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## Building Act<sup>1</sup>

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RT I 2002, 47, 297

Entry into force pursuant to section 102.

Amended by the following acts

Passed	Published	Entry into force
13.11.2002	RT I 2002, 99, 579	01.01.2003
11.02.2003	RT I 2003, 25, 153	01.07.2003
10.03.2004	RT I 2004, 18, 131	15.04.2004
15.06.2005	RT I 2005, 39, 308	01.01.2006
27.09.2006	RT I 2006, 43, 326	22.10.2006, partially 01.01.2008 and 01.01.2009
07.12.2006	RT I 2006, 58, 439	01.01.2007
24.01.2007	RT I 2007, 12, 66	01.01.2008
25.01.2007	RT I 2007, 16, 77	01.01.2008
21.02.2007	RT I 2007, 24, 128	26.03.2007
22.11.2007	RT I 2007, 66, 408	01.01.2008
31.01.2008	RT I 2008, 8, 58	15.05.2008
31.01.2008	RT I 2008, 8, 59	25.02.2008
18.03.2009	RT I 2009, 20, 132	01.05.2009
15.06.2009	RT I 2009, 37, 251	10.07.2009
26.11.2009	RT I 2009, 61, 401	26.12.2009
10.12.2009	RT I 2009, 63, 408	28.12.2009
27.01.2010	RT I 2010, 8, 37	27.02.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011 enters into force on the day determined by the decision of the Council of the European Union concerning repeal of the derogation established in respect of the Republic of Estonia on the basis of Article 140 (2) of the Treaty on the Functioning of the European Union, Decision No. 2010/416/EU of the Council of the European Union (OJ L 196, 28.07.2010, pp. 24–26).
05.05.2010	RT I 2010, 24, 116	01.09.2010
20.05.2010	RT I 2010, 31, 158	01.10.2010, partially 01.01.2011, enters into force on the day determined by the decision of the Council of the European Union concerning repeal of the derogation established in respect of the Republic of Estonia on the basis of Article 140 (2) of the Treaty on the Functioning of the European Union, Decision No. 2010/416/EU of the Council of the European Union (OJ L 196, 28.07.2010, pp. 24–26).

22.02.2011	RT I, 10.03.2011, 2	20.03.2011
23.02.2011	RT I, 25.03.2011, 1	01.01.2014
08.12.2011	RT I, 29.12.2011, 1	01.01.2012
02.05.2012	RT I, 25.05.2012, 5	09.01.2013, partially on the tenth day after the publication of the Act in Riigi Teataja.

## **Chapter 1**

# **GENERAL PROVISIONS**

### **§ 1. Scope of application of this Act**

(1) This Act provides the requirements for construction works, building materials, construction products, building design documentation and as-built drawings of construction works, and establishes the basis and procedure for design work, building work, the use and the registration of construction works, the sanctions for violations of this Act, and the organisation of public oversight and construction oversight.

(2) This Act provides the requirements for construction works of different types, for construction and use thereof and for persons who perform building work, in so far as this is not regulated by other Acts.

(3) Provisions of the Administrative Procedure Act apply to administrative procedures prescribed in this Act without prejudice to the rules established by this Act.

(4) Provisions of the Product Conformity Act apply to manufacturers of building materials and construction products specified in this Act, and to their authorised representatives, importers and distributors, to the notified body as well as to the assessment of conformity of building materials and construction products and to market surveillance, without prejudice to the rules established by this Act.

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

### **§ 2. Definitions**

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(1) A construction work is a completed structure which is constructed as a result of human action and which is attached to a specific area of the ground. Construction works are divided into buildings and civil engineering works.

(2) A building is a construction work which has an interior space that is separated from external environment by a roof and other parts of the building envelope.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2<sup>1</sup>) A building that uses energy to ensure the quality of indoor air, including to maintain, increase or reduce indoor temperature, is a building with indoor climate control.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(3) A civil engineering work is any construction work other than a building. A complex which comprises several civil engineering works that form a functional whole can be regarded as a single civil engineering work as defined in the present Act. Adventure parks, playgrounds as well as shipping channels constructed by way of dredging the sea bed or the bottom of an inland water body are also civil engineering works.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(4) Design work means:

- 1) architectural and structural designing of a construction work or part thereof;
- 2) designing of utility systems of a construction work;
- 3) designing of the technology used in a construction work;
- 4) technological and economic assessment of required use and maintenance of a construction work, based on the service life of this construction work.

(5) The product of design work is building design documentation.

(6) Building work means:

- 1) erection of a construction work;
- 2) adding an extension to a construction work;
- 3) reconstruction of a construction work;
- 4) modification of utility systems of a construction work or part thereof or complete replacement of a utility system;
- 5) demolition of a construction work.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(7) Adding an extension to a construction work means construction of an annex adjacent to the construction work, overlying the construction work or underlying the construction work.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(8) Reconstruction of a construction work means modification of its envelope elements and modification or replacement of its loadbearing or stiffening elements.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(8<sup>1</sup>) Reconstruction is deemed to be significant if the costs of modification of a building's envelope elements and the modification or replacement of the building's loadbearing or stiffening elements, or the modification of a building's outer envelope and the building's utility systems or parts thereof, or the complete replacement of a utility system, exceed one quarter of the average building cost of a construction work that is equivalent to the construction work which is being reconstructed.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(9) Replacement of doors and windows in the envelope elements of a detached building, summer-house, garden house, farm building, small construction work or a single apartment, stairwell or basement in a residential building with two or more apartments, is not regarded as building work as defined in the present Act, provided that upon replacement the location of the doors and windows in the elements remains the same and the appearance and the fire safety properties of the construction work are not altered, except in the cases provided in sections 16(1)(4) to 16(1)(5) of this Act.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(10) For the purposes of this Act, a utility system of a construction work means the set of equipment or communications located within the boundaries of the construction work and required for the functioning of the construction work and for ensuring its safety, including all structural elements required for the functioning of such equipment or communications.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(11) For the purposes of this Act, utility systems with significant energy consumption are heating installations, water heating installations, air cooling installations and ventilation installations and combinations of any of these.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(12) The minimum requirements for energy performance for an existing or a new building are the ceiling value of its total energy consumption, which is based on the purpose of use of the building and which takes into account technical parameters, the requirements established for utility systems with significant energy consumption or the conditions for introducing the use of renewable energy in buildings. The minimum requirements for energy performance may also include requirements established for other utility systems if due to the operation of the systems the building's energy demand is significantly increased.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

### **§ 3. Requirements for construction works**

(1) Construction works shall be designed and built according to good building practice and pursuant to legislation concerning building work and building design documentation, and may not present a threat to the life, health or property of individuals or to the environment. In the event of reconstruction of or adding an extension to a construction work, the reconstructed parts or extensions must comply with the requirements stipulated in this section. Adherence to the requirements provided in subsection 7 of this section is not required when building work is performed on a cultural monument.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2) Loads or other influences affecting a construction work may not lead to the collapse of the whole or part of the construction work or to the collapse of any other construction works in the neighbourhood or cause unacceptably large deformations to the construction work, the ground beneath it or to the construction works in the neighbourhood or the ground beneath them. Loads or other influences affecting a construction work may not lead to damage, by reason of a major deformation of the load-bearing elements, to the construction work or any of its parts, or furnishings or installed equipment, and any damage caused by an unforeseen event may not be disproportionate in its extent.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(3) In the event of a fire outbreak in a construction work the construction work must maintain its load-bearing capacity for a specific period of time. Spontaneous spread of fire and smoke within the construction work and the spread of fire to neighbouring construction works must be prevented. It must be possible to evacuate people from the construction work, it must be possible for people to evacuate from the construction work, and the safety of rescue teams and the means for their action in the event of a fire outbreak must be ensured.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(4) A construction work may not present a threat to the life, health or property of its occupants or other people or to the environment. Emission from the construction work of dangerous chemicals as defined in the Chemicals Act must be prevented. The spread of noise or of radiation dangerous to humans, the pollution or poisoning of water or soil and faulty evacuation of waste water, smoke and solid or liquid waste related to the construction work must also be prevented. Moisture may not accumulate in any part of the construction work or on its surfaces in quantities which would risk harm to the life, health or property of individuals.

(5) The users of a construction work must not, through their use and maintenance of the construction work, be exposed to unforeseeable risks or accidents such as slipping, falling, collision, burns, electrical shock and injury from explosion.

(6) The noise perceived by users of a construction work shall be kept down to a level that does not risk harm to their life or health and that allows them to reside or work in the construction work in satisfactory conditions.

(7) The outer envelope and utility systems with significant energy consumption of a construction work must be such as to ensure that the amount of energy consumed by the construction work corresponds to the climatic conditions of its location and to the purpose of its use. The outer envelope and utility systems with significant energy consumption of a building with indoor climate control must be designed and built such that their combined effect would make it possible to ensure compliance with the minimum requirements for energy performance of buildings.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(7<sup>1</sup>) Minimum requirements for energy performance need not be observed in the case of the following buildings with indoor climate control:

1) buildings which, pursuant to the relevant comprehensive plan or detailed plan, are located within a built-up area of cultural and environmental value, or which have been recognised as a valuable monument, or buildings which have been designated as cultural monuments and which are located in a heritage conservation area pursuant to the Heritage Conservation Act or which are included in the UNESCO World Heritage List and in which compliance with established requirements would significantly alter their nature or appearance;

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

2) buildings used as places of worship and for religious activities;

3) temporary buildings with a proposed time of use of two years or less;

4) industrial sites, workshops and non-residential agricultural buildings with low energy demand;

5) residential buildings which are intended to be used less than four months of the year;

6) buildings where the total of floor area corresponding to the purpose of use of the rooms and of areas required for servicing the rooms (hereinafter, the 'total use area') does not exceed 50m<sup>2</sup>.

(7<sup>2</sup>) The minimum requirements for energy performance provided in section 2(12) and numerical values for new buildings with indoor climate control and buildings to undergo significant reconstruction shall be established by the Government of the Republic of Estonia in a regulation.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(7<sup>3</sup>) The method for calculating energy performance, the requirements for utility systems and the conditions for introducing the use of renewable energy in buildings shall be established by the Minister of Economic Affairs and Communications in a regulation.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(8) The requirements provided in subsections 2–7<sup>1</sup> of this section shall apply until the end of the service life of the construction work.

(9) If the purpose for which a construction work is to be used presumes it, the construction work and its common parts, rooms or areas must be accessible to and usable by persons with reduced mobility and by visually impaired and hearing impaired persons.

(10) The requirements to ensure that persons with reduced mobility and visually impaired and hearing impaired persons are able to move in public construction works shall be established by the Minister of Economic Affairs and Communications.

(11) Based on the properties of construction works and the safety requirements regarding their use, the Government of the Republic of Estonia may establish requirements in respect of the whole or a part of such construction works.

[RT I 2006, 43, 326 - entry into force 01.01.2008]

### **§ 3<sup>1</sup>. Energy performance certificate**

(1) An energy performance certificate is a document which is issued in respect of a building with indoor climate control that already exists or that is being designed and which states the rated energy demand or the actual energy consumption level of the building, and if necessary, serves as proof of the building's compliance with the minimum requirements for energy performance. An energy performance certificate includes a list of recommendations for improving the energy performance of the building, except where there is no reasonable possibility for making such improvements.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(1<sup>1</sup>) An undertaking who issues an energy performance certificate shall enter the information regarding the energy performance certificate into the national register of construction works exclusively by electronic means.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(2) [Repealed – RT I 2009, 20, 132 – entry into force 01.05.2009]

(3) Energy performance certificates shall be valid for a period of 10 years. A subsequently issued energy performance certificate invalidates the energy performance certificate issued previously in respect of the same construction work or part of a construction work.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(4) The format of energy performance certificates and the procedure of their issuance shall be established by the Minister of Economic Affairs and Communications.  
[RT I 2006, 43, 326 - entry into force 01.01.2009]

(5) The Government of the Republic of Estonia shall establish a list of the types of buildings with indoor climate control which have a total use area in excess of 500m<sup>2</sup>, which involve gatherings of large numbers of people, and which are required to hold an energy performance certificate. In these buildings, the energy performance certificate must be placed in a prominent place clearly visible to the public.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(5<sup>1</sup>) In buildings with indoor climate control where a local authority or government agency has in its possession a total use area in excess of 500m<sup>2</sup> and since 9 July 2015 in buildings where a local authority or government agency has in its possession a total use area in excess of 250m<sup>2</sup>, the energy performance certificate must be placed in a prominent place clearly visible to the public.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(6) The buildings with indoor climate control specified in section 3(7<sup>1</sup>) of this Act are not required to hold an energy performance certificate and the requirements set out in section 3<sup>2</sup> shall not apply to these buildings.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

### **§ 3<sup>2</sup>. Energy performance certificate in the case of erection of a building and transfer of ownership in the building for a fee or in the case of letting out the building or entry into a financial lease agreement in respect of the building**

(1) The design contractor shall issue an energy performance certificate in respect of a building with indoor climate control as a whole in the case of such a building being erected or significantly reconstructed, or in the case of an extension being added to the building if the cost of the envelope elements, loadbearing and stiffening elements and utility systems of the extension exceeds one quarter of the average building cost of a building that is equivalent to the building to which the extension is being added.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(2) In the case of erection of a building whose total use area exceeds 50 m<sup>2</sup> and which does not have building design documentation, the energy performance certificate is appended to the application for written approval submitted to the local authority.

(3) A separate energy performance certificate may be issued in respect of a part of a building which can be used separately, provided the building lacks a common heating system.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(4) In addition to the information listed in section 3<sup>1</sup>(1) of this Act the design contractor must certify on the energy performance certificate that the building it designed conforms to minimum requirements for energy efficiency.

(5) [Repealed – RT I, 25.2012, 5 – entry into force 09.01.2013]

(6) [Repealed – RT I, 25.2012, 5 – entry into force 09.01.2013]

(7) The seller or lessor of a building with indoor climate control, or of a part of such building which can be used separately, allows, in the case of transfer of ownership in the building or a part thereof, for a fee, or in the case of transfer of the right to use and occupy the building or a part thereof, any person interested in entering into an agreement concerning the building to inspect the energy performance certificate. The advertisement regarding transfer of ownership in the building or a part thereof for a fee or regarding assignment of the right to use and

occupy the building or a part thereof must, as mandatory information, include at least the energy performance indicator or the weighted specific energy use and the corresponding class.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

### **§ 3<sup>3</sup>. Registration of heating and cooling equipment and ensuring its energy performance**

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(1) If building design documentation is required for the erection of a building with indoor climate control or for the construction of a heating or cooling system in such a building:

1) the designer must advise the owner of the construction work in matters pertaining to the choice and replacement of the boiler, heat pump and cooling equipment (hereinafter, the 'heating and cooling equipment') and to other modifications and possible solutions of utility systems, in order to assess the energy efficiency and suitable capacity of the heating and cooling equipment;

2) the undertaking who installs the heating and cooling equipment must register the technical specifications of the installed heating and cooling equipment in the national register of construction works if the nominal capacity of the heating equipment exceeds 20 kilowatts and the nominal capacity of the cooling equipment exceeds 12 kilowatts.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(1<sup>1</sup>) If building design documentation is not required for the erection of a building with indoor climate control or for the construction of a heating or cooling system in such a building, the undertaking who distributes or installs the heating and cooling equipment must:

1) advise the owner of the construction work in matters pertaining to the choice and replacement of the boiler, heat pump and cooling equipment (hereinafter, the 'heating and cooling equipment') and to other modifications and possible solutions of utility systems, in order to assess the energy efficiency and suitable capacity of the heating and cooling equipment;

2) register the technical specifications of the installed heating and cooling equipment in the national register of construction works if the nominal capacity of the heating equipment exceeds 20 kilowatts and the nominal capacity of the cooling equipment exceeds 12 kilowatts.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(2) The precise definition of the heating and cooling equipment to be registered, the list of required specifications and the procedure for the transmission of those specifications shall be established by the Minister of Economic Affairs and Communications.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(3) [Repealed – RT I, 25.2012, 5 – entry into force 09.01.2013]

(4) [Repealed – RT I, 25.2012, 5 – entry into force 09.01.2013]

(5) [Repealed – RT I, 25.2012, 5 – entry into force 09.01.2013]

### **§ 4. Warranty for a construction work**

(1) For the purposes of this Act, a warranty is an obligation assumed by a building contractor to ensure that building operations performed by the contractor comply with the terms of the corresponding contract and that the construction work or any part thereof built by the contractor will, if used for its intended purpose and properly maintained, retain for a specified period of time the safety and usability properties and the high quality required for the use of the construction work as a whole or of any part thereof.

