below buildings and closer than 50 metres to residential buildings.

(3) Geological investigation for prospecting, geological exploration or extraction of mineral resources may be carried out on an immovable belonging to another person upon agreement with the owner of the immovable.

## **§ 90. Use of immovable in state ownership**

(1) The consent of the administrator of state assets is required to use an immovable in state ownership for carrying out geological investigation for prospecting or geological exploration.

(2) No separate consent as specified in subsection (1) of this section is granted to use the land specified in subsection 31 (2) of the Land Reform Act and the right to use the specified land for the purpose of geological investigation or geological exploration is granted by the issue of a permit for geological investigation or an exploration permit.

(3) Use of an immovable in state ownership for geological investigation or geological exploration is free of charge.

(4) An immovable in state ownership shall be granted use of for extraction by leasing, establishment of a usufruct or constitution of a right of superficies.

(5) An immovable in state ownership shall be granted use of to the person to whom the issuer of permits has issued an extraction permit. Upon grant of use of an immovable for extraction, a public auction or a tender with preliminary negotiations shall not be organised.

(6) Grant of use of an immovable in state ownership for extraction shall be organised by the administrator of state assets or an authority authorised thereby.

(7) The annual rate of the fee for the use of an immovable in state ownership granted for extraction is five percent of the assessed value of land or, if an appraisal of land has been effected, five per cent of the value of land determined upon the appraisal of such land. The person who grants use of an immovable in state ownership for extraction has the right to change the amount of the user fee upon a change in the assessed value of land during assessment of land or on the basis of appraisal of land when three years have passed from entering into an agreement on the grant of the right of use and again when three years have passed from the latest change of the fee.

(8) A person who has obtained the right to use land shall pay for the costs of grant of use of an immovable for extraction.

(9) An immovable in state ownership which use is granted for extraction or a part thereof, where no extraction is carried out, may be sub-leased by the holder of an extraction permit with the consent of the administrator of state assets or an authority authorised thereby. A sub-lease shall not obstruct the performance of the obligations arising from the permit. A user of an immovable shall submit a sub-lease to the person organising the grant of use of the immovable, who shall ensure its disclosure in the state real property register.

(10) The detailed requirements and procedure for the grant of use of immovables in state ownership for extraction shall be established by a regulation of the Government of the Republic.

## **§ 91. Right of holder of permit for geological investigation or exploration permit to use geological exploration area and service plot of geological exploration area**

(1) The holder of a permit for geological investigation or an exploration permit has the right to drill boreholes and construct workings in the volume determined by the permit, construct temporary construction works necessary for geological operations, fell trees obstructing geological operations and level the exploration site in the geological exploration area and the service plot of the geological exploration determined by the permit.

(2) The owner of an immovable does not have the right to use temporary construction works built for geological operations during the period of validity of the permit for geological investigation or exploration permit and the construction works do not become an essential part of the immovable during the period of validity of the permit for geological investigation or the exploration permit, unless the owner of the construction works and the owner of the immovable have agreed otherwise.

## **§ 92. Compensation for damage caused by geological investigation or geological exploration**

(1) The holder of a permit for geological investigation or an exploration permit shall compensate for the damage caused by geological investigation or geological exploration regardless of whether or not they are culpable.

(2) The provisions of subsections 150 (1) and (2) of the General Part of the Civil Code Act apply to the limitation period for a claim to compensate for the damage specified in subsection (1) of this section.

(3) Regardless of the provisions of subsections 150 (1) and (2) of the General Part of the Civil Code Act, the claim specified in subsection (1) of this section expires no later than ten years after the expiry of a permit for geological investigation or an exploration permit.

## **§ 93. Compensation for damage caused by extraction and use of earth's crust**

(1) The holder of an extraction permit shall compensate for the damage caused by the extraction regardless of whether or not they are culpable.

(2) The provisions of subsection (1) of this section also apply to a person who uses the earth's crust on the basis of subsection 95 (1), 96 (1), 99 (1) or 100 (1) of this Act.

(3) Subsections 150 (1) and (2) of the General Part of the Civil Code Act apply to the limitation period for a claim to compensate for the damage specified in subsection (1) or (2) of this section.

(4) Regardless of the provisions of subsections 150 (1) and (2) of the General Part of the Civil Code Act, the claims specified in subsections (1) and (2) of this section expire no later than ten years after the expiry of an extraction permit or termination of use of the earth's crust specified in §§ 95, 96, 99 and 100 of this Act.

(5) If damage is caused by extraction on the basis of a permit or use of the earth's crust on the basis specified in subsection 95 (1), 96 (1), 99 (1) or 100 (1) of this Act more than ten years after the expiry of the extraction permit or termination of use of the earth's crust specified in §§ 95, 96, 99 and 100 of this Act, the caused damage shall be compensated for by the state out of the received mineral resource extraction charges. The state shall compensate for the damage also if caused after the liquidation of a legal person which held a permit or used the earth's crust or after the death of a person who used the earth's crust.

(6) In order to be compensated for the damage specified in subsection (5) of this section, an application shall be submitted to the Environmental Board.