(2) The warranty specified in subsection 1 of this section shall be granted for a period of at least two years from the date on which the building is completed, and that date shall be determined by the building contractor and the owner of the construction work or of the construction work under construction (hereinafter, 'owner of the construction work') in an agreement entered into between them. If the date of completion of building work is not determined in the agreement, the warranty for the construction work is deemed to begin from the date on which the building contractor delivers the construction work or part thereof to the owner of the construction work. The warranty granted by the manufacturer of any equipment permanently incorporated in the construction work in the course of construction continues to apply to such equipment and the duration of the warranty granted in respect of the equipment by the building contractor shall not be less than six months.

(3) Construction faults which are revealed during the warranty period of a construction work shall be eliminated by the building contractor at the contractor's expense and within a reasonable period of time.

(4) The provisions of subsections 1–3 of this section shall not preclude or limit the responsibility of the building contractor or the limitation period of claims arising under the Law of Obligations Act and the General Part of the Civil Code Act. If during the warranty period it becomes evident that the work fails to meet the terms of the contract, it shall be presumed that the failure to meet the terms of the contract existed already at the moment that the work was delivered by the building contractor to the owner, unless such presumption is contrary to the nature of the work or the defect.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Chapter 2**

# **BUILDING MATERIAL AND CONSTRUCTION PRODUCT**

### **§ 5. Building material and construction product**

(1) A building material is any material intended for permanent incorporation in a construction work.

(2) A construction product is any product intended for permanent incorporation in a construction work.

(3) Building materials and construction products (hereinafter, the 'construction products') shall, when permanently incorporated in a construction work, make it possible for the construction work as a whole to comply with the requirements provided in sections 3(2)–3(7) of this Act during the economically reasonable service life of the construction work, provided that the construction work has been built in conformity with the provisions of section 3(1).

(4) Taking into account the requirements provided in subsection 3 of this section and the provisions of the Product Safety Act, the Government of the Republic of Estonia or a Minister authorised by the Government may establish requirements with respect to construction products.

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

### **§ 6. Placing construction products on the market, making construction products available on the market and permanent incorporation of construction products in a construction work**

(1) A construction product may be placed on the market or permanently incorporated in a construction work if:

- 1) its permanent incorporation in a construction work in the required manner or its utilisation during construction allows the construction work which has been built according to established requirements to comply in its entirety with the requirements provided in sections 3(2)–3(7) of this Act;
- 2) it conforms to the safety requirements established for construction products, where such requirements exist;
- 3) its conformity has been attested pursuant to procedures provided in legislation;
- 4) the construction product, its packaging or an accompanying document is marked with a conformity mark, if this is required.

(2) A reusable construction product may be made available on the market or permanently incorporated in a construction work if its permanent incorporation in the construction work allows a construction work which has been built according to established requirements to comply in its entirety with the requirements provided in sections 3(2)–3(7) of this Act.

(3) A construction product, when placed on the market, must be provided with information on its properties and on the scope and manner of its use (user guide and installation instructions).

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

### **§ 7. Certification of conformity of construction products**

(1) Certification of the conformity of a construction product to established requirements shall be arranged by the manufacturer of the construction product or an authorised representative of the manufacturer.

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

(2) Certification of the conformity of a construction product to established requirements shall be based on a harmonised standard, on a technical approval of the construction product, or on a standard adopted by a standardisation body of a Member State of the European Union or of a state which has joined the European Free Trade Association (EFTA) and which has been approved by the European Union Standing Committee on Construction.

(3) The procedure for certification of the conformity of a construction product and the conformity assessment procedures required for certification of the conformity of different categories of construction products shall be established by the Minister of Economic Affairs and Communications.

(4) The conformity assessment procedures required for assessment and certification of the conformity of construction products may include an obligation to involve a notified body.

[RT I 2002, 99, 579 - entry into force 01.01.2003]

### **§ 8. Technical approval of construction products**

(1) The technical approval of a construction product is a document issued by an approval body which contains a technical assessment of the construction product and of its conformity to established requirements, and which may be observed but is not mandatory. The technical approval of a construction product shall be based

on the guidelines for technical approval of the construction product as issued by the European Organisation for Technical Approvals; the guidelines shall prescribe the requirements for the construction product and the methods of assessing conformity thereof. In the case that the European Organisation for Technical Approval has approved the grant of technical approval to a construction product but no specific guidelines have been issued for the technical approval in question, the technical approval of such construction product shall be based on relevant documentation concerning the construction product, prepared in consideration of the requirements prescribed for construction works.

(2) The technical approval of a construction product may be requested from an approval body by the manufacturer of the construction product or an authorised representative of the manufacturer.

(3) Technical approval of a construction product may be requested:

- 1) in the absence in respect of the construction product of a harmonised standard or a standard adopted by a standardisation body of a Member State of the European Union or a state which has joined the European Free Trade Association (EFTA) and which has been approved by the European Union Standing Committee on Construction, or
- 2) if the construction product differs to a significant extent from a harmonised standard or a standard that has been adopted by a standardisation body of a Member State of the European Union or a state which has joined the European Free Trade Association (EFTA) and that has been approved by the European Union Standing Committee on Construction.

## **§ 9. Approval body**

(1) The following may act as an approval body:

- 1) a person the purpose of whose activities, as specified in the articles of association, is to prepare and publish technical approvals of construction products and to represent Estonia in the European Organisation for Technical Approvals (hereafter, 'Estonian approval body'), or
- 2) a person who operates within the territory of a Member State of the European Union or a state which has joined the European Free Trade Association (EFTA) and who has been granted the right to prepare and publish technical approvals of construction products and of whom the Commission of the European Communities has been notified.

(2) An Estonian approval body shall:

- 1) fulfil obligations concerning the technical approval of construction products assumed in pursuance of international agreements and delegated to the approval body by the government;
- 2) participate in the work of the European Organisation for Technical Approvals;
- 3) prepare and publish technical approvals of construction products;
- 4) inform the public of technical approvals of construction products.

(3) On a recommendation of the Minister of Economic Affairs and Communications, the Government of the Republic shall grant the right to act as the Estonian approval body to a single person who conforms to the requirements specified in point 1 of subsection 1 of this section. The right to act as the Estonian approval body shall be stipulated in a contract governed by public law made between the Government of the Republic and the approval body in which the obligations and rights of the parties are determined, including co-ordination of exchange of information on technical approvals of construction products.

(4) A person who wishes to act as the Estonian approval body shall submit an application to the Minister of Economic Affairs and Communications in which the person must prove that it is capable of fulfilling the obligations provided in subsection 2 of this section.

[RT I 2002, 99, 579 - entry into force 01.01.2003]

## **§ 10. Notified bodies and requirements for persons who are granted the right to act as a notified body**

(1) For the purposes of this Act, a notified body is a conformity assessment body which has been granted the right, within the limits of its competence, to conduct conformity assessment procedures required for attesting the conformity of construction products by acting as:

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

- 1) a certification body which issues certificates of conformity to construction products, or
- 2) a certification body which inspects and assesses the operations of manufacturers of construction products and which inspects and assesses the conformity of construction products, or
- 3) an inspection body which inspects and assesses the operations of manufacturers of construction products and which inspects and assesses the conformity of construction products, or
- 4) a testing laboratory which measures, tests and/or determines in another manner the properties or performance of construction products.

(2) [Repealed – RT I 2010, 31, 158 – entry into force 01.10.2010]

(3) The provisions of the Product Conformity Act apply to notified bodies, including to the granting, suspending and termination of activity licences of notified bodies.

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

§ 11. [Repealed – RT I 2010, 31, 158 – entry into force 01.10.2010]

## **Chapter 3**

# **REQUIREMENTS FOR BUILDING WORK**

### **§ 12. Requirements for building work**

(1) Building work shall be carried out pursuant to building design documentation, except in the event of the building of a small construction work in the cases specified in this Act. Harmful influences to neighbouring construction works, surroundings and other persons must be avoided when performing building work.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2) A building permit must be obtained to carry out building work, except for building a small construction work, a civil engineering work specified in subsection 2<sup>1</sup> of this section which rests on the bottom of a public water body, which is designed to be used for the berthing of water craft and which has a total area of no more than 60m<sup>2</sup>, or any other construction work, or a part of such work, referred to in points 1 and 2 of section 16(1) of this Act, for which a written approval is required, and for building a construction work referred to in section 16(6), in which case the owner of the construction work shall notify the local authority of his or her intention to build the construction work. The building permit, written approval or notification of the local authority does not grant the right to build without the permission of the owner of the land or of the construction work.  
[RT I 2009, 37, 251 - entry into force 10.07.2009]

(2<sup>1</sup>) The owner of an immovable that abuts on the shore of a public water body shall be entitled to build on the immovable a civil engineering work that rests on the bottom of the public water body, that is designed to be used for berthing water craft and that occupies a ground surface area of no more than 60m<sup>2</sup>. Such a civil engineering work may be built such that a part of it extends over the boundary of the immovable and it must not obstruct the traffic of water craft. For building such a civil engineering work which occupies a ground surface area 20–60m<sup>2</sup>, or 10–60m<sup>2</sup> in the case of rivers included among the public water bodies, a written approval is required, which shall be issued by the local authority in whose administrative territory the immovable is located.  
[RT I 2009, 37, 251 - entry into force 10.07.2009]

(3) Building work may only be performed by building contractors who meet the requirements set out in section 41 of this Act.

(4) In the event of the construction of a detached house, summer-house, garden house, farm building or a small construction work intended for use by the owner, adherence to the provisions of subsection 3 of this section is not mandatory.

### **§ 13. Building of roads, utility networks and utility works**

The building of public roads, public green zones, external lighting and drainage well systems required by a detailed spatial plan up to the boundary of a land plot specified in the building permit shall be arranged for by local authorities, unless the local authority in question and the person requesting the preparation of the detailed spatial plan or the applicant of the building permit agree otherwise.

§ 14. [Repealed – RT I 2007, 24, 128 – entry into force 26.03.2007]

### **§ 15. Small construction works**

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(1) As defined in this Act, a small construction work is:

- 1) a construction work which is entirely confined to one registered immovable and which occupies an area of up to 60m<sup>2</sup> and is designed to have a height of up to 5m above ground level, and which serves no public function;
- 2) a civil engineering work which is required in order to service existing construction works and which is connected to a power line or a construction work connected to a power line which belongs to a network operator as defined in the Electricity Market Act, a natural gas network which belongs to a natural gas undertaking as defined in the Natural Gas Act, a supply point which belongs to a water undertaking as defined in the Public Water Supply and Sewerage Act, or a line facility which belongs to a communications undertaking as defined in the Electronic Communications Act.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(1<sup>1</sup>) A construction work that is built in a public water body and that does not have a permanent connection to the shore shall not be regarded as a small construction work as defined in this Act regardless of its function or the size of the area occupied by it.  
[RT I 2010, 8, 37 - entry into force 27.02.2010]

(2) Building design documentation is not required for building a small construction work except in cases where the grant of a written approval specified in section 16 of this Act is preceded by a requirement to submit building design documentation, and where a use and occupancy permit is applied for.

(3) [Repealed – RT I 2009, 20, 132 – entry into force 01.05.2009]

### **§ 15<sup>1</sup>. Temporary construction works**

A temporary construction work is a construction work built for a limited period of time but not for longer than five years. If a temporary construction work is built, the local authority shall determine the period of use of the construction work and set it out in the written approval, building permit or the use and occupancy permit.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

### **§ 16. Written approval**

(1) A written approval of the local authority is required in the case of:

- 1) building a small construction work that occupies a ground surface area of 20–60 m<sup>2</sup>;
- 2) modifying the utility system of a construction work or replacing the entire utility system with an equivalent system;
- 3) erecting boundary fences to enclose a plot of land in areas where preparation of a detailed spatial plan is mandatory and the erection of such fences requires excavation;
- 4) in architectural landmark districts in which building work is subject to the preparation of a detailed spatial plan, replacing doors or windows in the envelope elements of a detached building, summer-house, garden house, farm building, small construction work or in a residential building with two or more apartments within the limits of one apartment, stairwell or basement;
- 5) replacing doors or windows in the envelope of a residential building with two or more apartments within the limits of one apartment, stairwell or basement, if upon the replacement of those parts the location of such doors or windows in the envelope remains the same and the fire safety properties of the construction work are not impaired, but the appearance of the construction work is altered.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(1<sup>1</sup>) The application for written approval shall be filed by the owner of the land or of the construction work, or by a co-owner of the construction work pursuant to a resolution of the majority of co-owners, provided that this majority owns the majority of the shared property, or by an apartment owner pursuant to the majority of votes of apartment owners.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2) The following information shall be included in the written approval:

- 1) the address of the location of the construction work, its cadastral code and coordinates;  
[RT I 2009, 20, 132 - entry into force 01.05.2009]
- 2) the name of the local authority and the name, official title and signature of the relevant official;
- 3) the date of issue of the written approval;
- 4) the purpose of use of the construction work;
- 5) essential technical specifications of the construction work;
- 6) the registration number of the construction work in the national register of construction works;
- 7) in the case of a temporary construction work, its period of use.

(3) The local authority shall have the right, before granting its written approval, to require, where circumstances warrant this, that building design documentation concerning the construction work is submitted. Amongst other, the circumstances that warrant the requirement include:

- 1) the need to ensure the safety of the construction work;
- 2) technical complexity of the construction work or of the building work involved;
- 3) requirements emanating from the detailed spatial plans, design specifications, or any supplementary architectural and structural criteria established for the construction work or if the principles of the utility system or any of its parts are altered.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(4) The written approval shall be refused if:

- 1) the building design documentation does not meet the established requirements, or
- 2) the building design documentation is not in compliance with the detailed spatial plan in force, or
- 3) the location of the construction work is not in compliance with the detailed spatial plan in force, or
- 4) the building design documentation is not in compliance with the design specifications, or
- 5) the construction work does not comply with the established supplementary architectural and structural criteria, or
- 6) after alteration of its utility systems, the construction work will no longer comply with established requirements.

(5) A local authority shall grant the written approval specified in subsection 1 of this section or refuse such consent within ten days from the date on which it received the application for the written approval or, in the event that building design documentation is requested, within ten days from the date on which such documentation is submitted to the local authority.

(6) If a small construction work that occupies a ground surface area of no more than 20m<sup>2</sup> is to be erected on land in which the preparation of a detailed spatial plan is mandatory, the owner of the construction work shall be required to notify the local authority of his or her intention to erect the small construction work. In order to notify the local authority, an application in the form established by the Minister of Economic Affairs and Communications and the description of the construction work on the plot must be filed ten working days before commencing to erect the small construction work. If within the said period the local authority does not stipulate further fire safety requirements for the erection of the small construction work or other requirements arising in relation to previous buildings on the land or in the surrounding area or does not require the owner of the construction work to file any further information, the owner of the construction work may commence erection of the small construction work. The owner of the construction work shall present a notice regarding the construction work within five working days from the completion of the erection of the small construction work. [RT I 2009, 20, 132 - entry into force 01.05.2009]

(7) The notice regarding the construction work shall include information on the owner and the location of the construction work and shall set out the essential technical parameters of the construction work.

(8) The requirements for the format of the notice regarding the construction work and the procedure for submission thereof shall be established by the Minister of Economic Affairs and Communications.

(9) A written approval is granted for an unspecified term. A written approval lapses if building work does not commence within two years from the date the written approval is granted. A written approval shall be published on the website of the national register of construction works.

(10) The state fee for reviewing the application for written approval shall be paid according to the rate established in the State Fees Act. [RT I 2006, 58, 439 - entry into force 01.01.2007]

## **§ 17. Application for written approval**

(1) The following information shall be included in an application for written approval:

1) the name, contact information, and registration number in the commercial register or other register, or personal identification number or, in the absence of the latter, the date of birth of the applicant;

2) the address of the location of the small construction work, its cadastral code, a building layout plan or coordinates and name;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

3) the purpose of the use of the small construction work;

4) the proposed date for commencement of use of the small construction work;

5) if building design documentation exists, the name of the person who prepared the documentation, and, if verification of the building design documentation has been commissioned, the name of the person authorised to perform such verification, and the contact details, registration number in the commercial register or other register, or personal identification code or, in the absence of the latter, the date of birth of the person;

6) if the identity of the person performing owner oversight is known, the name, contact information, and registration number in the commercial register or other register, or personal identification number or, in the absence of the latter, the date of birth of the person;

7) if the identity of the person performing building work is known, the name, contact information, and registration number in the commercial register or other register, or personal identification number or, in the absence of the latter, the date of birth of the person;

8) the essential technical specifications of the small construction work;

9) in the event of construction of a temporary construction work, its period of use as stated in the corresponding application;

10) information regarding the payment of the state fee.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2) A written approval to build more than one small construction work may be requested in a single application for written approval.

(2<sup>1</sup>) If building design documentation is required for the erection of a small construction work, the energy performance certificate shall be annexed to the application for written approval that is submitted to the local authority.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(3) If the documents of the applicant requesting written approval are inadequate, the local authority must allow the applicant to correct any defects in the documents by setting for the applicant a new time-limit which may not be shorter than five working days.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(4) Requirements for the format of the application for written approval and the procedure for submission thereof shall be established by the Minister of Economic Affairs and Communications.

## **§ 18. Building design documentation**

(1) Building design documentation is a set of documents which are necessary for the construction and use of a construction work or part thereof, including technical drawings, specifications, instructions on maintenance and other relevant documents.

(2) Building design documentation shall be prepared such that a construction work built in compliance therewith conforms to the requirements provided in section 3 of this Act. Upon preparation of building design documentation, the requirements set for geodetic systems as defined in the Public Information Act shall be taken into consideration.

[RT I 2007, 12, 66 - entry into force 01.01.2008]

(3) Building design documentation shall be prepared in such detail and shall cover such area (preliminary, principal and operational building design documentation) as to make it possible:

[RT I 2009, 20, 132 - entry into force 01.05.2009]

1) to issue a building permit, and to perform building work, on the basis of the documentation;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

2) to use and maintain the construction work;

3) to scrutinise the conformity of building work to the building design documentation;

4) to scrutinise the conformity of the construction work to the requirements established by legislation.

(4) Building design documentation which is used as the basis for building work, except for building design documentation regarding small construction works, shall be:

1) prepared or scrutinised by an authorised specialist specified in section 47 of this Act who is competent in design work, or

2) scrutinised by an authorised specialist specified in section 47 of this Act who is competent in the expert assessment of building design documentation.

(5) Requirements for building design documentation shall be established by the Minister of Economic Affairs and Communications.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

## **§ 19. Source information for preparation of building design documentation**

(1) The following constitute the basis for building design documentation which is prepared for erection of or adding an extension to a construction work:

[RT I 2009, 20, 132 - entry into force 01.05.2009]

1) where preparation of a detailed spatial plan is mandatory, the current detailed spatial plan, and, where such exist, any supplementary specifications established by the local authority which determine the architectural and structural specifications of the construction work that are not included in the detailed spatial plan;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

2) if the preparation of a detailed spatial plan is not mandatory, the design specifications of the construction work.

(2) Arising from the characteristics of the land plot on which the proposed construction work is located, the results of any geotechnical site investigations or geodetic surveys conducted on the land may form the basis for the building design documentation prepared for erection of the construction work in addition to the plans and specifications set out in subsection 1 of this section.

(3) Design specifications are architectural and structural specifications determined by the local authority in respect of a particular construction work. When issuing design specifications, the local authority shall rely on the structural specifications stipulated in spatial plans or other documents governing the use of the land. Design specifications shall be prepared and issued on the basis of an application by an interested party no later than within 30 days from the day the application is submitted.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(3<sup>1</sup>) When design specifications are requested for building in a public water body a construction work that has a permanent connection to the shore, the specifications shall be prepared and issued by the local authority on whose administrative territory the immovable that abuts on the water body is located. The design specifications for building in a public water body a construction work that has a permanent connection to the shore shall be prepared and issued on the basis of the relevant application no later than within 60 days from the day the application is submitted. The body preparing the specifications shall be entitled to extend the said time-limit where circumstance warrant this, notifying the applicant of the extension and of the circumstances that it considered to warrant the extension.

[RT I 2009, 37, 251 - entry into force 10.07.2009]

(3<sup>2</sup>) Before issuing the design specifications referred to in subsection 31 of this section, the local authority shall present these for endorsement to the Estonian Technical Surveillance Authority. The local authority shall transmit the design specifications to the Estonian Technical Surveillance Authority for endorsement within 30 days from the day the relevant application is submitted. The Estonian Technical Surveillance Authority shall arrange endorsement of the design specifications having regard to the fact that the local authority must meet the requirements set out in subsection 3<sup>1</sup> of this section with respect to the time-limit for preparing and issuing design specifications. The design specifications shall be transmitted to the Estonian Technical Surveillance Authority for endorsement electronically.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(3<sup>3</sup>) The Estonian Technical Surveillance Authority shall transmit design specifications which a local authority has submitted to it for endorsement, to the Environmental Board, to the Ministry of Defence, to the Ministry of the Interior, to the Estonian Maritime Administration and to the Civil Aviation Administration (hereinafter, the 'ministries and government agencies consulted') for these to give an opinion in the matter. The ministries and government agencies consulted shall present their opinions regarding the design specifications in question to the Estonian Technical Surveillance Authority within 15 days from receipt of the specifications. If the ministries and government agencies consulted do not return an opinion within that time-limit, they shall be deemed to have no objections to the design specifications.

[RT I 10.03.2011, 2 – entry into force 20.03.2011]

(3<sup>4</sup>) The Estonian Technical Surveillance Authority shall be entitled to refuse to endorse the design specifications where a refusal is warranted by the circumstances. Circumstances that warrant a refusal include public interest, above all when the proposed construction work with a permanent connection to the shore:

- 1) may harm the environment, protected natural features or natural features which are being considered for protected status;
- 2) is contrary to the interests of national security;
- 3) would disturb aviation or shipping traffic.

[RT I 2009, 37, 251 - entry into force 10.07.2009]

(3<sup>5</sup>) If the Estonian Technical Surveillance Authority does not endorse design specifications requested for building in a public water body a construction work with a permanent connection to the shore, the local authority may not issue such design specifications.

[RT I 2009, 37, 251 - entry into force 10.07.2009]

(3<sup>6</sup>) The design specifications for building in a public water body a construction work that does not have a permanent connection to the shore shall be prepared and issued by the Estonian Technical Surveillance Authority. The design specifications shall be issued to the person who holds the superficies licence as defined in section 22<sup>5</sup>(1) of the Water Act.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(4) A local authority shall determine the following in the building code of the relevant city or municipality:

- 1) the procedure of determining supplementary architectural and structural specifications for construction works;
- 2) the procedure for publication of design specifications;
- 3) the procedure and areas for building temporary construction works;
- 4) the principles of and requirements for planning and building work in parts of a city or municipality, including architectural landmark districts;
- 5) the division of functions of the local authority and the time-limits applicable in arrangements concerning the field of planning and building.

[RT I 2002, 99, 579 - entry into force 01.01.2003]

## **§ 20. Geotechnical site investigations and geodetic surveys**

(1) The purpose of geotechnical site investigations and geodetic surveys (hereinafter, 'site investigations') is to obtain the source information necessary for the planning of a tract of land, for the preparation of the corresponding building design documentation and for the performance of building work.

(2) Undertakings engaged in conducting site investigations are required to submit the results of such investigations to the local authority within ten days from the date on which they are completed. The results may be submitted by electronic means. During the conduct of site investigations, consideration shall be given to requirements for geodetic systems in accordance with the Public Information Act.

[RT I 2007, 12, 66 - entry into force 01.01.2008]

(3) Local authorities shall preserve the results of site investigations for at least 99 years from the date on which such results are received.

(4) The procedure for the conduct of site investigations shall be established by the Minister of Economic Affairs and Communications.

### **§ 21. Expert assessment of building design documentation**

(1) Expert assessment of building design documentation means assessment of the conformity of building design documentation to requirements for such documentation, including the conformity of the construction work to be built on the basis of the building design documentation.

(2) Expert assessment of building design documentation is mandatory in respect of building design documentation related to construction works which involve gatherings of large numbers of people, the risk of a major accident or another heightened risk.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(3) The person who carries out expert assessment of building design documentation may not be the person who has prepared or scrutinised the same documentation.

(4) The procedure for expert assessment of building design documentation shall be established by the Minister of Economic Affairs and Communications.

[RT I 2002, 99, 579 - entry into force 01.01.2003]

### **§ 22. Building permit**

(1) A building permit is an authorisation granted by a local authority or the government for:

[RT I 2010, 8, 37 - entry into force 27.02.2010]

1) the erection of a construction work, and of any civil engineering work necessary to service the construction work, on the land or in the water body specified in the building permit;

[RT I 2010, 8, 37 - entry into force 27.02.2010]

2) building an extension to a construction work or part thereof as specified in the building permit;

3) the reconstruction of a construction work or part thereof as specified in the building permit;

4) the demolition of a construction work or part thereof as specified in the building permit.

(2) In a building permit which authorises adding an extension to or reconstructing a construction work, the issuing body may also authorise the permit holder to modify the utility system of the construction work or to replace the entire utility system with an equivalent system.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(3) In a building permit which authorises adding an extension to a construction work, the issuing body may also authorise the permit holder to reconstruct the construction work.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(4) The information contained in a building permit shall be published on the website of the national register of construction works.

(4<sup>1</sup>) Where an environmental impact assessment is carried out before a building permit is issued, the body issuing the building permit shall publish a notice regarding the issue of the building permit in a county or local newspaper. The notice shall include:

1) the content and terms of the building permit;

2) grounds for the issue of the building permit and, if necessary, a description of the measures for avoiding, mitigating and, if possible, eliminating any adverse effects;

3) information regarding involvement of the public.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(5) Requirements regarding the format of building permits shall be established by the Minister of Economic Affairs and Communications.

[RT I 2002, 99, 579 - entry into force 01.01.2003]

### **§ 23. Issue of building permit**

(1) Building permits are issued and revoked by local authorities. A building permit for building in a public water body a construction work that has a permanent connection to the shore shall be issued and, where necessary, revoked, by the local authority on whose administrative territory the immovable that abuts on the water body is located. A building permit for building in a public water body a construction work that does not have a permanent connection to the shore shall be issued and, where necessary, revoked, by the Estonian Technical Surveillance Authority.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(1<sup>1</sup>) The application for building permit shall be filed by the owner of the land or of the construction work, or by a co-owner of the construction work, pursuant to a decision of the majority of co-owners, provided that this

majority owns the majority of the shared property, or by an apartment owner pursuant to the majority of votes of apartment owners.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2) In order to obtain a building permit, a person shall:

1) submit an application for building permit;  
2) submit building design documentation which conforms to the requirements established for building design documentation that must be submitted together with an application for building permit and which has been prepared or scrutinised by an authorised specialist specified in section 47 of this Act who is competent in design work, or which has been scrutinised by an authorised specialist specified in section 47 of this Act who is competent in the expert assessment of building design documentation, and which has been approved in the cases prescribed by the law;

2<sup>1</sup>) present the energy performance certificate if this is required;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

3) pay the state fee.

(3) A building permit shall be issued to the applicant, except in the cases specified in subsections 4, 5 and 5<sup>1</sup> of this section.

(4) A building permit that authorises demolition of a construction work shall be issued to the owner of the construction work. If ownership of the construction work is shared by several persons, the building permit must be applied for by the owners jointly.

(5) A building permit for building in a public water body a construction work that has a permanent connection to the shore shall be issued to the person who owns the immovable that abuts on the shore or to the superfiary of the immovable. A building permit for building in a public water body a construction work that does not have a permanent connection to the shore shall be issued to the person who holds the superficies licence defined in section 22<sup>5</sup>(1) of the Water Act. A building permit for building a utility network or a utility work on an immovable owned by another person shall be issued subject to the consent of the owner. The consent of the owner is not required if a wayleave has been created in favour of the applicant for the permit. The owner of the immovable shall be notified of the issue of the building permit. For building a submerged cable line in a public water body, an authorisation specified in section 22<sup>2</sup> of the Water Act is required.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(5<sup>1</sup>) A building permit to build a network or line as defined in the Electricity Market Act shall be issued as follows, taking into account the provisions set out in subsection 5 of this section:

[RT I 2007, 24, 128 - entry into force 26.03.2007]

1) a building permit for constructing a distribution network shall be issued to the distribution network operator in whose service area, as set out in the activity licence, the network for which the building permit is requested is located. This provision shall not apply to the construction of lines specified in points 2#4 of this subsection;

2) a building permit for the construction of a transmission network and an alternating current line which crosses the national border and which has a voltage exceeding 35 kV shall be issued to the transmission network operator who holds an activity licence for providing network services through a transmission network;

3) a building permit for the construction of a direct current line crossing the national border shall be issued to the line possessor who holds an activity licence for conveying electricity via that line;

4) a building permit for the construction of a direct line shall be issued to the line possessor who holds an activity licence for conveying electricity via that line.

(6) In addition to the requirements specified in section 21(2) of this Act, the body issuing the building permit is entitled, where this is warranted by circumstances arising from safety considerations regarding the construction work, to require compliance with the following requirements before the building permit is granted:

[RT I 2010, 8, 37 - entry into force 27.02.2010]

1) presentation of results of an expert assessment of the building design documentation or a part thereof, or

2) a full or partial site investigation, except in the event of building a construction work involving a state secret or classified information of a foreign state or in the event of building a construction work that serves national defence purposes.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(7) If an additional expert assessment of building design documentation or part thereof or a new full or partial site investigation is ordered to scrutinise conformity to established requirements, the body issuing the building permit shall cover the cost of such assessment or investigation if it is established as a result of the assessment or investigation that the building design documentation or part thereof complies with established requirements or if the new full or partial site investigation was unnecessary.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(8) The body issuing building permits shall issue a building permit or refuse to issue it within 20 days from the date on which the application for building permit, the building design documentation and, if expert assessment of building design documentation is required, the results of such assessment, are submitted.  
[RT I 2010, 8, 37 - entry into force 27.02.2010]

(8<sup>1</sup>) The holder of the building permit must apply for a new building permit if the building design documentation that served as the basis for the first building permit is modified to such an extent that important specifications of the construction work such as fire safety, energy performance, purpose of use, loads affecting the construction work (load-bearing capacity) are changed, or if other important technical parameters set out in the building permit application are changed.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(8<sup>2</sup>) The local authority that issues a building permit authorising the building in a public water body of a construction work that has a permanent connection to the shore shall inform the Estonian Technical Surveillance Authority of the issue forthwith, but not later than within five working days from the issue.  
[RT I 2010, 8, 37 - entry into force 27.02.2010]

(9) The body that issues a building permit shall preserve the documents related to the issue of the building permit until the corresponding construction work is demolished or until such documents are transferred to the archives according to the procedure provided in the Archives Act.  
[RT I 2010, 8, 37 - entry into force 27.02.2010]

(10) Requirements for building design documentation to be submitted together with an application for building permit shall be established by the Minister of Economic Affairs and Communications.