## **§ 94. Right of holder of permit for geological investigation, exploration permit or extraction permit to use private road**

(1) Private roads shall be used on the conditions provided for in the Construction Code and the Law of Property Act.

(2) If the owner of a private road and the holder of a permit for geological investigation, an exploration permit or an extraction permit do not reach an agreement and the holder of the permit does not have other access to the geological exploration area, the service plot of the geological exploration area, the mining claim or the mine service plot from a public road, the holder of the permit has the right to demand access to the geological exploration area, the service plot of the geological exploration area, the mining claim or the mine service plot for the period of validity of the permit pursuant to the procedure provided for in § 156 of the Law of Property Act.

# **Chapter 7 Other Use of Earth's Crust**

## **§ 95. Right of owner of immovable who is natural person to use earth's crust**

(1) The owner of an immovable who is a natural person has the right to extract mineral resources or rock, sediments, liquid or gas not registered as mineral resources within the boundaries of the immovable belonging thereto without an extraction permit for the purpose of use in the owner's personal household unless otherwise provided by law.

(2) The owner of an immovable may also grant the right specified in subsection (1) of this section to a natural person who has the right to use the immovable.

(3) Transport of mineral resources as well as rock and sediments not registered as mineral resources extracted on the basis of subsection (1) of this section to another immovable of the same person is permitted only with the consent of the Environmental Board.

(4) To receive a permit, the owner of an immovable or the person who has the right to use an immovable shall submit an application to the Environmental Board before transporting. The application shall set out the approximate quantity and quality of the mineral resources or rock, sediment, liquid or gas not registered as mineral resources to be transported, the intended use thereof and the time and route of planned transport. The person who has the right to use an immovable shall append the document certifying the acquisition of the right specified in subsection (1) of this section to the application.

(5) The Environmental Board shall decide on the issue of a permit within 14 days after receipt of an application. If the Environmental Board needs additional information from the person who has submitted the application, the term for the issue of a permit shall be extended by the time for obtaining the information.

(6) The Environmental Board shall refuse to issue a permit if the purpose of use of the mineral resources or rock, sediment, liquid or gas not registered as mineral resources does not comply with the provisions of subsection (1) of this section or the removal thereof from the natural state results or may result in environmental threat or significant environmental nuisances.

(7) Regarding the mineral resources extracted on the basis of subsection (1) of this section, the owner of an immovable or the person who has the right to use an immovable shall submit information concerning the estimated quantity of extracted mineral resources in terms of types of mineral resources to the authorised processor of the environmental register mineral deposits list.

(8) The owner of an immovable or the person who has the right to use an immovable shall submit the information specified in subsection (7) of this section in writing within 30 days after extracting mineral resources.

#### **§ 96. Consumption and transfer of extracted mineral matter remaining after construction, work to manage land improvement systems, construction of land improvement systems or agricultural work**

(1) The owner of an immovable or the person who has the right to use an immovable has the right to consume and transfer, and to market, the extracted mineral matter generated upon and remaining after construction, management of land improvement systems, building of land improvement systems or agricultural work.

(2) Generation and use of extracted mineral matter in the course of work performed in the earth's crust, such as construction of ditches, basements and underground constructions, upon construction, management of land improvement systems, building of land improvement systems and agricultural work is not deemed to be mining.

(3) The owner of an immovable or the person who has the right to use an immovable shall, after removal of mineral resources from the natural state, submit a notice to the Environmental Board concerning the mineral resources extracted on the basis of subsection (1) of this section which are consumed within the boundaries of the immovable where they were extracted, describing in the notice:

- 1) the quantity and quality of the extracted mineral resources;
- 2) the location of the activities generating extracted mineral matter on the basis of the existing planning material.

(4) The owner of an immovable or the person who has the right to use an immovable shall submit the notice specified in subsection (3) of this section in writing within 30 days after removing mineral resources from the natural state.

#### **§ 97. Permit for transfer of extracted mineral matter remaining after construction, work to manage land improvement systems, construction of land improvement systems or agricultural work**

(1) In the case provided for in § 96 of this Act, the transfer of extracted mineral matter remaining after work performed in the earth's crust upon construction, management of land improvement systems, building of land improvement systems or agricultural work or consumption thereof outside of the immovable is permitted only with a permit of the Environmental Board.

(2) To receive the permit specified in subsection (1) of this section the owner of an immovable or the person who has the right to use an immovable shall submit an application to the Environmental Board, describing in the application:

- 1) the quantity and quality of the extracted mineral matter;
- 2) the purpose and location of use of the extracted mineral matter;
- 3) the schedule for the activities generating extracted mineral matter;
- 4) the location of the activities generating extracted mineral matter on the basis of the existing planning material.

(3) Copies of the relevant activity licence or documentation concerning the project if these are required for organising the activities provided for in subsection (1) of this section shall be appended to an application for

transfer of extracted mineral matter remaining after construction, management of land improvement systems, building of land improvement systems or agricultural work or the use thereof outside of the immovable.