(11) Requirements for building design documentation to be submitted together with an application for building permit for a construction work involving a state secret or classified information of a foreign state or for a construction work that serves national defence purposes shall be established by the Government of the Republic of Estonia.  
[RT I 2007, 16, 77 - entry into force 01.01.2008]

#### **§ 24. Refusal to issue building permit**

(1) An application for building permit shall be refused if:

- 1) the building design documentation does not meet the requirements for such documentation or does not correspond to the source information used to prepare the documentation, including the detailed spatial plan or the design specifications issued;
- 2) the requirements established for the construction work have not been taken into consideration in the building design documentation;
- 3) the requirements for the preparation of building design documentation or the requirements for persons preparing or scrutinising building design documentation provided in section 47 of this Act have not been taken into consideration when preparing the building design documentation;
- 4) the building design documentation prepared for the erection of a construction work, with the exception of a detached house, summer-house, garden house, farm building or a small construction work, is not based on the results of a site investigation conducted at the location of the proposed construction work;
- 5) the application for building permit does not meet established requirements;
- 6) knowingly false information has been submitted in relation to the application for building permit;
- 7) in the case of an application for building permit for a temporary construction work, the period of use stated in the application is not the same as the period of use approved by the local authority;
- 8) the state fee has not been paid;
- 9) assessment of significant environmental impact has not been undertaken where such assessment is mandatory or, if an environmental impact assessment has been undertaken, the environmental impact assessment report demonstrates that the proposed project will entail a significant environmental impact which cannot be avoided or mitigated, or
- 10) the local authority has initiated proceedings to invalidate the detailed spatial plan that serves as the basis for the building design documentation;
- 11) a permit for the special use of water is lacking where such permit is required by the law, or  
[RT I 2010, 8, 37 - entry into force 27.02.2010]
- 12) where the application for building permit is submitted in respect of a construction work which is to be built in a public water body and which would not have a permanent connection to the shore, the superficies licence required by virtue of section 22<sup>5</sup>(1) of the Water Act is absent or the building design documentation does not meet the requirements set out in the superficies licence.  
[RT I 2010, 8, 37 - entry into force 27.02.2010]

(2) If the documents submitted together with an application for building permit are inadequate, the body issuing building permits must give the applicant an opportunity to eliminate the defects of the documents by granting the applicant a new time-limit which may not be shorter than five working days.

(3) If an application for building permit is refused on the ground that a potentially significant environmental impact has not been assessed where such assessment is mandatory, the body issuing building permits shall

publish a notice regarding refusal of the building permit in a county or local newspaper. The notice shall include:

- 1) the content of the decision;
  - 2) grounds for the decision and, if necessary, a description of the measures for avoiding, mitigating or, if possible, eliminating any adverse effects;
  - 3) information regarding involvement of the public.
- [RT I 2009, 20, 132 - entry into force 01.05.2009]

#### **§ 25. Validity of building permit**

(1) A building permit is granted for an unspecified term except in the cases specified in subsection 2 of this section.

(2) A building permit shall become invalid if building work is not commenced within two years from the date of issue of the building permit.

(3) The first day on which work corresponding to the building design documentation is performed is deemed to be the date on which building work commences.

#### **§ 26. Application for building permit**

(1) An application for building permit shall set out:

- 1) the applicant's name, contact information, and registration number in the commercial register or other register, or personal identification number or, in the absence of the latter, the date of birth of the applicant;
  - 2) the address, cadastral code and coordinates of the location of the construction work, the name of the construction work and, if registered, the registration number of the construction work in the national register of construction works;
- [RT I 2009, 20, 132 - entry into force 01.05.2009]
- 3) the purpose of use of the construction work;
  - 4) the intended date of commencement of use of the construction work;
  - 5) the name, contact information, and registration number in the commercial register or other register, or personal identification number or, in the absence of the latter, the date of birth of the person who prepared the building design documentation;
  - 6) if site investigations are conducted, the name, contact information, and registration number in the commercial register or other register, or personal identification number or, in the absence of the latter, the date of birth of the person who conducts such investigations;
  - 7) essential technical specifications of the construction work;
  - 8) in the event of the construction of a temporary construction work, the requested duration of its period of use;
  - 9) information regarding payment of the state fee.

(2) Requirements for the format of applications for building permit and the procedure for submission of such applications shall be established by the Minister of Economic Affairs and Communications.

(3) Applications for building permits together with the accompanying building design documentation may be submitted by electronic means. An application for building permit may be made for the building of a construction work or part thereof, or for the building of a construction work and of any civil engineering works necessary for servicing the construction work.

(4) The list of technical specifications to be submitted concerning a proposed construction work and the principles of calculating its area values shall be established by the Minister of Economic Affairs and Communications.

(5) The list of purposes of use of construction works shall be established by the Minister of Economic Affairs and Communications.

[RT I 2006, 43, 326 - entry into force 22.10.2006]

#### **§ 27. Information stated on building permit**

The following information shall be stated in a building permit:

- 1) the address, cadastral code and coordinates of the location of the construction work;
- [RT I 2009, 20, 132 - entry into force 01.05.2009]
- 2) the name of the body who issued the building permit and the name, title and signature of the relevant official;
  - 3) the date of issue of the building permit;
  - 4) the registration number of the building permit;
  - 5) essential technical specifications of the construction work;
  - 6) the purpose of use of the construction work;
  - 7) the registration number of the construction work in the national register of construction works;

8) with respect to a temporary construction work, its period of use.

## **§ 28. Revocation of building permit**

(1) The body that issues a building permit shall be entitled to revoke the permit if:

- 1) the construction work that is being built presents a danger to the life, health or property of individuals or to the environment;
- 2) the owner of the construction work or the person building the construction work fails to comply with an enforcement order specified in sections 61(1) or 64(3) of this Act,
- 3) knowingly false information was submitted in relation to application for the building permit,
- 4) the owner of the construction work requests revocation of the building permit;
- 5) the owner of an apartment in an immovable divided into apartment units submits an application to invalidate a building permit issued to the owner of another apartment unit in cases where the applicant claims that the building permit infringes his or her rights;
- 6) the essential technical specifications entered in the building permit are changed;
- 7) during building work, the purpose of use of the construction work is modified or a modification of the purpose is sought;
- 8) during the construction of a temporary construction work, a modification of its period of use is sought;
- 9) obligations or restrictions emanating from the Heritage Conservation Act have been violated, or
- 10) a new building permit is issued on grounds specified in section 23(8<sup>1</sup>) of this Act.

(2) A building permit shall be revoked or a revocation shall be refused within 10 days from the date of submission of the corresponding application or from the date on which the circumstances specified in subsection 1 of this section became known to the authority that issued the building permit.

(3) If a building permit has been revoked, except where it has been revoked on grounds specified in point 10 of subsection 1 of this section, the owner of the land or the construction work specified in the building permit must restore the situation on the land as it was before building work pursuant to the revoked building permit commenced. If, at the time of revocation of the building permit, a complete restoration of such previous situation is unreasonable or violates the rights of third parties, the local authority shall determine the extent to which the previous situation must be restored.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

## **§ 29. Obligations and rights of owner of a construction work**

(1) The owner of a construction work shall:

- 1) if a building permit is required, ensure that the building permit is obtained before building work commences;
- 2) if a written approval from the local authority is required, ensure that the written approval is obtained before building work commences;

2<sup>1</sup>) in the case of land for which the preparation of a detailed spatial plan is mandatory, ensure that the local authority is notified of the owner's intention to erect a small construction work whose ground surface area does not exceed 20m<sup>2</sup>;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

- 3) if building design documentation is required, ensure that building work is in compliance with the building design documentation;

4) ensure the maintenance of the construction work and the land upon which it is located and ensure safety in the area around it during building work and during the period of use of the construction work, including, where the construction work is in danger of collapse or otherwise shows signs of decay, restricting access to the construction work until it is demolished or repaired, and installing warning signs around such construction work;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

5) arrange access to the construction work and to relevant technical documentation regarding building operations for the person who performs construction oversight, except for access to construction works which relate to a state secret, to classified information of a foreign state, or for access to construction works that serve national defence purposes, and the technical documentation regarding building operations performed during the construction of such construction works;

[RT I 2007, 16, 77 - entry into force 01.01.2008]

6) grant access to the body exercising public oversight to the construction work and to the relevant technical documentation, and in cases where the body exercising public oversight is authorised to launch investigations into causes of accidents, grant access to construction works containing information classified as a state secret, classified information of foreign states, construction works related to national defence and the technical documentation regarding building operations performed during the construction of such construction works;

[RT I 2007, 16, 77 - entry into force 01.01.2008]

7) ensure preservation of the documents specified in section 31(2) of this Act and of the as#built drawings of the construction work if such exist until the construction work is demolished or until the documents and drawings are transferred to the archives pursuant to the procedure provided in the Archives Act;

8) where necessary, arrange expert assessment of the building design documentation;

9) where necessary, arrange expert assessment of the construction work;

10) ensure that building work is carried out by a person who has the corresponding competence and is duly authorised;

11) if an occupancy and use permit is required, ensure that the permit is obtained;

12) make sure that the construction work is used in accordance with its purpose of use;

13) in the cases provided in legislation, make sure that a technical inspection of the construction work, part thereof or the utility system of the construction work is carried out;

14) ensure that a temporary construction work is demolished once its period of use has expired;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

15) make sure that the Estonian Technical Surveillance Authority is notified at the earliest opportunity of a technical or other accident which occurred in the course of use of the construction work and which may have been caused by a failure to meet the requirements set out in section 3 of this Act;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

16) grant the officials of the Estonian Technical Surveillance Authority and other authorised officials full cooperation in determining the causes of a technical or other accident, preserving the situation as it is after the accident until the cause of the accident is determined, unless this would cause further harm.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2) In addition to the obligations specified in subsection 1 of this section, the owner of a construction work shall:

1) organise continuous oversight of the building work during the time of the building (hereinafter, 'owner oversight'), ensuring that the person who performs owner oversight is able to access the information and inspect the technical documentation by reference to which the oversight is performed;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

2) except in the case of a small construction work, notify the authority which issued the building permit of the commencement of building work at least three working days before building work on the construction work commences;

[RT I 2010, 8, 37 - entry into force 27.02.2010]

3) at the time of commencement of building work, if the construction work to be built is not a small construction work, detached house, summer-house, garden house, farm building, a construction work related to a state secret or to classified information of a foreign state, a construction work that serves national defence purposes, or a civil engineering work necessary for servicing a construction work, display for the entire duration of building work, in a prominent place clearly visible to the public, a sign with information that identifies the construction work, the building permit, the date of commencement of building work and the time-limit for completion of building work, the design contractor, the building contractor and the person who performs owner oversight;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

4) upon completion of building work, apply for an occupancy and use permit for the construction work, or in the case of tearing down the construction work, submit a notice concerning construction work;

5) ensure that upon building the construction work all requirements related to land readjustment, fire safety, environment protection and other requirements stipulated in legislation are observed;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

6) ensure, in the case of transfer of ownership in a building with indoor climate control or a part thereof for a fee, or in the case of assignment of the right to use and occupy a building with indoor climate control or a part thereof, the presence of an energy performance certificate where such is required and allow it to be inspected;

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

7) ensure that a building with indoor climate control or a separately usable part of such building has a valid energy performance certificate if an energy performance certificate is required and if the building has been erected or ownership of the building has been acquired after 1 January 2009.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2<sup>1</sup>) In addition to the requirements set out in subsection 2 of this section, the owner of a utility work is required to notify the owners of an immovable affected by the commencement of building work by registered mail or in person against signed acknowledgement.

[RT I 2007, 24, 128 - entry into force 26.03.2007]

(3) Before building work commences, the owner of the construction work is entitled to require the building contractor to sign an agreement which stipulates the type and amount of security in case any harm is caused to the owner of the construction work by the activities of the building contractor. Such a security may be a guarantee document issued by a credit or financial institution or an insurance company, or a sum of money deposited in the bank account of the owner.

(4) If a construction work is in the shared ownership of several persons, the obligations specified in points 1–10 and 13 of subsection 1 of this section and in subsection 2 of this section shall be performed by the owner of the construction work who wishes to commence building work or who has applied for a building permit. The obligations specified in points 11 and 12 of subsection 1 of this section shall be performed by all persons who share ownership of the construction work.

(5) If a building contractor, a design contractor, a project management undertaking or an undertaking performing owner oversight or conducting site investigations fails to perform its duties, the owner of the construction work shall be entitled to perform the duties of the contractor or undertaking specified in this subsection or to make good any defects in their work, and shall have the right of recourse against such

contractor or undertaking to the extent of the cost incurred in relation to the performance of such duties or making good of such defects.

(6) A notice of commencement of building work shall include information concerning the construction work, the time of commencement of building work, the name and personal identification number or registration number in the commercial or other register or, in the absence of a personal identification number, the date of birth of the person who performs owner oversight and the person who carries out building work, and the contact information of such persons.

(7) Requirements regarding the format of the notice of commencement of building work and the procedure for submission thereof shall be established by the Minister of Economic Affairs and Communications.

### **§ 30. Owner oversight**

(1) Before building commences, the owner of the construction work shall appoint a person who is authorised to perform owner oversight to act as the performer of owner oversight, and this person shall not be the person who designed the construction work or the person who is building it, except in the case specified in subsection 4 of this section.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2) The objective of owner oversight is to ensure:

- 1) that building work is performed according to building design documentation;
- 2) that technical documentation regarding the building operations is drawn up;
- 3) the requisite quality of the construction work.

(3) Owner oversight shall be exercised from the moment that building work commences on the construction work until the issue of an occupancy and use permit for the construction work.

(4) Owner oversight may be performed by the owner of the construction work if the construction work which is being built is:

- 1) a small construction work;
- 2) a detached house;
- 3) a summer house;
- 4) a garden house;
- 5) a farm building;
- 6) a civil engineering work necessary for servicing a construction work;
- 7) a construction work related to a state secret or to classified information of a foreign state;

[RT I 2007, 16, 77 - entry into force 01.01.2008]

- 8) a construction work that serves national defence purposes.

(5) It is the duty of the person who performs owner oversight to scrutinise:

[RT I 2009, 20, 132 - entry into force 01.05.2009]

- 1) whether the construction work conforms to the established requirements;
- 2) whether the construction products used conform to established requirements;
- 3) the maintenance of the construction work and of the land upon which it is located and whether the area around it is kept safe;

- 4) the measures taken to ensure environmental safety;
- 5) compliance with any enforcement orders issued;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

6) the quality of building work and whether the time-limits for the completion of building operations are being met, notifying the owner of the construction work of any instances of non-conformity of the quality of the building operations to the agreed terms or any failure to observe the agreed time-limits;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

7) the conformity of the construction work to the building design documentation and to requirements arising from legislation and to the agreement entered into between the owner of the construction work and the building contractor.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(6) The person who performs owner oversight shall be entitled to demand:

- 1) that the person who prepared building design documentation bring the building design documentation into conformity with established requirements;
- 2) that the building contractor submit the originals or copies of declarations of conformity and/or certificates of conformity and other necessary documents such as letters of guarantee, instructions on maintenance or user manuals concerning the construction products used and the equipment installed;
- 3) that any construction products used by the building contractor be replaced if they do not conform to the building design documentation or established requirements;
- 4) that the building contractor redo any building operations which fail to conform to established requirements;
- 5) that the building contractor redo any building operations which fail to conform to the building design documentation;
- 6) that building operations be suspended if an accident hazard has arisen, if the requirements provided in building legislation are violated, if the terms of the building permit or the written approval are not observed or if building work is not performed in conformity with the building design documentation;

7) that the building contractor document the building work in a proper and timely manner.

(7) While performing owner oversight, the performer of the oversight shall comply with the requirements which have established in the course of building work to ensure the safety of the construction work and of building work.

(8) The procedure for performing owner oversight shall be established by the Minister of Economic Affairs and Communications.

[RT I 2002, 99, 579 - entry into force 01.01.2003]

### **§ 31. Documentation of building work**

(1) The operations performed in the course of building work shall be documented by the person who performs the building work.

(2) Technical documentation includes the following:

1) building design documentation and any modifications thereto;

1<sup>1</sup>) as-built drawings;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

2) a journal of building operations;

3) reports of covered work;

4) minutes of work meetings;

5) other documents which characterise the building work, such as certificates or declarations of conformity of construction products.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(3) Requirements for technical documentation concerning building work on various types of construction works shall be established by the Minister of Economic Affairs and Communications.

[RT I 2002, 99, 579 - entry into force 01.01.2003]

(4) The documentation of building operations performed in the course of building work is not required if building work is performed on a small construction work.

### **§ 32. Occupancy and use permit for a construction work**

(1) An occupancy and use permit for a construction work (hereinafter, the 'occupancy and use permit') means approval by the local authority or the government of the completed construction work or part thereof as conforming to the requirements established for such construction works and as fit to be used for its intended purpose.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(1<sup>1</sup>) An occupancy and use permit constitutes approval of the completed construction work or part thereof as conforming to the building design documentation that was submitted together with the application for building permit or for written approval.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2) An occupancy and use permit is required in order to use a construction work, except where the construction work relates to a state secret or to classified information of a foreign state or serves national defence purposes or where the construction work is a small construction work which is not used as a dwelling.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(3) A completed construction work or part thereof may only be used for its approved purpose.

(4) The information contained in an occupancy and use permit shall be published on the website of the national register of construction works.

(5) Requirements for the format of occupancy and use permits shall be established by the Minister of Economic Affairs and Communications.

### **§ 33. Issue of occupancy and use permit**

(1) Occupancy and use permits may be issued and revoked by a body which is authorised to issue building permits (hereinafter 'the issuer of occupancy and use permits').

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(2) In order to obtain an occupancy and use permit, a person shall:

1) submit an application for occupancy and use permit;

2) submit the building design documentation on the basis of which the construction work is constructed;  
3) in addition to the building design documentation, submit the originals of the technical documentation or, if the applicant for the permit is under an obligation to preserve the documentation, copies of such documentation certified by the issuer of the document, the importer of the construction product, the owner of the construction work or the local authority;

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

4) in the cases provided in legislation, submit a document certifying that a technical inspection has been performed in respect of the construction work or part thereof or of the utility system of the construction work prior to commencement of use of the construction work;

5) in the cases provided in legislation, submit a written approval for commencement of use of the construction work or part thereof;

5<sup>1</sup>) if required, present the energy performance certificate;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

6) pay the state fee.

(2<sup>1</sup>) If, in the case of building in a public water body a construction work that has a permanent connection to the shore, the shoreline has shifted and the area of the immovable abutting on the shore has accrued, an occupancy and use permit shall only be issued after the accrued area of the immovable has been recorded in the land cadastre and in the land register and the fee for encumbering a public water body with a construction work has been paid pursuant to the Water Act.

[RT I 2009, 37, 251 - entry into force 10.07.2009]

(3) An occupancy and use permit shall be issued if the construction work conforms to the requirements established by legislation. Where this is warranted by circumstances related to safety considerations in respect of the construction work, the issuer of the occupancy and use permit shall be entitled, before the occupancy and use permit is issued, to require submission of results of an expert assessment of the construction work or part thereof. The cost of the expert assessment of the construction work or part thereof commissioned by way of additional scrutiny of the conformity of the construction work shall be covered by the issuer of the occupancy and use permit if the construction work is shown to be in conformity with established requirements.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(4) An occupancy and use permit shall be issued after the construction work has been inspected and declared to conform to established requirements. The issuer of the occupancy and use permit shall be entitled to involve in the inspection persons and bodies who are competent in inspecting construction works, and who shall present their opinion in writing.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(5) An occupancy and use permit shall be issued in respect of a completed construction work as a whole. An occupancy and use permit may be issued in respect of a part of a construction work if the part can be used safely and according to its intended purpose. The occupancy and use permit issued in respect of a part of a construction work shall be valid until an occupancy and use permit is issued in respect of the construction work as a whole. When an occupancy and use permit is issued in respect of the entire construction work, the occupancy and use permit that was previously issued in respect of a part of the construction work, and the documents submitted in order to obtain that permit, shall be taken into account.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(5<sup>1</sup>) Upon the complete demolition of a construction work, the owner of the construction work shall within ten days from completion of the demolition operations submit to the issuer of the occupancy and use permit a notice regarding the construction work stating completion of demolition operations.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(6) The issuer of the occupancy and use permit shall issue or refuse to issue the occupancy and use permit within twenty days from the date on which the last document required for the issuance of the permit is submitted.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(6<sup>1</sup>) If an environmental impact assessment is carried out before the issuance of the occupancy and use permit, the issuer of the occupancy and use permit shall publish a notice regarding the issuance of the occupancy and use permit on the website of the national register of construction works and in a county-level or local newspaper. The notice shall include:

- 1) the content and conditions of the occupancy and use permit;
- 2) grounds for the issuance of the occupancy and use permit and, if necessary, the description of the measures for avoiding, mitigating and, if possible, eliminating any adverse effects;
- 3) information regarding involvement of the public.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(7) The issuer of the occupancy and use permit shall preserve the documents related to the issuance of the occupancy and use permit until the corresponding construction work is demolished or until the documents are transferred to the archives pursuant to the procedure provided in the Archives Act.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(8) An occupancy and use permit is issued in respect of a construction work. The application for the occupancy and use permit shall be filed by the owner of the construction work, or by a co-owner of the construction work pursuant to a decision of the majority of co-owners, provided that this majority owns the majority of the shared property, or by an apartment owner pursuant to the majority of votes of apartment owners. An occupancy and use permit for a utility network or a utility work on an immovable which is in the ownership of another person shall be issued to the owner of the utility network or the utility work. Upon applying for an occupancy and use permit for a utility network or a utility work built on land which is owned by another, the owner of the utility network or utility work must present a certificate demonstrating ownership of the utility network or utility work. [RT I 2009, 20, 132 - entry into force 01.05.2009]

(8<sup>1</sup>) The local authority shall immediately inform the Estonian Technical Surveillance Authority of the issuance of an occupancy and use permit of a construction work which is to be built in a public water body and which would have a permanent connection to the shore, but not later than five working days from the date the permit of use is issued. [RT I 2009, 37, 251 - entry into force 10.07.2009]

(9) In the case of a proposed temporary construction work, the person who applies for the building permit may also submit an application for the occupancy and use permit.

(10) The procedure for inspection of construction works shall be established by the Minister of Economic Affairs and Communications.

### **§ 34. Refusal to issue occupancy and use permit**

(1) The issue of an occupancy and use permit shall be refused if:

1) the construction work does not meet the requirements established for a construction work approved for the use stated in the corresponding application for occupancy and use permit, or

2) in the application for occupancy and use permit, the owner of the construction work has stated a purpose of use which contravenes public interest, or

3) in the application for occupancy and use permit, the owner of the construction work has stated a purpose of use which does not conform to the design specifications which, if they have been issued, were issued in respect of the construction work or part thereof at the time when the construction of the construction work was proposed, or

4) the application for an occupancy and use permit does not meet established requirements, or 5) the design documentation submitted together with the application for occupancy and use permit does not meet established requirements, or

6) the as-built drawings of the construction work submitted together with the application for occupancy and use permit do not meet established requirements,

6<sup>1</sup>) the building design documentation submitted together with the application for occupancy and use permit differs significantly from the building design documentation submitted together with the application for occupancy and use permit as a result of modifications made in the course of building or as a result of modifications made in the building design documentation, or

[RT I 2009, 20, 132 - entry into force 01.05.2009]

6<sup>2</sup>) as a result of the building work, the completed construction work does not conform to the minimum requirements for energy performance effective at the time when the building permit was issued, or

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

7) false information has been submitted in relation to the application for an occupancy and use permit, or

8) the construction work does not conform to established requirements provided in legislation, or

9) in the case of an application for occupancy and use permit for a temporary construction work, the period of use stated in the application is not the same as the period of use approved by the local authority, or

10) the state fee has not been paid, or

11) technical documentation concerning building operations has not been submitted, or

12) the technical documentation does not conform to established requirements, or

13) no document has been produced to show that a technical inspection of the construction work or part thereof or the utility system prior to the commencement of building work, or to show that a written approval authorising commencement of use of the construction work or part thereof, where such a document or written approval is mandatory, or

14) assessment of a significant environmental impact has not been undertaken where such assessment is mandatory, or

15) the energy performance certificate of a building belonging to a type specified in the regulation of the Government of the Republic of Estonia enacted on the basis of section 3<sup>1</sup>(5) of this Act is not displayed in a prominent place clearly visible to the public, or

[RT I 2009, 20, 132 - entry into force 01.05.2009]

16) a required energy performance certificate is absent;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

17) the requirements specified in section 33(2<sup>1</sup>) of this Act are not met in respect of a construction work which is built in a public water body and which has a permanent connection to the shore.

[RT I 2009, 37, 251 - entry into force 10.07.2009]

(2) If the documents submitted by the applicant for an occupancy and use permit are inadequate, the issuer of the occupancy and use permit must grant the applicant an opportunity to make good the defects in the documents by setting for the applicant a new time-limit which may not be shorter than five working days. If a defect cannot be made good and the defect is not significant with respect to the safety of the construction work, the issuer of the occupancy and use permit shall decide the issuance the permit on the basis of the documents submitted.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(3) If an occupancy and use permit is refused on the grounds that assessment of a significant environmental impact has not been undertaken where such assessment is mandatory, the issuer of the occupancy and use permit shall publish a notice regarding refusal of the occupancy and use permit in a county or local newspaper. The notice shall include:

- 1) the content of the decision;
- 2) grounds for the decision and if necessary, a description of the measures for avoiding, mitigating or, if possible, eliminating any adverse effects;
- 3) information regarding involvement of the public.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

### **§ 35. Validity of occupancy and use permit**

(1) An occupancy and use permit is granted for an unspecified term, except in the case specified in subsection 2 of this section.

(2) Occupancy and use permits in respect of temporary construction works shall be issued for a term of up to five years.

### **§ 36. Application for occupancy and use permit**

(1) An application for an occupancy and use permit shall set out:

1) the name, contact information, and registration number in the commercial register or other register, or personal identification number or, in the absence of the latter, the date of birth of the owner of the construction work;

2) the address, cadastral code and coordinates of the location of the construction work, the name of the construction work and, if registered, its registration number in the national register of construction;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

3) the name, contact information, and registration number in the commercial register or other register, or personal identification number or, in the absence of the latter, the date of birth of the person who prepared the building design documentation or the as-built drawings of the construction work;

4) the name, contact information, and registration number in the commercial register or other register, or personal identification number or, in the absence of the latter, the date of birth of the person who performed the building work;

5) the name, contact information, and registration number in the commercial register or other register, or personal identification number or, in the absence of the latter, the date of birth of the person who performed owner oversight;

6) the purpose of use of the construction work;

7) the essential technical parameters of the construction work;

8) in the event of case of a temporary construction work, its requested period of use;

9) information regarding the payment of the state fee.

(2) An application for an occupancy and use permit may state several purposes of use in respect of a single construction work, which shall be stated on the same occupancy and use permit. Similarly, the application for occupancy and use permit may include an occupancy and use application in respect of a construction work or part thereof or an occupancy and use application in respect of a construction work and a civil engineering work necessary for servicing the construction work. In the case that an application for occupancy and use permit contains the details of several construction works, the issuer of occupancy and use permits shall issue a separate permit in respect of each construction work.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(3) Requirements for the format of the application for occupancy and use permit and the procedure for submission thereof shall be established by the Minister of Economic Affairs and Communications.

[RT I 2002, 99, 579 - entry into force 01.01.2003]

### **§ 37. Information shown in an occupancy and use permit**

The following information shall be shown in an occupancy and use permit:

1) the address, cadastral code and coordinates of the location of the construction work;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

2) the name of the issuer of the occupancy and use permit and the name, title and signature of the relevant official;

3) the date of issue of the occupancy and use permit;

- 4) the registration number of the occupancy and use permit;
- 5) the purpose of use of the construction work;
- 6) the essential technical parameters of the construction work;
- 7) the registration number of the construction work in the national register of construction works;
- 8) in the case of a temporary construction work, its period of use;
- 9) other information specified in legislation.

### **§ 38. Revocation of occupancy and use permit**

(1) The issuer of an occupancy and use permit shall be entitled to revoke the occupancy and use permit if:  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

- 1) the construction work presents a danger to the life, health or property of individuals or to the environment, or
- 2) the owner of the construction work fails to comply with an enforcement order specified in sections 61(1) or 64(3) of this Act, or  
[RT I 2009, 20, 132 - entry into force 01.05.2009]
- 3) false information was knowingly submitted in relation to the application for the occupancy and use permit, or
- 4) the construction work has been demolished.

(2) The owner of a construction work shall be entitled to submit an application for revocation of the occupancy and use permit in the cases specified in subsection 1 of this section.

(3) In the circumstances specified in subsection 1 of this section, the issuer of an occupancy and use permit shall revoke the occupancy and use permit within 10 days from the date of submission of the corresponding application or from the date on which the circumstances specified in subsection 1 of this section became known to the issuer of the permit.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

### **§ 38<sup>1</sup>. Energy audit**

(1) An energy audit is an analysis relying on measurements and gathered data to determine the energy consumption of a building with indoor climate control or a separately usable part thereof. The energy audit provides an overview of a building's technical condition, energy loss and of possible measures that can be taken to save energy and improve the indoor climate in the building. The energy audit report shall primarily describe the condition of the building and provide information regarding the amount of resources consumed and the price of those resources, analyse such information and offer conclusions made on its basis.

(2) The Minister of Economic Affairs and Communications shall establish the requirements for the format of energy audit reports and the procedure for issuing energy audit reports.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

### **§ 39. Expert assessment of construction works**

(1) Expert assessment of a construction work is assessment of the compliance of the construction work with established requirements.

(2) The procedure for the expert assessment of construction works shall be established by the Minister of Economic Affairs and Communications.

[RT I 2002, 99, 579 - entry into force 01.01.2003]

### **§ 40. Demolition of dangerous or temporary construction works or construction works erected without a building permit**

(1) The owner of a construction work which presents a danger to the life, health or property of individuals or to the environment shall bring the construction work into conformity with the requirements for construction works or demolish the construction work by the date, in the manner and under the conditions prescribed by the corresponding enforcement order issued as a directive of the executive body of the city or municipality council or, in the case of a construction work which is built in a public water body and which does not have a permanent connection to the shore, by an administrative decree of the Director General of the Estonian Technical Surveillance Authority.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(2) The owner of a construction work built unlawfully shall demolish the construction work by the date, in the manner and on the terms prescribed by the corresponding enforcement order issued as a directive of an executive body of the city or municipality council. A construction work which does not have a permanent connection to the shore and which is built unlawfully in a public water body is in the ownership of the Republic

of Estonia and its demolition shall be decided by the Government of the Republic of Estonia, who shall issue a corresponding directive.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(3) A temporary construction work shall be demolished or otherwise removed by the date determined by the local authority.