(4) The consent of the owner of the receiving immovable or the person who has the right to use the receiving immovable shall be appended to an application for use of extracted mineral matter remaining after construction, management of land improvement systems, building of land improvement systems or agricultural work outside of the immovable.

(5) The Environmental Board shall decide on the issue of the permit specified in subsection (1) of this section within 14 days after receipt of an application. If the Environmental Board needs additional information from the person who has submitted the application, the term for the issue of a permit shall be extended by the time for obtaining the information.

(6) The period of validity of the permit specified in subsection (1) of this section is up to one year.

(7) The Environmental Board shall refuse to issue the permit specified in subsection (1) of this section if at least one of the following reasons exists:

1) the extracted mineral matter to be transferred or used outside of the immovable have not been generated in the course of construction, management of land improvement systems, building of land improvement systems or agricultural work;

2) the amount of mineral resources or rock or sediments not registered as mineral resources removed from the natural state is greater than necessary for construction, management of land improvement systems, building of land improvement systems or agricultural work;

3) in the case of use of extracted mineral matter outside of an immovable, the consent required in subsection (4) of this section has not been appended to the application specified in subsection (2) of this section;

4) the purpose of the activities described in the application is mining.

(8) In the cases provided for in clauses (7) 1) and 4) of this section and in the case specified in clause 2) to the extent that extracting of mineral matter was not necessary for construction, management of land improvement systems, building of land improvement systems or agricultural work, the owner of an immovable or the person who has the right to use an immovable must restore the situation as near as possible to the natural state which existed before generation of the extracted mineral matter.

(9) The requirement of having a permit which arises from subsection (1) of this section does not apply to:

1) the extracted mineral matter generated upon management of land improvement systems, cleaning of roadside ditches, building of utility networks and technical infrastructure in the volume determined in the corresponding design or, in the case of lack of a design, performance of the corresponding work in the reasonable volume;

2) the extracted mineral matter generated upon road construction if the extracted mineral matter is used for the same object.

**§ 98. Charge for mineral resources removed from natural state during construction, management of land improvement systems, building of land improvement systems or agricultural work and consumed within boundaries of same immovable and for transfer of extracted mineral matter or consumption thereof outside of immovable**

Environmental charge shall be paid for the mineral resources removed from the natural state during construction, management of land improvement systems, building of land improvement systems or agricultural work and consumed within the boundaries of the same immovable and for transfer of extracted mineral matter or consumption thereof outside of the immovable in accordance with the Environmental Charges Act and legislation established on the basis thereof, except in the cases provided for in subsection 97 (9) of this Act.

**§ 99. Consumption and transfer of overburden, mineral resources or rock or sediments not registered as mineral resources removed from natural state in mine service plot**

(1) The holder of an extraction permit has the right to consume and transfer the overburden of mineral resources removed upon open-cast mining and the mineral resources or any rock or sediments not registered as mineral resources removed from the natural state in the mine service plot on the basis of subsection 42 (3) of this Act.

(2) The holder of an extraction permit shall, after removal of mineral resources from the natural state, submit a notice to the Environmental Board concerning the mineral resources extracted on the basis of subsection (1) of this section which are consumed within the boundaries of the mine service plot of the same mining claim where they were extracted or within the boundaries of the mining claim above or around which the mine service plot is determined, describing in the notice:

1) the quantity and quality of the extracted mineral resources;

2) the location of the activities generating extracted mineral matter on the basis of the existing planning material.

(3) The holder of an extraction permit shall submit the information specified in subsection (2) of this section in writing within 30 days after removing mineral resources from the natural state.

(4) Transfer of overburden specified in subsection (1) of this section and mineral resources or any rock or sediments not registered as mineral resources removed from the natural state in the mine service plot and consumption thereof outside of the mining claim or the mine service plot is permitted only with a permit of the Environmental Board, taking account of the soil protection requirements provided for in this Act.

(5) To receive the permit specified in subsection (4) of this section the holder of an extraction permit shall submit an application to the Environmental Board which contains:

- 1) a description of the quantity and quality of overburden, mineral resources or rock or sediments not registered as mineral resources removed from the natural state in the mine service plot;
- 2) a description of the quantity, quality and place of consumption of mineral resources, overburden or rock or sediments not registered as mineral resources from the natural state in the mine service plot to be transferred or to be consumed outside of the mining claim or the mine service plot;
- 3) a schedule of the planned activities;
- 4) a plan of the place of the activities;
- 5) the number of the extraction permit on the basis of which the overburden, mineral resources, rock or sediments were removed from the natural state.

(6) The Environmental Board shall decide on the issue of the permit specified in subsection (4) of this section within 14 days after receipt of an application. If the Environmental Board needs additional information from the person who has submitted the application, the term for the issue of a permit shall be extended by the time for obtaining the information.

(7) Environmental charge shall be calculated and paid for the transfer of overburden, mineral resources or any rock or sediments not registered as mineral resources removed from the natural state in the mine service plot and consumption thereof outside of the mining claim or the mine service plot in accordance with the Environmental Charges Act and the legislation established on the basis thereof.

(8) The Environmental Board shall refuse to issue a permit if at least one of the following reasons exists:

- 1) transfer of overburden, mineral resources or any rock or sediments not registered as mineral resources removed from the natural state in the mine service plot and consumption thereof outside of the mining claim or the mine service plot results or may result in environmental threat or significant environmental nuisances;
- 2) it would not be possible to comply with the requirements for reclamation of land disturbed by extraction upon reclamation of the disturbed area;
- 3) extracted mineral matter has not been obtained on the basis of an extraction permit;
- 4) soil protection requirements provided for in this Act have not been taken account of in the application.

#### **§ 100. Right of local governments of permanently inhabited small islands to use earth's crust**

(1) The local government of a small island specified in clause 2 3) of the Permanently Inhabited Small Islands Act (hereinafter permanently inhabited small island) or a person authorised thereby has the right to extract mineral resources and rock and sediments not registered as mineral resources in an immovable on such permanently inhabited small island without an extraction permit for the purpose of performance of the functions of the local government, unless otherwise provided by law.

(2) If an immovable where mineral resources or rock or sediments not registered as mineral resources are planned to be extracted is not owned by the local government of a permanently inhabited small island, a written consent of the owner of the immovable is required for the extraction of mineral resources or rock or sediments not registered as mineral resources.

(3) Extraction of mineral resources or rock or sediments not registered as mineral resources on the basis of subsection (1) of this section is not deemed to be mining.

(4) The mineral resources and any rock and sediments not registered as mineral resources extracted on the basis of subsection (1) of this section may only be consumed within the boundaries of the permanently inhabited small island where the mineral resources or the rock or sediments not registered as mineral resources were extracted.

(5) No extraction charge is payable for the mineral resources belonging to the state or rock or sediments not registered as mineral resources extracted on the basis of subsection (1) of this section.

#### **§ 101. Permit for extraction of mineral resources and rock and sediments not registered as mineral resources**

(1) Extraction of mineral resources or rock or sediments not registered as mineral resources on the basis of subsection 100 (1) of this Act is permitted only with a permit of the Environmental Board.

(2) To receive the permit for extraction of mineral resources and rock and sediments not registered as mineral resources specified in subsection (1) of this section the local government of a permanently inhabited small

island shall submit an application to the Environmental Board before extraction of mineral resources or rock or sediments not registered as mineral resources, which must set out:

- 1) the name and registry code of the person authorised to extract mineral resources or rock or sediments not registered as mineral resources if the extracting person is not the local government of a permanently inhabited small island;
- 2) the approximate quantity and quality of the mineral resources and rock and sediments not registered as mineral resources;
- 3) the place of extracting the mineral resources or rock or sediments not registered as mineral resources;
- 4) information concerning the purpose of use of the mineral resources or rock or sediments not registered as mineral resources;
- 5) information concerning the duration of the activities.

(3) The Environmental Board shall decide on the issue of a permit within 90 days after receipt of an application. If the Environmental Board needs additional information from the person who has submitted the application, the term for the issue of a permit shall be extended by the time for obtaining the information.

(4) Open proceedings shall be organised upon the processing of the issue of a permit.

(5) If the place of extraction of mineral resources or rock or sediments not registered as mineral resources is located on the land of a construction work that serves national defence purposes or its protection zone, the issuer of permits shall send the application specified in subsection (2) of this section for an opinion to the Ministry of Defence, who shall submit an opinion in writing within 30 days after receipt of the application.

(6) If the place of extraction of mineral resources or rock or sediments not registered as mineral resources is located on an immovable monument or in a heritage conservation area or a protected zone thereof, the issuer of permits shall send the application specified in subsection (2) of this section for an opinion to the National Heritage Board, who shall submit an opinion in writing within 30 days after receipt of the application.

(7) If the permit specified in subsection (1) of this section is applied for within one year after the expiry of a permit for geological investigation issued for prospecting or an extraction permit and the applicant is not the holder of such permit, the applicant for the permit shall submit the consent of the holder of such permit for geological investigation or exploration permit.

(8) In respect of a part of the earth's crust for the exploration of which a permit for geological investigation for prospecting or an exploration permit has been issued, no permit specified in subsection (1) of this section shall be issued to other persons.

(9) In respect of a part of the earth's crust for the exploration of which an application for a permit for geological investigation for prospecting or an exploration permit or an extraction permit has been submitted, no permit specified in subsection (1) of this section shall be issued to other persons.

(10) If the consents specified in subsection 100 (2) of this Act and in subsection (7) of this section are missing and in the cases specified in subsections (8) and (9) of this section, the issuer of permits shall refuse to review the application for a permit for extracting mineral resources or rock or sediments not registered as mineral resources.

(11) In addition to the information provided in clause 56 (1) 8) of this Act, the following information shall be provided on the permit specified in subsection (1) of this section:

- 1) the name and registry code of the local government of a permanently inhabited small island;
- 2) the name and registry code of the person authorised to extract mineral resources or rock or sediments not registered as mineral resources if the extracting person is not the local government of a permanently inhabited small island;
- 3) the approximate quantity and quality of the mineral resources and rock and sediments not registered as mineral resources;
- 4) the details and cadastral register number of the immovable of the place of extracting the mineral resources or rock or sediments not registered as mineral resources;
- 5) period of validity of the permit for extracting mineral resources or rock or sediments not registered as mineral resources;
- 6) the measures taken to reduce the environmental nuisances arising from the extraction of mineral resources or rock or sediment not registered as mineral resources to human health, property and the environment.