(4) If a construction work specified in this section is not brought into conformity with established requirements for such construction works or is not demolished by the due date, the local authority shall organise the bringing into conformity or demolition of the construction work pursuant to the procedure provided in the Substitutive Enforcement and Penalty Payments Act. If a construction work which is built in a public water body and which does not have a permanent connection to the shore presents a danger to the life, health or property of individuals or to the environment and is not brought into conformity with established requirements or is not demolished by the due date, the Estonian Technical Surveillance Authority shall organise the bringing into conformity or demolition of the construction work pursuant to the procedure provided in the Substitutive Enforcement and Penalty Payments Act.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

## **Chapter 4**

# **REQUIREMENTS FOR UNDERTAKINGS**

### **§ 41. Operation of contractors in the field of building work**

(1) To be permitted to perform building work or design work, to conduct site investigations or energy audits or owner oversight or expert assessments of building design documentation or expert assessment of construction works, to issue energy performance certificates and to engage in project management a person must be an undertaking as defined in the Commercial Code and the person must:

- 1) be registered in the register of economic activities (hereinafter, 'the register'), and
- 2) have a corresponding legal relationship with a competent person specified in section 47 of this Act (hereinafter, the 'authorised specialist') or, if the person is a sole proprietor, he or she must be authorised to act as an authorised specialist.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(1<sup>1</sup>) [Repealed – RT I 2009, 20, 132 – entry into force 01.05.2009]

(1<sup>2</sup>) An undertaking lawfully engaged in the field of building work and established in another state party to the Agreement on the European Economic Area or a citizen of a state party to the Agreement on the European Economic Area may temporarily build, design, conduct site investigations, conduct energy audits, perform owner oversight, perform expert assessments of building design documentation, expert assessments of construction works, issue energy performance certificates and engage in project management without adhering to the requirements provided in subsection 1 of this section. Such a person shall notify the Estonian Technical Surveillance Authority of commencement of business in Estonia and in the conduct of its business shall observe to the requirements established in Estonia

[RT I 2009, 63, 408 - entry into force 28.12.2009]

(2) If a building contractor performs building operations which remain within the limits of a profession in which its employees hold or, if the contractor is a sole proprietor, the contractor himself or herself holds a professional qualification as defined in the Professions Act and if the operations do not involve the distribution of resources or directing the work of other persons and do not impose on responsibility for their work, the building contractor is not required to comply with the provision of point 2 of subsection 1 of this section.

(3) An undertaking itself may perform building operations in a registered area of activity only within the competence of its authorised specialist.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

### **§ 42. Registration application**

(1) An undertaking which wishes to perform building work or design work, to conduct site investigations, to perform energy audits of buildings, to perform owner oversight or expert assessments of building design documentation or expert assessments of construction works, to issue energy performance certificates in respect of buildings or to engage in project management (hereinafter, 'the undertaking') shall submit a registration application to the registry.

[RT I 2006, 43, 326 - entry into force 22.10.2006]

(2) The registration application shall contain:

- 1) the name and registration number of the undertaking, the name of the relevant register, and the address and other contact information of the undertaking;
- 2) the area of activity specified in subsection 1 of this section in which the applicant wishes to operate and its precise classification;

[RT I 2006, 43, 326 - entry into force 22.10.2006]

- 3) information concerning the authorised specialist of the undertaking who must meet the requirements prescribed for the desired area of activity if it is mandatory to have an authorised specialist;
- 4) information concerning the qualifications of the building contractor and any documents that certify such qualifications, if they can be produced;
- 5) the name, title and contact information of the authorised person of the undertaking who signs the registration application.

(3) Information concerning the authorised specialist as specified in point 3 of subsection 2 of this section must comprise the following:

- 1) name and personal identification number or, in the absence of such number, the date of birth;
- 2) contact information;
- 3) the profession and other essential information appearing on his or her professional certificate if he or she holds one;
- 4) in the absence of a professional certificate, the date of issue and the name of the issuer of the document that certifies the person's specialised education;
- 5) professional experience.

(4) The person who submits a registration application shall be responsible for the correctness of the information submitted to the registry.

(5) [Repealed – RT I 2004, 18, 131 – entry into force 15.04. 2004]

(6) [Repealed – RT I 2009, 63, 408 – entry into force 28.12.2009]

(7) [Repealed – RT I 2009, 63, 408 – entry into force 28.12.2009]

(8) The Minister of Economic Affairs and Communications may establish a detailed list of areas of activity referred to in subsection 1 of this section.

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

#### **§ 43. Registration**

(1) Based on information submitted in a registration application or an application for amendment of registered information, the registrar records in the register information of an undertaking or amends the information pursuant to the procedure provided in the Register of Economic Activities Act.

(2) In addition to the information prescribed by the Register of Economic Activities Act, the following information shall be recorded in the register:

- 1) the area of activity which the undertaking has specified in the registration application and in which the applicant wishes to operate, and its precise classification;
- 2) information concerning the authorised specialist who meets the requirements prescribed for the desired area of activity;
- 3) information concerning the qualifications of the building contractor and any documents that certify such qualifications if they can be produced.

[RT I 2006, 43, 326 - entry into force 22.10.2006]

#### **§ 44. Registration procedure**

(1) The provisions of the Register of Economic Activities Act apply to the registration procedure without prejudice to the special rules arising from this section.

(2) In addition to the cases to which the provisions of the Register of Economic Activities Act apply, the registrar shall refuse to register an undertaking if the registrar has within 60 days prior to receipt of the application removed the undertaking's registration information from the register pursuant to subsection 3 of this section.

(3) In addition to the cases to which the provisions of the Register of Economic Activities Act apply, a registration shall be removed pursuant to the determination of the Estonian Technical Surveillance Authority provided in section 64(5) of this Act once the term for contesting the determination has passed, if the determination is not contested or, if the determination is contested, from the date on which the judgment upholding the contested decision of the Estonian Technical Surveillance Authority enters into force.

[RT I 2007, 12, 66 - entry into force 01.01.2008]

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

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

**§ 47. Authorised specialist**

(1) An authorised specialist is a person who:

- 1) is competent to manage and scrutinise building work, design work, site investigations, owner oversight, energy audits of buildings, expert assessments of building design documentation, expert assessments of construction works, issuance of energy performance certificates in respect of buildings, or project management activities, and
- 2) advises an undertaking in order to ensure compliance with the requirements provided in this Act and the legislation enacted on the basis thereof.

(2) In order to perform building work or design work, to conduct site investigations, to perform owner oversight or expert assessments of building design documentation or expert assessments of construction works or to engage in project management activities, an authorised specialist shall:

- 1) hold a professional qualification as defined in the Professions Act which grants him or her the right to organise the distribution of resources or the work of other persons and imposes on him or her responsibility for such work, or
- 2) have completed a higher education in an appropriate field and have three years' experience in positions related to his or her profession, which shall be counted from the date the document certifying the completion of the higher education is issued.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2<sup>1</sup>) If a person wants to act as an authorised specialist and has acquired his or her competence in a foreign country, the Recognition of Foreign Professional Qualifications Act shall be applied in respect of that person.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(3) In order to issue energy performance certificates, the authorised specialist must hold a corresponding professional qualification as defined in the Professions Act.

(4) In order to conduct energy audits of buildings, the specialist in charge must hold a corresponding professional qualification as defined in the Professions Act and possess a specialised higher education.

[RT I 2006, 43, 326 - entry into force 22.10.2006]

**§ 48. Duties of building contractors**

A building contractor is required to:

- 1) ensure that building work is performed in compliance with the building design documentation;
- 2) ensure that operations performed in the course of building work are documented;
- 3) preserve in its entirety the technical documentation prepared by the building contractor or copies thereof for at least seven years or until the documents are transferred to the archives pursuant to the procedure provided in the Archives Act;
- 4) only install in a construction work such construction products as conform to established requirements;
- 5) ensure the requisite quality of building work;
- 6) ensure the safety of building work and maintenance of the construction work and the building site;
- 7) avoid polluting the environment;
- 8) where in the course of building work any actual or potential instances of non-conformity of the construction work with established requirements have been discovered, inform the owner of the construction work and the person exercising owner oversight of such instances;
- 9) perform obligations related to the warranty granted in respect of the construction work;
- 10) notify the Estonian Technical Surveillance Authority at the earliest opportunity of any technical or other accident that occurs during building work and that was caused by a failure to meet the requirements established in respect of building work or in respect of the construction work;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

11) offer the officials of the Estonian Technical Surveillance Authority and other authorised officials full cooperation in ascertaining the causes of any technical emergency and any related accident, preserving the situation that arises as a result of any emergency and any accident until its causes are determined, unless such a situation constitutes a threat to the life, health or property of individuals or to the environment.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

**§ 49. Duties of design contractors**

A design contractor is required to:

- 1) prepare building design documentation which conforms with the requirements;
- 2) ensure that the building design documentation corresponds to its source information;
- 2<sup>1</sup>) upon erection of a building with indoor climate control, issue an energy performance certificate as part of the building design documentation;

[RT I 2009, 20, 132 - entry into force 01.05.2009]

2<sup>2</sup>) certify that the designed building meets minimum requirements for energy performance; [RT I 2009, 20, 132 – entry into force 01.05.2009]

- 3) prepare as-built drawings of the construction work which conform to established requirements;
- 4) preserve in its entirety the building design documentation and as-built drawings prepared by the design contractor and the source information used for preparation thereof for at least seven years or until the documents are transferred to the archives pursuant to the procedure provided in the Archives Act.

#### **§ 50. Duties of undertakings exercising owner oversight**

(1) An undertaking exercising owner oversight is required to

- 1) verify conformity of the building design documentation to established requirements;
- 2) verify conformity of the building work to the building design documentation;
- 3) verify that only construction products which conform to established requirements are used in the building work;
- 4) verify the existence of technical documentation concerning the building work;
- 5) verify conformity of the technical documentation to established requirements;
- 6) verify the quality of building operations;
- 7) verify that building operations are safe for third parties, that the construction work and the building site are properly maintained and that any pollution of the environment is avoided;
- 8) verify that enforcement orders which have been issued are complied with;  
[RT I 2009, 20, 132 - entry into force 01.05.2009]
- 9) scrutinise whether time-limits for completion of building operations are being met, notifying the owner of the construction work of any instances of non-conformity of the quality of the building operations to the agreed terms or any failure to observe the agreed time-limits;  
[RT I 2009, 20, 132 - entry into force 01.05.2009]
- 10) verify the conformity of the construction work to the building design documentation and to requirements arising from legislation and to the agreement entered into between the owner of the construction work and the building contractor.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2) An undertaking exercising owner oversight is required to inform the owner of the construction work of:

- 1) any actual or potential instances of non-conformity of construction products, building design documentation or the construction work to established requirements;
- 2) the quality and safety of building operations, the maintenance of the construction work and the building site, and of any pollution of the environment.

#### **§ 51. Duties of undertakings conducting site investigations**

An undertaking conducting site investigations is required to:

- 1) conduct site investigations according to the established procedures;
- 2) ensure that site investigations are conducted in conformity with established requirements;
- 3) preserve information concerning site investigations conducted by the undertaking for at least seven years or until the information is transferred to the archives pursuant to the procedure provided in the Archives Act;
- 4) submit the results of site investigations to the local authority.

#### **§ 52. Duties of undertakings performing expert assessment of building design documentation**

An undertaking performing expert assessment of building design documentation is required to:

- 1) verify the conformity of building design documentation to established requirements;
- 2) verify that the building design documentation corresponds to relevant source information;
- 3) ensure that expert assessment of building design documentation conforms to established requirements;
- 4) verify the conformity of as-built drawings of the construction work to established requirements;
- 5) preserve all information contained in the expert assessments of building design documentation performed by the undertaking for at least seven years or until the information is transferred to the archives pursuant to the procedure provided in the Archives Act.

#### **§ 53. Duties of undertakings performing expert assessments of construction works**

An undertaking which performs an expert assessment of a construction work is required to:

- 1) verify the conformity of the construction work or part thereof to established requirements;
- 2) verify the conformity of the construction work or part thereof with the building design documentation;
- 3) ensure that the expert assessment of the construction work conforms to established requirements;
- 4) preserve all information contained in the expert assessment of the construction work performed by the undertaking for at least seven years or until the information is transferred to the archives pursuant to the procedure provided in the Archives Act.

### **§ 53<sup>1</sup>. Duties of undertakings issuing energy performance certificates in respect of buildings**

An undertaking issuing energy performance certificates in respect of buildings is required to:

- 1) ensure that energy performance certificates are issued in conformity with established requirements;  
[RT I 2006, 43, 326 - entry into force 22.10.2006]
- 2) preserve all information related to issuing energy performance certificates of buildings for at least seven years or until the information is transferred to the archives pursuant to the procedure provided in the Archives Act;  
[RT I 2006, 43, 326 - entry into force 22.10.2006]
- 3) [Repealed – RT I, 25.05.2012, 5 – entry into force 09.01.2013]

### **§ 53<sup>2</sup>. Duties of undertakings conducting energy audits of buildings**

An undertaking conducting energy audits of buildings is required to:

- 1) ensure that energy audits of buildings are conducted in conformity with established requirements;
- 2) preserve all information related to conducting energy audits of buildings for at least seven years or until the information is transferred to the archives pursuant to the procedure provided in the Archives Act.  
[RT I 2006, 43, 326 - entry into force 22.10.2006]

### **§ 54. Duties of project management undertakings**

(1) A project management undertaking is required to ensure:

- 1) that building work is performed in compliance with building design documentation;
- 2) the preparation of technical documentation concerning building work;
- 3) that only construction products which conform to established requirements are used in the building work;
- 4) the requisite quality of building operations;
- 5) the maintenance and safety of the construction work and the building site during the performance of building work;
- 6) that pollution of the environment is avoided;
- 7) that the building process is planned and organised in compliance with the requirements established in legislation.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2) In addition to the duties specified in subsection 1 of this section, if a project management undertaking discovers in the course of building work any actual or potential instances of non-conformity of the construction work to established requirements, it is required to inform the owner of the construction work of such instances.

## **Chapter 5 NATIONAL REGISTER OF CONSTRUCTION WORKS**

### **§ 55. National register of construction works**

(1) The main function of the national register of construction works (hereinafter, 'the register of construction works') is to maintain records of construction works which are being built or which are being used. The entries in the register of construction works concern construction works under construction or in use.

(2) The register of construction works is to be created and the constitutive regulations for its keeping are to be established by the Government of the Republic of Estonia

(3) The data controller of the register of construction works is the Ministry of Economic Affairs and Communications.

(4) The register of construction works is kept as a single-level electronic database.  
[RT I 2002, 99, 579 - entry into force 01.01.2003]

### **§ 56. Information in the register of construction works**

(1) The following information is to be entered in the register of construction works (hereinafter, 'the information in the register of construction works'):

- 1) information concerning a construction work, including essential technical specifications of the construction work and information concerning the physical unit of the construction work as defined in the Apartment Ownership Act;
- 2) information concerning the location of the construction work, including the cadastral code;  
[RT I 2009, 20, 132 - entry into force 01.05.2009]
- 3) information contained in the building permit;
- 4) information contained in the written approval issued by the local authority;
- 5) information contained in the occupancy and use permit;
- 6) information concerning persons related to the construction work;
- 7) information concerning the owner of the construction work;
- 8) information concerning persons related to the building work performed on the construction work;

- 9 information concerning the building work performed;
- 10) information concerning site investigations and evaluations of the construction work and concerning persons who conducted such investigations or performed such evaluations;
- 11) information concerning any liens in respect of a construction work which is a movable;
- 12) information concerning any executory liens or any prohibitions of dealings in respect of a construction work which is a movable;
- 13) information related to cultural monuments;
- 14) information contained in an enforcement order issued by an official exercising construction oversight authority;
- 15) information contained in an enforcement order issued by an official exercising public oversight authority.
- 16) information concerning energy performance certificates.

(2) The information stored in the register of construction works is for information and statistical purposes only.  
[RT I 2006, 43, 326 - entry into force 22.10.2006]

#### **§ 57. Persons who submit information to register of construction works**

- (1) Information shall be submitted to the Registry of Construction Works by:
- 1) local authorities in the case of information specified in points 1–10, 14 and 16 of subsection 1 of section 56 of this Act;  
[RT I 2006, 43, 326 - entry into force 22.10.2006]
  - 2) the Estonian Technical Surveillance Authority, in the case of information specified in point 15 of subsection 1 of section 56 of this Act;  
[RT I 2007, 66, 408 - entry into force 01.01.2008]
  - 3) the Heritage Conservation Inspectorate, in the case of information specified in point 13 of subsection 1 of section 56 of this Act;
  - 4) notaries public in the case of information specified in points 1, 7 and 11 of subsection 1 of section 56 of this Act;
  - 5) the Ministry of Economic Affairs and Communications, in the case of information specified in point 12 of subsection 1 of section 56 of this Act;
  - 6) the Estonian Technical Surveillance Authority in the case of information specified in points 1–3, 5–10 and 14 of subsection 1 of section 56 of this Act;  
[RT I 2010, 8, 37 - entry into force 27.02.2010]
  - 7) undertakings which issue energy performance certificates in respect of buildings, in the case of information specified in point 16 of subsection 1 of section 56 of this Act;  
[RT I 2006, 43, 326 - entry into force 22.10.2006]
  - 8) bailiffs and the Financial Intelligence Unit, in the case of information specified in point 12 of subsection 1 of section 56 of this Act.  
[RT I 2009, 61, 401 - entry into force 26.12.2009]

(2) Any person who submits information to the Registry of Construction Works is responsible for the accuracy of such information.