(12) In the case provided for in clause (11) 2) of this section the local government of a permanently inhabited small island shall be indicated on the permit as the holder of the permit.

(13) In addition to the provisions of subsection (11) of this section the information specified in subsection 56 (2) of this Act may be indicated on the permit.

(14) The period of validity of the permit specified in subsection (1) of this section is up to five years.

- (15) The Environmental Board shall refuse to issue the permit specified in subsection (1) of this section if:
- 1) the extraction of mineral resources or rock or sediments not registered as mineral resources results or may result in environmental threat or significant environmental nuisances;
  - 2) upon extraction of mineral resources, preservation of the mineral resources remaining in the mineral deposit such that they can be used and extracted is not ensured;
  - 3) work carried out on the basis of the permit being applied for significantly restricts performance of the rights or obligations arising from the extraction permit issued earlier;
  - 4) the place of extraction of mineral resources or rock or sediments not registered as mineral resources is located on the land of a construction work that serves national defence purposes or its protection zone and the planned activities may endanger the construction work that serves national defence purposes, the performance of the functions determined or planned for the construction work that serves national defence purposes or the operation capacity of the construction work that serves national defence purposes;
  - 5) the place of extraction of mineral resources or rock or sediments not registered as mineral resources is located on an immovable monument or in a heritage conservation area or a protected zone thereof, and the planned activities may endanger the immovable monument or the heritage conservation area or the preservation thereof in their unique environment;
  - 6) the place of extraction of mineral resources or rock or sediments not registered as mineral resources is located on a protected natural object and the planned activities may damage the state of the protected natural object or interfere with achieving the objective of protecting the natural object.

#### **§ 102. Amendment and revocation of permit for extraction of mineral resources and rock and sediments not registered as mineral resources**

(1) The permit specified in subsection 101 (1) of this Act shall be amended if at least one of the following reasons exists:

- 1) the holder of a permit submits a reasoned application for amendment of a permit for extraction of mineral resources and rock and sediments not registered as mineral resources;
- 2) measures not specified in the permit for extraction of mineral resources and rock and sediments not registered as mineral resources need to be applied for accident prevention;
- 3) it appears as a result of monitoring or otherwise that the activities permitted by the permit for extraction of mineral resources and rock and sediments not registered as mineral resources result in an environmental threat or significant environmental nuisances and the interest in not amending the permit is not overriding.

(2) The period of validity of the permit specified in subsection 101 (1) of this Act may, based on a reasoned application, be extended for a period of up to five years at a time.

(3) The Environmental Board shall revoke the permit specified in subsection 101 (1) of this Act if the reason specified in clause 39 (1) 1) of this Act exists.

(4) The Environmental Board may revoke the permit specified in subsection 101 (1) of this Act if the reason specified in clause 39 (2) 2) of this Act exists and the interest of public or a third party cannot be efficiently protected by amendment of the permit.

#### **§ 103. Submission of information concerning extraction of mineral resources by local government of permanently inhabited small island and safety requirements for extraction of mineral resources and rock and sediments not registered as mineral resources**

(1) Local governments of permanently inhabited small islands shall submit a notice once a year to the Environmental Board concerning the mineral resources extracted on the basis of the permit specified in subsection 101 (1) of this Act, describing therein the quantity and quality of removed mineral resources. The notice must be submitted by the 25th day of the month following the accounting year regardless of whether or not any mineral resources were extracted during the accounting period.

(2) The safety requirements provided for in clauses 78 (1) 1) and 2) of this Act apply upon the extraction of mineral resources and rock and sediments not registered as mineral resources on the basis of the permit specified in subsection 101 (1) of this Act.

(3) The holder of the permit specified in subsection 101 (1) of this Act is required to mark the place of extracting mineral resources and rock and sediments not registered as mineral resources.

#### **§ 104. Obligation of local government of permanently inhabited small island to reclaim land**

(1) After the extraction of mineral resources or rock or sediments not registered as mineral resources on the basis of the permit specified in subsection 101 (1) of this Act, land shall be reclaimed, taking account of the requirements provided for in subsections 80 (4) and (6), clauses 80 (7) 2) and 3) and subsections 80 (8) and (9) of this Act.

(2) Local governments of permanently inhabited small islands must reclaim land during a technologically reasonable period of time. The reclamation obligation shall also continue after expiry of the permit.

(3) Land shall be reclaimed in compliance with the conditions for reclamation.

(4) The conditions for reclamation specified in subsection (3) of this section shall be issued by the Environmental Board. The Environmental Board shall ask for an opinion of the land owner about the conditions for reclamation.

(5) The issue of the conditions for reclamation shall be based on the terms provided for in subsections 81 (6) and (7) of this Act.

(6) The local government of a permanently inhabited small island shall compile a report on the reclamation of land.

(7) The Environmental Board shall declare the obligation to reclaim land to be performed on the basis of the report specified in subsection (6) of this section if land is reclaimed pursuant to the requirements provided for in subsections (1) and (2) of this section.

(8) The contents and format of the report specified in subsection (6) of this section shall be established by a regulation of the minister responsible for the area.

#### **§ 105. Geological storage of carbon dioxide**

(1) Geological storage of carbon dioxide in accordance with the Atmosphere Air Protection Act in the territory of the Republic of Estonia and under the continental shelf of Estonia is prohibited.

(2) The prohibition specified in subsection (1) of this section does not apply if the total volume of geologically stored carbon dioxide is less than 100,000 tons and the storage is undertaken for research, development or testing of new products and processes.

#### **§ 106. Use of underground workings for purposes other than mining**

The appropriate requirements applicable to underground mining shall be complied with upon using underground workings for purposes other than mining.

## **Chapter 8 State Supervision**

#### **§ 107. State supervision**

(1) State supervision over compliance with the requirements of this Act and legislation established on the basis thereof, except for the requirements referred to in subsections (3) to (5) of this section, shall be exercised by the Environmental Inspectorate.

(2) The Environmental Board as the issuer of permits shall exercise supervision over compliance with the requirements arising from §§ 39, 71, 77, 82, 84, 85, 88, 89, 97 and 102, subsection 103 (1) and § 104 of this Act.

(3) The Land Board shall exercise supervision over compliance with the requirements arising from § 25 of this Act.

(4) The Technical Surveillance Authority shall exercise supervision over compliance of the requirements arising from §§ 74 to 76, subsections 78 (1), (3) and (4), 103 (2) and § 106 of this Act.

(5) The Rescue Board shall exercise supervision over compliance with the requirements arising from § 79 of this Act.

#### **§ 108. Specific state supervision measures**

Law enforcement authorities may apply the special state supervision measures provided for in §§ 30, 31, 32, 45, 49, 50 and 51 of the Law Enforcement Act for exercising the state supervision provided for in this Act on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.

#### **§ 109. Specifications concerning state supervision**

(1) The Environmental Inspectorate may enter a marked immovable in the absence of the possessor or another entitled person if:

1) this is necessary for ascertaining or preventing a significant danger and the involvement of the specified persons would result in a delay that would jeopardise the achievement of the purpose of application of the measures; or

2) the purpose of entering the premises is to ensure access to another immovable or a body of water.

(2) The Environmental Inspectorate need not notify the possessor later on of entry into the premises on the basis provided for in clause (1) 2) of this section if no acts related to the supervision or offence proceedings were made in the premises after entering the premises.

#### **§ 110. Use of direct coercion**

The Environmental Inspectorate is permitted to use physical force on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.

#### **§ 111. Penalty payment rate**

(1) Upon failure to comply with a precept, the maximum rate of a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act is 32,000 euros.

(2) Upon failure to submit a report on the volume of extraction or a report compiled on land disturbed by extraction and its reclamation by the due date, the maximum rate of a penalty payment is 640 euros.

(3) Upon failure to commence the work of reclaiming explored land or land disturbed by extraction or upon failure to comply with the reclamation requirements, the maximum rate of a penalty payment is 3200 euros per one hectare of the geological exploration area and the service plot of the geological exploration area or the mining claim and the mine service plot.

(4) If the reclamation obligation has transferred to the owner of an immovable in accordance with § 85 of this Act, upon failure to commence the work of reclaiming explored land or land disturbed by extraction or upon failure to comply with the reclamation requirements, the maximum rate of a penalty payment is 3200 euros per one hectare of the part of the geological exploration area and the service plot of the geological exploration area or the mining claim and the mine service plot which remains within the boundaries of the immovable.

#### **§ 112. Compensation for damage to environment**

(1) Within the meaning of this Act, damage is caused to the environment if at least one of the following reasons exists:

- 1) if the natural body of mineral resources or natural rock, sediments, liquid or gas not registered as mineral resources is extracted without a required permit;
- 2) if mineral resources are rendered unusable in the course of mining, unless this is necessary in order to protect human health or property or to reduce or prevent negative environmental impact;
- 3) if, as a result of termination of mining, mineral resources are rendered unusable, except to the extent which is determined by the issuer of extraction permits and which is necessary to reduce or prevent negative environmental impact;
- 4) if the earth's crust is used only for the purpose of removal of soil from the earth's crust;
- 5) upon pollution of the earth's crust;
- 6) if mineral resources are destroyed or become unusable in a fire broken out upon extraction;
- 7) if the maximum annual rate permitted by the extraction permit, which is necessary for compliance with the environmental requirements, is exceeded during extraction;
- 8) if paludification of soil or damage to land or forest is caused by extraction.

(2) In the cases specified in clauses (1) 1)–3), 6) and 7) of this section, damage to the environment shall be calculated as a tenfold rate of the mineral resource extraction charge for the mineral resources equivalent to the extracted mineral resources or the mineral resources rendered unusable.