(3) Requirements regarding the format of notices to be used to submit information to the Registry of Construction Works and the procedure for submission of the information shall be established by the Minister of Economic Affairs and Communications.

#### **§ 58. Publication of information in the register of construction works**

(1) The information recorded in the register of construction works is public and shall be made publicly accessible on the website of the Registry of Construction Works.

(2) Certified extracts of the information in the register of construction works are issued by local authorities.

## **Chapter 6 CONSTRUCTION OVERSIGHT**

#### **§ 59. Construction oversight**

- (1) For the purposes of this Act, construction oversight means:
- 1) verification of conformity to established requirements of building design documentation and of as-built drawings of construction works;
  - 2) issuance of building permits;
  - 3) issuance of occupancy and use permits;
  - 4) verification of conformity of construction works to established requirements;

- 5) organisation of the evaluation of construction works in order to verify the conformity of construction works to established requirements;
- 6) verification of the compliance of undertakings specified in section 41 of this Act with established requirements;
- 7) organisation of investigations into the causes of accidents on construction works;
- 8) issuance of enforcement orders within the competence of the issuer.

(2) The exercise of construction oversight on the administrative territory of a local authority is within the competence of the local authority. The local authority is to exercise construction oversight of construction works which are being built in public water bodies and which have a permanent connection to the shore. Oversight of construction works which are being built in public water bodies and which do not have a permanent connection to the shore is within the competence of the Estonian Technical Surveillance Authority.  
[RT I 2010, 8, 37 - entry into force 27.02.2010]

(3) Oversight authorities in charge of heritage conservation, health protection, environmental protection and other areas shall inform the body which exercises construction oversight authority in respect of a construction work of the results of public oversight inspections carried out in respect of that construction work.  
[RT I 2010, 8, 37 - entry into force 27.02.2010]

## **§ 60. Powers and obligations of officials exercising construction oversight**

(1) An official exercising construction oversight authority shall have the power to:  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

- 1) inspect compliance with this Act, including in construction works under construction and parts thereof;
- 2) inspect compliance with this Act without hindrance in a construction work in use by giving at least 24 hours notice to the owner of the construction work;
- 3) based on considerations of safety or purpose of use of a construction work, obtain from government agencies, local authorities, from the owner of the construction work, from the applicant for building permit or from any undertaking involved the information necessary for performing construction oversight in respect of building work, design work, a site investigation or owner oversight of the construction work, in respect of any expert assessment of the building design documentation, any expert assessment of the construction work and the use of the construction work;
- 4) inspect the originals or copies of documents regarding building work, design work, site investigations, owner oversight of the construction works, expert assessment of building design documentation, evaluation of construction works, safety of use and the purpose of use of construction works and to obtain copies of such documents, except for documents concerning the cost of the operations specified in this point;
  - 4<sup>1</sup>) as of 1 January 2009, obtain necessary information from persons specified in point 3 of this subsection regarding the issuance of energy performance certificates in respect of buildings and the conduct of energy audits of buildings and to examine the originals or copies of documents concerning energy performance certificates and energy audits of buildings and to obtain copies of such documents;
- 5) monitor building work, verify the conformity of building design documentation to established requirements, to the detailed spatial plan or design specifications, and inspect the maintenance and use of the construction work based on considerations of safety and purpose of use of the construction work;
- 6) where circumstances warrant this, require expert assessment of building design documentation or expert assessment of the construction work or part thereof;
- 7) issue enforcement orders within his or her competence;
- 8) prepare building permits and occupancy and use permits for issuance;
- 9) submit information to the national registry of construction works;
- 10) commission expert assessment of building design documentation to verify its conformity to established requirements, and commission expert assessment of a construction work or part thereof to verify its conformity to established requirements;
- 11) verify the existence of building permits and the accuracy of the information stated in the building permits;
- 12) verify the existence of occupancy and use permits and the accuracy of information stated in such permits.

(2) The cost of an expert assessment commissioned to verify the conformity of building design documentation or of a construction work or part thereof to established requirements shall be borne by the authority performing construction oversight. If it is established that building design documentation, a construction work or part thereof fails to conform to established requirements, the owner of the construction work shall reimburse the authority which performs construction oversight for the cost of the expert assessment.

(3) An official who performs construction oversight is required to:

- 1) present his or her service identification card when performing official duties;
- 2) ensure the confidentiality of business and technical information that he or she has become privy to in the course of construction oversight work, unless disclosure of such information is required by the law.  
[RT I 2006, 43, 326 - entry into force 22.10.2006]

## **§ 61. Enforcement orders by officials who perform construction oversight**

(1) An official who performs construction oversight shall make an enforcement order in respect of the owner of a construction work or of a person building a construction work if:  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

- 1) the detailed spatial plan is not observed during building work, or

2) design specifications are not observed during building work, or  
3) building design documentation is not observed during building work, or  
4) the written approval of the local authority is not observed during building work, or  
5) building work is undertaken without a building permit, or  
6) building work is undertaken without the written approval of the local authority, or  
7) the construction work is not used for its established purpose, or  
8) no occupancy and use permit has been issued in respect of the construction work, or  
9) the construction work constitutes a threat to the life, health or property of individuals or to the environment,  
or  
10) the construction work fails to conform to established requirements;  
11) the owner of the construction work has failed to inform the local authority of his or her intention to erect a small construction work occupying a ground surface area of no more than 20m<sup>2</sup> within a tract of land where preparation of a detailed spatial plan is mandatory.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(2) An official who performs construction oversight shall make an enforcement order in respect of a building contractor if:

[RT I 2010, 8, 37 - entry into force 27.02.2010]

1) the building contractor fails to observe the building design documentation during building work, or  
2) the building contractor fails to observe the written approval of the local authority during building work, or  
3) the building contractor is building a construction work in respect of which no building permit has been issued, or  
4) the building contractor is building a construction work for which the local authority has not granted written approval, or  
5) the construction work being built by the building contractor fails to conform to established requirements.

(3) An official who performs construction oversight shall make an enforcement order in respect of an undertaking if:

[RT I 2010, 8, 37 - entry into force 27.02.2010]

1) the undertaking is a building contractor, design contractor or is engaged in site investigations, owner oversight, expert assessment of building design documentation, expert assessment of construction works or project management and operates without an authorised specialist, or  
2) the undertaking is a building contractor, design contractor or is engaged in site investigations, owner oversight, expert assessment of building design documentation, expert assessment of construction works or project management and operates without proper registration.

(3<sup>1</sup>) As of 1 January 2009, an official who performs construction oversight shall also make an enforcement order in respect of an undertaking which issues energy performance certificates or conducts energy audits of buildings if the undertaking operates without an authorised specialist or without the required registration.  
[RT I 2010, 8, 37 - entry into force 27.02.2010]

(4) In an enforcement order specified in subsections 1–3 of this section, the official performing construction oversight shall:

1) call attention to the violation;  
2) demand the suspension, in part or in full, of building work, design work, site investigations, owner oversight, expert assessment of building design documentation, expert assessment of the construction work, project management activities or use of the construction work;  
3) direct the addressee of the order to take the measures necessary for the lawful continuation of building work, design work, site investigations, owner oversight, expert assessment of building design documentation, expert assessment of the construction work, project management activities, or to bring the construction work into conformity with the requirements for its use.

(4<sup>1</sup>) As of 1 January 2009, an official exercising construction oversight shall also have the power specified in subsection 4 in relation to violations by undertakings which issue energy performance certificates or which conduct energy audits of buildings.

(5) Officials of local authorities authorised by the city mayor or municipality chairman and officials authorised by the Director General of the Estonian Technical Surveillance Authority shall have the power to make enforcement orders specified in subsections 1–3 of this section.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(6) In the case of failure to comply with an enforcement order specified in subsections 1–3 of this section, the official performing construction oversight may impose a coercive measure pursuant to the procedure provided in the Substitutive Enforcement and Penalty Payments Act. The upper limit for a penalty payment in order to enforce an obligation is 1300 euros for a natural person and 6400 euros for a legal person.

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

(7) The authority who performs construction oversight shall forward information concerning an enforcement order specified in subsection 1 of this section to the Registry of Construction Works within two working days from making the enforcement order.

[RT I 2010, 8, 37 - entry into force 27.02.2010]

(8) [Repealed – RT I 2008, 8, 58 – entry into force 15.05.2008]

## **Chapter 7**

# **PUBLIC OVERSIGHT**

### **§ 62. The body exercising public oversight authority**

(1) Public oversight of the requirements established by this Act and the legislation enacted on its basis shall be performed by the Estonian Technical Surveillance Authority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(1<sup>1</sup>) The Estonian Technical Surveillance Authority shall scrutinise register information for accuracy.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(1<sup>2</sup>) The Estonian Technical Surveillance Authority shall scrutinise, on a random basis and to the extent of a statistically significant percentage, the conformity to established requirements of the energy performance certificates issued during the year. The scrutiny shall include:

- 1) a validity check of the building's input data used to issue the energy performance certificate and the results stated in the certificate;
- 2) verification of the relevance of the input data and the results stated in the energy performance certificate, including the recommendations made for improvement of the efficiency of energy performance;
- 3) a full check of the building's input data used to issue the energy performance certificate, a full verification of the relevance of the results stated in the certificate, including the recommendations made for reduction of energy needs, and, if possible, an on-site visit to the building to check the correspondence of the specifications given in the energy performance certificate and of the building certified.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(2) The Estonian Technical Surveillance Authority shall have the right to:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

- 1) perform oversight inspections without hindrance and without giving prior notice;
  - 2) obtain information necessary for public oversight, inspect originals of documents and obtain copies thereof;
  - 3) verify the conformity of a construction work, building work, building design documentation, and construction products and of undertakings specified in section 41 of this Act to established requirements;
- [RT I 2009, 20, 132 - entry into force 01.05.2009]
- 4) order evaluation services and expert assessments to verify conformity to established requirements;
  - 5) conduct investigations into the causes of accidents on construction works;
  - 6) issue enforcement orders and make determinations within its competence;
  - 7) order disclosure of information concerning any dangers arising from a construction work or a construction product, or to disclose such information itself.

(3) The Estonian Technical Surveillance Authority shall inform local authorities of the outcome of public oversight inspections.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) Public oversight of compliance with fire safety requirements established pursuant to section 3(11) of this Act in respect of a construction work or part thereof shall be exercised by the Rescue Board.

[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

### **§ 63. Powers and obligations of officials of the Estonian Technical Surveillance Authority**

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(1) An official of the Estonian Technical Surveillance Authority shall have the power to:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

1) scrutinise compliance with this Act in respect of the conformity of construction products to established requirements by conducting inspections without hindrance and without giving prior notice in construction works under construction or parts thereof or on premises used for storage, installation or sale of construction products after they are placed on the market, and by conducting inspections without hindrance in construction works in use, or in places of use of construction products, giving the owner of the construction work at least 24 hours notice thereof, although no notice is required given in the case of investigations into causes of accidents in construction works;

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

2) scrutinise compliance with this Act in respect of the conformity of construction works to established requirements by conducting inspections without hindrance and without giving prior notice in construction works under construction or parts thereof, and by conducting inspection activities without hindrance in construction

works in use, giving the owner of the construction work at least 24 hours notice thereof, although no notice is required in the case of investigations into causes of accidents in construction works;

3) based on considerations of safety or the purpose of use of a construction work, obtain information required for public oversight from government agencies, local authorities, persons marketing construction products, persons selling construction products, the owner of the construction work, the applicant for building permit or an undertaking involved, regarding building work, design work, site investigations or owner oversight of the construction work, expert assessment of building design documentation, expert assessment of the construction work and use of the construction work;

4) inspect the originals or copies of documents regarding construction products, building work, design work, site investigations or owner oversight of construction works, the assessment of building design documentation, the expert assessment of construction works, the safe use of construction works or the purpose of use thereof and to obtain copies of such documents, except for documents concerning the cost of the operations specified in this point; 4<sup>1</sup>) as of 1 January 2009, obtain the necessary information from persons specified in point 3 of this subsection regarding the issue of energy performance certificates in respect of buildings and in conducting energy audits of buildings and to inspect the originals or copies of documents concerning energy performance certificates and energy audits of buildings and to obtain copies of such documents;

5) scrutinise the conformity of a construction work and the building design documentation to established requirements and, based on considerations of safety and purpose of use of a construction work, scrutinise the use of the construction work;

6) where circumstances warrant this, require expert assessment of building design documentation or the evaluation of a construction work or parts thereof and to organise investigations into causes of accidents in construction works;

7) issue enforcement orders within his or her authority;

8) order the owner of the construction work to inform the public of a danger related to the construction work or, at the expense of the owner of the construction work, himself or herself to inform the public of the danger related to the construction work;

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

10) obtain from the manufacturer or supplier or distributor of a construction product the construction product whose value does not exceed 1300 euros, or a sample of the same product, free of charge, and a construction product whose value exceeds 1300 euros, or a sample of the same product, in exchange for reasonable compensation, in order to verify the conformity of the construction product to established requirements; the construction product or a sample thereof shall be obtained for verification on the basis of the oversight official's corresponding determination which, if payment for the product or sample is required, also sets out the amount immediately payable to the manufacturer or supplier or distributor of the product.

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

(2) The cost of evaluation services, of expert assessment of building design documentation or of expert assessment of a construction work commissioned to verify its conformity to established requirements shall be borne by the Estonian Technical Surveillance Authority. If it is established that a construction product, a construction work or building design documentation fails to conform to established requirements, the manufacturer or supplier or distributor of the construction product or the owner of the construction work shall reimburse the Estonian Technical Surveillance Authority for the cost of the evaluation services commissioned to verify conformity to established requirements, including the cost of expert assessment or evaluation.

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

(3) If a construction product or sample thereof which is obtained in order to verify its conformity to established requirements is found to be in conformity to these requirements, it shall be returned or its cost shall be compensated within a reasonable period of time.

(4) Officials of the Estonian Technical Surveillance Authority who exercise public oversight powers are required to:

[RT I 2007, 66, 408 - entry into force 01.01.2008]

1) present their service identification card when performing their official duties;

2) ensure the confidentiality of business and technical information that they have become privy to in the course of public oversight activities, unless disclosure of such information is required by the law.

[RT I 2006, 43, 326 - entry into force 22.10.2006]

#### **§ 64. Determinations and enforcement orders issued by officials of the Estonian Technical Surveillance Authority**

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(1) [Repealed – RT I 2009, 20, 132 – entry into force 01.05.2009]

(2) [Repealed – RT I 2009, 20, 132 – entry into force 01.05.2009]

(3) In order to put an end to violations of requirements established by virtue of this Act or of legislation enacted on its basis, except for violations of requirements established by a local authority pursuant to section 19(4) of

this Act, an official of the Estonian Technical Surveillance Authority exercising public oversight powers shall issue an enforcement order in which he or she

- 1) orders the cessation of the violation;
- 2) if necessary, orders a complete or partial cessation of any activities related to the violation;
- 3) orders measures required to bring the continuation of activities into conformity with established requirements.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(3<sup>1</sup>) As of 1 January 2009, the officials of the Estonian Technical Surveillance Authority who exercise public oversight powers shall also have the rights specified in subsection 3 of this section in respect of violations related to the issuance of energy performance certificates or to the conduct of energy audits of buildings.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) The Estonian Technical Surveillance Authority shall transmit information concerning an enforcement order issued in respect of building work which fails to conform to the building design documentation or in respect of a use of a construction product which fails to conform to established requirements, to the Registry of Construction Works within two working days from the date on which the enforcement order is issued.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) If an undertaking repeatedly fails to comply with an enforcement order, the Director General of the Estonian Technical Surveillance Authority or an official of the authority duly authorised by the Director General shall have the right to make a determination by which failure to comply with the enforcement order is documented and which serves as grounds for removal of the undertaking from the relevant register.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(6) A determination specified in subsection 5 of this section shall set out:

- 1) the date and place of the determination;
- 2) the content of the determination;
- 3) the grounds for the determination;
- 4) the given name, surname and the title of the official making the determination;
- 5) a note regarding the possibility to challenge the determination and the relevant term and procedure to be observed.