(3) In the case specified in clause (1) 4) of this section, damage to the environment shall be calculated as a tenfold amount of the highest mineral resource extraction charge established for the mineral resources.

(4) In the case specified in clauses (1) 5) and 8) of this section, damage to the environment is equal to the cost of rendering harmless of the polluted part of the earth's crust or elimination of the caused damage.

(5) Environmental damage shall be compensated for by the person who has damaged the environment.

(6) Environmental damage shall be collected by the Environmental Inspectorate. Compensation for damage shall be transferred to the state budget.

## **Chapter 9 Liability**

#### **§ 113. Unlawful conducting of geological investigation or geological exploration**

(1) Conducting of a geological investigation or geological exploration without a permit, if a permit is required, or in violation of the requirements of the permit 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 32,000 euros.

#### **§ 114. Extraction without extraction permit**

(1) Extraction of mineral resources or rock, sediments, liquid or gas not registered as mineral resources without a permit 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 400,000 euros.

#### **§ 115. Exceeding of quantity of oil shale permitted to be extracted**

(1) Exceeding of the quantity of oil shale permitted to be extracted 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 400,000 euros.

#### **§ 116. Failure to comply with requirements of plan for mining**

(1) Failure to comply with the requirements of the plan for mining is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

#### **§ 117. Violation of requirements of extraction permit**

(1) Violation of the requirements of the extraction permit 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 400,000 euros.

#### **§ 118. Violation of safety requirements for mining**

(1) Violation of the safety requirements for mining 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 32,000 euros.

#### **§ 119. Transfer of extracted mineral matter and use outside of mining claim without permit**

(1) Transfer of extracted mineral matter remaining after construction, work to manage land improvement systems, construction of land improvement systems or agricultural work or use thereof outside of the mining claim without a permit of the Environmental Board 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 400,000 euros.

#### **§ 120. Transport of mineral resources or rock or sediments not registered as mineral resources to another immovable of same person without permit**

Transport of mineral resources or rock or sediments not registered as mineral resources to another immovable of the same person without a permit of the Environmental Board is punishable by a fine of up to 300 fine units.

#### **§ 121. Transfer of overburden, mineral resources or rock or sediments not registered as mineral resources removed from natural state in mine service plot and use thereof outside of mining claim without permit**

(1) Transfer of overburden of mineral resources removed upon open-cast mining, mineral resources or rock or sediments not registered as mineral resources removed from the natural state in a mine service plot without a permit of the Environmental Board or stockpiling or use thereof outside of the mine service plot 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 400,000 euros.

#### **§ 122. Extraction of mineral resources or rock or sediments not registered as mineral resources without permit**

(1) Extraction of mineral resources or rock or sediments not registered as mineral resources without a permit, if a permit is required, 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 400,000 euros.

#### **§ 123. Violation of requirements for permit for extraction of mineral resources and rock and sediments not registered as mineral resources**

(1) Violation of the requirements for a permit for the extraction of mineral resources and rock and sediments not registered as mineral resources 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 400,000 euros.

#### **§ 124. Violation of safety requirements for extraction of mineral resources and rock and sediments not registered as mineral resources**

(1) Violation of the safety requirements for the extraction of mineral resources and rock and sediments not registered as mineral resources 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 32,000 euros.

#### **§ 125. Violation of soil protection requirements**

(1) Violation of soil protection requirements 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 400,000 euros.

#### **§ 126. Unlawful geological storage of carbon dioxide**

(1) Geological storage of carbon dioxide in a total volume of 100,000 tons or more or geological storage of carbon dioxide in a total volume of less than 100,000 tons if the storage is not undertaken for research, development or testing of new products and processes 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 400,000 euros.

#### **§ 127. Proceedings**

(1) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 113 to 115, 117, 119 to 123, 125 and 126 of this Act shall be conducted by the Environmental Inspectorate.

(2) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 116, 118 and 124 of this Act shall be conducted by the Technical Surveillance Authority.

## **Chapter 10 Implementing Provisions**

#### **§ 128. Validity of permits for geological investigation, exploration permits, extraction permits for mineral resources and extraction permits for earth materials issued before entry into force of this Act**

Permits for geological investigation, exploration permits and extraction permits for mineral resources and exploration permits for earth materials issued before the entry into force of this Act are valid until the date of expiry indicated thereon or until revocation thereof.

**§ 129. Application of Act to permits for geological investigation, exploration permits, extraction permits for mineral resources and extraction permits for earth materials issued before entry into force of this Act**

The provisions of this Act apply to the permits for geological investigation, exploration permits, extraction permits for mineral resources and extraction permits for earth materials issued before the entry into force of this Act. Until registration of a body of natural rock, sediments, liquid or gas or a part thereof as mineral resources, the requirements established for extraction permits for mineral resources apply to the extraction permits for earth material issued for removal thereof from the natural state, considering the extracted material as fill.

**§ 130. Processing of applications for permits for geological investigation, exploration permits and extraction permits submitted before entry into force of this Act**

(1) The processing of applications for permits for geological investigation, exploration permits and extraction permits submitted before the entry into force of this Act is continued on the basis of this Act, including the procedural provisions arising from this Act.

(2) The procedural norms in force at the time of accepting the application for processing apply to the applications for permits for geological investigation, exploration permits and extraction permits submitted before the entry into force of this Act if, by the time of entry into force of this Act, environmental impact assessment has been initiated in this proceeding or the issuer of permits has provided a preliminary assessment of significant environmental impact of the activities.

(3) The proceedings of the Ministry of the Environment for the issue of permits for geological investigation, exploration permits and extraction permits which are not completed at the time of entry into force of this Act shall be completed by the Environmental Board.

**§ 131. Issue of permits for extraction of sand, sea mud or clay on basis of applications submitted before entry into force of this Act**

(1) Permits for extraction of sand, sea mud or clay shall be issued for up to 30 years on the basis of applications for extraction permits submitted before the entry into force of this Act if a permit was applied for extraction in a sand, sea mud or clay deposit which was of national importance at the time of submitting the application.

(2) If, upon processing an application for a permit for the extraction sand, sea mud or clay submitted before the entry into force of this Act, it becomes evident that the mineral resources cannot be exhausted within a period provided for in subsection (1) of this section and use of the remaining mineral resources on the basis of another extraction permit is economically unjustified, the issuer of permits has the right to issue the permit for a period which is longer by up to five years.

**§ 132. Issue of permits for extraction of peat on basis of applications submitted before entry into force of this Act**

(1) Subsections 45 (1) and (2) of this Act do not apply to the applications for permits for the extraction of peat submitted before the entry into force of this Act if, by the time of entry into force of this Act, the issuer of permits has initiated environmental impact assessment or provided a preliminary assessment of significant environmental impact of the activities during the proceeding.

(2) An extraction permit for the extraction of peat shall be issued on the basis of the application specified in subsection (1) of this section within the limits of the annual rate, unless a permit is applied for a peat area which is disturbed by extraction and abandoned.

**§ 133. Implementation of §§ 61 and 63 of this Act**

(1) The directive specified in subsection 61 (1) of this Act shall be established by the minister responsible for the area in compliance with the calculation methods provided for in subsection 61 (2) of this Act within three months after alteration of the annual rate of extraction of oil shale effective at the time of entry into force of this provision.

(2) Until establishment of a directive on the basis of subsection 61 (1) of this Act:

1) the directive established on the basis of subsection 42 (3) (in the wording of 23.11.2008) of the Earth's Crust Act (RT I 2004, 84, 572) for the proportionate reduction of the maximum annual rate entered on oil shale extraction permits effective in 2009 (hereinafter directive of 2009) is deemed to be the directive specified in subsection 61 (1) of this Act;

2) the maximum annual rate per holder of extraction permit reduced in conformity with the directive of 2009 is deemed to be the part of the annual rate of extraction of oil shale to be used by the holder of an oil shale extraction permit determined on the basis of subsection 61 (1) of this Act.

(3) Upon implementation of § 63 of this Act, the annual oil shale extraction rate established in the Earth's Crust Act (RT I 2004, 84, 572) is taken into account as the annual rate of extraction of oil shale as regards the years preceding the entry into force of this Act.

(4) The calculation of the unextracted quantity of oil shale remaining from the annual rate of extraction of oil shale commences on 1 January 2009.

(5) Upon making the calculation specified in subsection 61 (2) of this Act, the maximum annual rate entered on the oil shale extraction permit before the establishment of the directive of 2009 is taken into account as the maximum annual rate entered on the oil shale extraction permit of a person who holds only one oil shale extraction permit.

#### **§ 134. Qualification requirements for person who acted as specialist in charge before entry into force of this Act**

(1) If a certificate of competency has been issued to a person on the basis of the Mining Act, it proves conformity of competence of the person to the requirements provided by this Act.

(2) Certificates of competency of specialists in charge issued on the basis of the Mining Act are valid until the expiry date specified thereon.

#### **§ 135. Legal assessment of offences committed before entry into force of this Act**

An offence which is committed by a person before the entry into force of this Act and which is also punishable as a misdemeanour on the basis of this Act is legally assessed pursuant to the appropriate section of this Act which prescribes the necessary elements of a misdemeanour.

#### **§ 136. - § 148. The provisions amending other Acts are omitted from this translation**

#### **§ 149. Repeal of Acts**

The following are repealed by this Act:

- 1) the Earth's Crust Act (RT I 2004, 84, 572);
- 2) the Mining Act.

#### **§ 150. Entry into force of Act**

(1) This Act enters into force on 1 January 2017.

(2) Clauses 137 5), 8) and 9) of this Act enter into force pursuant to the general procedure.

(3) Clauses 138 14) and 15) of this Act enter into force on 1 January 2018.

<sup>1</sup>Directive 2006/21/EC of the European Parliament and of the Council on the management of waste from extractive industries and amending Directive 2004/35/EC (OJ L 102, 11.4.2006, p. 15–34); Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (OJ L 140, 5.6.2009, p. 114–135).

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