(7) If an enforcement order or decision issued by the Director General of the Estonian Technical Surveillance Authority or by an official authorised by the Director General was made in respect of an undertaking who is entered in the register of economic activities, the Estonian Technical Surveillance Authority shall send a copy of the enforcement order to the registry within two working days from the date on which the enforcement order is issued or remove the undertaking from the register immediately after the determination specified in subsection 5 of this section is made, but not later than within five working days.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

(8) In the case of a failure to comply with an enforcement order specified in this section, an official exercising public oversight powers may impose a coercive measure pursuant to the procedure provided in the Substitutive Enforcement and Penalty Payments Act. The upper limit for a penalty payment to enforce an obligation is 1300 euros for a natural person and 6400 euros for a legal person.

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

## **§ 64<sup>1</sup>. Contestation of enforcement orders or acts**

(1) Upon disagreeing with an enforcement order or act of an official of the Estonian Technical Surveillance Agency, the person in respect of whom the enforcement order or act was made may submit a written challenge to the Director General of the Estonian Technical Surveillance Authority within 30 days after learning of the enforcement order or act.

(2) The filing of a challenge does not relieve the person filing the challenge of the obligation to comply with the enforcement order.

(3) The Director General of the Estonian Technical Surveillance Authority shall review the challenge and make a determination within 30 days from the day of filing of the challenge.

(4) The determination of the Director General of the Estonian Technical Surveillance Authority shall be communicated to the person who filed the challenge and handed over to the person in exchange for signed receipt or sent to the person by registered mail together with a notice of delivery within two working days from the day the determination is made.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

## **Chapter 8**

# LIABILITY

## § 65. Submission of false information

(1) Submission of false information by a natural person to the Registry of Construction Works is punishable by a fine of up to 300 fine units.

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

## § 66. Failure to notify modified information

(1) Failure, by a natural person, to notify the local authority of the results of a site investigation is punishable by a fine of up to 150 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 1600 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

## § 67. Placing on the market or incorporation in a construction work of a construction product not in conformity with established requirements

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

(1) The marketing, by a natural person, of a construction product which fails to conform to established requirements or the incorporation, in a permanent manner, in a construction work by a natural person of a construction product which fails to conform to established requirements is punishable by a fine of up to 300 fine units.

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

(2) The same act, when committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I 2010, 31, 158 - entry into force 01.10.2010]

## § 68. Failure to perform the duties of the owner of construction work

(1) Failure, by a natural person, to perform the duties of the owner of a construction work as specified in section 29 of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 32,000 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

## § 68<sup>1</sup>. Failure to document the building operations performed

(1) Failure, by a natural person, to document the building operations performed in the course of building work is punishable by a fine of up to 300 fine units.

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

## § 68<sup>2</sup>. Violation of obligation to preserve data

(1) Failure to preserve the data of technical documentation or of a site investigation, of an expert assessment of building documentation, an expert assessment of a construction work, the data related to issuance of an energy performance certificate in respect of a building or related to the conduct of an energy audit of a building, or any copies of such data, in their entirety for the duration of at least seven years is punishable by a fine of up to 300 fine units.

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

## § 68<sup>3</sup>. Failure to register heating and cooling equipment

Failure to register, in the national register of construction works, any heating or cooling equipment which is being installed, is punishable by a fine of up to 1600 euros.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

## **§ 69. Unauthorised building of construction works**

(1) Unauthorised building of a construction work by a natural person is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 32000 euros. [RT I 2010, 22, 108 – entry into force 01.01.2011]

## **§ 69<sup>1</sup>. Absence of energy performance certificate in the case of transfer of ownership in a building or separately usable part thereof for a fee and in the case of assignment of the right to use and occupy a building or separately usable part thereof**

(1) The absence of an energy performance certificate in the case of transfer of ownership in a building or a separately usable part thereof for a fee and in the case of assignment of the right to use and occupy a building or a separately usable part thereof is punishable by a fine of up to 150 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 1600 euros. [RT I, 25.05.2012, 5 - entry into force 09.01.2013]

## **§ 69<sup>2</sup>. Failure to comply with enforcement order issued in relation to reproduction of energy performance certificate information and submission of false information in respect of energy performance certificate**

(1) Failure to comply with an enforcement order issued in relation to failure to reproduce the information of an existing energy performance certificate in an advertisement or submission of knowingly false information in an advertisement upon transfer of ownership in a building or a separately usable part thereof for a fee and upon transfer of the right to use and occupy the building or a separately usable part thereof is punishable by a fine of up to 50 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 500 euros. [RT I, 25.05.2012, 5 - entry into force 09.01.2013]

## **§ 69<sup>3</sup>. Submission of knowingly false information in energy performance certificates and energy audit reports**

(1) Submission of knowingly false information by a designer, an issuer of energy performance certificates or an energy auditor in the energy performance certificate or energy audit report for the purpose of achieving an energy performance class not corresponding to actual facts is punishable by a fine of up to 150 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 1600 euros. [RT I, 25.05.2012, 5 - entry into force 09.01.2013]

## **§ 70. Procedure**

(1) The provisions of the General Part of the Penal Code and the Code of Misdemeanour Procedure shall apply to the misdemeanour offences created by sections 65–69<sup>3</sup> of this Act.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(2) [Repealed – RT I 2009, 20, 132 – entry into force 01.05.2009]

(3) Extra-judicial proceedings in the case of misdemeanours provided in sections 65–69<sup>3</sup> of this Act shall be conducted by the competent executive body of the city or municipality or by the Estonian Technical Surveillance Authority.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

**§ 71. [Repealed – RT I 2009, 20, 132 – entry into force 01.05.2009]**

# **Chapter 9 IMPLEMENTING PROVISIONS**

## **§ 72. Requirements for existing construction works**

(1) A construction work built prior to the entry into force of this Act is not required to conform to established requirements provided in section 3 of this Act, except for requirements concerning the safety of construction works.

(1<sup>1</sup>) The minimum requirements for energy performance shall not apply to buildings with indoor climate control which have been erected prior to 1 January 2008 or to buildings on which the design work started prior to 1 January 2008, provided that the building permits for the erection of such construction works were issued before 1 January 2009.

[RT I 2008, 8, 59 - entry into force 25.02.2008]

(1<sup>2</sup>) The Government of the Republic of Estonia shall revise the minimum requirements for energy performance at least once in every five years. Technical progress made in building technology shall be taken into account when revising minimum energy performance requirements.

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

(2) A construction work built lawfully as defined in the Law of Property Act Implementation Act prior to the entry into force of the Planning and Building Act may be used according to the purpose of use approved for the construction work.

(3) The owner of a construction work specified in subsection 2 of this section may apply for an occupancy and use permit, including a modification of the purpose of use of the construction work, by submitting an application for occupancy and use permit and the as-built drawings of the construction work to the local authority and by paying the corresponding state fee. An application for occupancy and use permit shall contain the information specified in points 1#3, 6, 7, and 9 of section 36(1) of this Act. If an occupancy and use permit is issued in respect of a construction work specified in subsection 2 of this section, the local authority is not required to verify the conformity of the construction work to established requirements.

(4) The owners of small construction works, pipelines, power lines, telecommunications lines, reservoirs, dams or sluices which have been erected without a building permit after the entry into force of the Planning and Building Act and prior to the entry into force of this Act may apply for a building permit or an occupancy and use permit until 31 December 2003. If a building permit is applied for, the local authority shall evaluate the construction work on the basis of the building design documentation and decide to issue or to refuse to issue a building permit for the construction work, taking into account the provisions of section 23 or section 24 of this Act. If an occupancy and use permit is applied for, an application for an occupancy and use permit and the as-built drawings of the construction work shall be submitted to the local authority and the state fee shall be paid. An application for an occupancy and use permit shall contain the information specified in points 1#3, 6, 7, and 9 of section 36(1) of this Act. If an occupancy and use permit is issued in respect of a construction work specified in this subsection, the local authority is not required to verify the conformity of the construction work to established requirements.

(5) The as-built drawings of a construction work specified in subsections 3 and 4 of this section are a set of documents containing architectural and engineering drawings which are prepared by measuring the existing construction work. In preparing the as-built drawings of a construction work, the requirements for geodetic systems as defined in the Public Information Act shall be taken into consideration.

[RT I 2007, 12, 66 - entry into force 01.01.2008]

(5<sup>1</sup>) A construction work which was built in a public water body before 1 July 2009 and which has a permanent connection to the shore shall be deemed to be lawfully built. If in the course of building the said construction work the shoreline was altered and an occupancy and use permit was issued in respect of the construction work, the altered parameters of the immovable shall be recorded in the land cadastre and in the land register pursuant to the procedure provided in section 171 of the Land Cadastre Act.

[RT I 2009, 37, 251 - entry into force 10.07.2009]

(5<sup>2</sup>) A construction work which is being built in a public water body pursuant to a building permit issued by the local authority before 1 July 2009 and which has a permanent connection to the shore shall be deemed to be lawfully built.

[RT I 2009, 37, 251 - entry into force 10.07.2009]

(6) The requirements for the as-built drawings of construction works specified in subsections 3 and 4 of this section shall be established by the Minister of Economic Affairs and Communications.

(7) Legislation enacted on the basis of section 23(10) of this Act shall be in force until repealed or until legislation is enacted on the basis of section 18(5) by the Minister of Economic Affairs and Communications.

[RT I 2009, 20, 132 - entry into force 01.05.2009]

## **§ 72<sup>1</sup>. Requirements applicable to significant reconstruction of existing buildings**

(1) In the case of a significant reconstruction of a building, the efficiency of energy use must, within the limits of technical, functional and economic feasibility, be increased to meet the minimum requirements for energy performance.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(2) When issuing a building permit, the local authority shall determine whether or not the reconstruction concerned is to be regarded as significant.

(3) The procedure for classifying building work as significant reconstruction or other reconstruction or extension shall be established by the Minister of Economic Affairs and Communications in a regulation.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

(4) In the case that, in adding an extension to a building with indoor climate control the cost of the envelope, loadbearing and stiffening elements and the utility systems of the extension exceeds one quarter of the building cost of a building that is equivalent to the building that is being extended, the building that is being extended must, in its entirety, conform to the minimum requirements for energy performance.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

## **§ 72<sup>2</sup>. Issuance of energy performance certificates**

(1) Until 1 January 2010, undertakings which conduct expert assessment of construction works are also authorised to issue energy performance certificates and are subject to the duties specified in section 53<sup>1</sup> of this Act.

(2) If, after 1 January 2009, a building contractor delivers to a client a building with indoor climate control or a separately usable part of such building, which was designed and in whose respect a building permit was issued before 1 January 2009, the building contractor is not required to provide the client with an energy performance certificate.  
[RT I 2009, 20, 132 - entry into force 01.05.2009]

(3) When an occupancy and use permit is issued in respect of a building with indoor climate control whose building permit was issued before 1 January 2009, an energy performance certificate is not required.  
[RT I, 25.05.2012, 5 - entry into force 04.06.2012]

(4) Where an energy performance certificate of a building with indoor climate control has been issued before 9 January 2013 as a paper document, the transferor of the building or a separately usable part thereof shall, when transferring ownership in the building or a part thereof for a fee or when assigning the right to use and occupy the building or a part thereof, deliver the energy performance certificate to the transferee or allow the person interested in entering into an agreement regarding the building to inspect the energy performance certificate.  
[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

## **§ 73. Requirements for authorised bodies in field of construction**

A person or body which, before 1 January 2003, was granted the right to act as an authorised assessment or certification body in the field of construction may act as a notified body until the date on which its authority to act as an authorised assessment or certification body terminates, but not longer than until 1 July 2003 or until the entry into force of the Protocol on Conformity Assessment and Acceptance of Industrial Products of the Association Agreement between the Council of the European Communities and their Member States and the Republic of Estonia (Europe Agreement) in respect of the products specified in the Annexes to the Protocol or until the entry into force of any other corresponding international agreement, whichever is first.

## **§ 74. National Registry of Buildings**

(1) The principal task of the National Registry of Buildings is to maintain records on buildings in use.

(2) The National Registry of Buildings is established and constitutive regulations for keeping the national register of buildings shall be approved by the Government of the Republic of Estonia pursuant to the procedure provided in the Public Information Act.  
[RT I 2007, 12, 66 - entry into force 01.01.2008]

(3) The data controller of the national register of buildings is the Ministry of Economic Affairs and Communications.

(4) The following information is to be recorded in the national register of buildings:

- 1) information concerning the construction work, including essential technical parameters of the construction work and information concerning a physical unit in a construction work as defined in the Apartment Ownership Act;
- 2) information concerning the location of the construction work;
- 3) information concerning the persons connected with the construction work;
- 4) information concerning the owner of the construction work;
- 5) information concerning liens in respect of the construction work if the construction work is a movable;
- 6) information concerning executory liens on and prohibitions of dealings with a construction work which is a movable;
- 7) information regarding cultural monuments.

(5) Information shall be submitted to the national register of buildings by the owner of the construction works if the construction work which is a movable and, in the cases provided by the law, by other persons.

(6) The persons specified in subsection 5 of this section shall submit information within 10 working days from the date on which the information is modified.

## **§ 75. Termination of activities of the National Registry of Buildings and the National Construction Registry**

- (1) The activities of the National Construction Registry shall terminate on 1 January 2003.
- (2) The activities of the National Registry of Buildings shall terminate on 31 December 2003.

## **§ 76. Submission of information to register of construction works**

(1) The data controller of the national construction register shall submit the information in the national construction register to the Registry of Construction Works not later than by 1 February 2003.

(2) The data controller of the national register of buildings shall, not later than by 1 February 2003 and pursuant to the procedure established by the Government of the Republic of Estonia, submit the information recorded in the national register of buildings before 31 December 2002 to the Registry of Construction Works.

(3) The information specified in section 26 of this Act concerning power lines and construction works connected thereto, or concerning gas networks, public water supply and sewerage systems as defined in the Public Water Supply and Sewerage Act or line facilities as defined in the Telecommunications Act, which have been lawfully built but which are not recorded in the national register of buildings or the national construction register, must be communicated to the Ministry of Economic Affairs and Communications, by digital means and together with the as-built drawings, at the latest by 1 April 2009, by the network operator defined in the Electricity Market Act and the Natural Gas Act, the water undertaking defined in the Public Water Supply and Sewerage Act, the communications undertaking defined in the Electronic Communications Act or the network operator defined in District Heating Act who operates in the corresponding area, unless the network operator, water undertaking or communications undertaking applies for an occupancy and use permit in respect of the corresponding construction work. The Ministry of Economic Affairs and Communications shall record the specified information in the register of construction works.

[RT I 2007, 24, 128 - entry into force 26.03.2007]

**§ 77.–§ 100.**[Omitted from this version]

## **§ 101. Activity licence**

An undertaking to which the Minister of Economic Affairs has, prior to the entry into force of this Act, issued an activity licence for business in the field of construction with a period of validity which expires after 1 January 2003 may operate in the area of activity stated in the activity licence until the expiration date stated in the activity licence but not longer than until 31 March 2003.

## **§ 102. Entry into force of this Act**

(1) This Act enters into force on 1 January 2003.

(2) Section 6(1)(4) and section 7(2) of this Act shall enter into force upon the entry into force of the Protocol to the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Estonia, of the other part, on Conformity Assessment and Acceptance of Industrial Products in respect of the products specified in the Annexes to the Protocol, or upon the entry into force of any other corresponding international agreement, or upon the accession of Estonia to the European Union, whichever is first.

(3) Points 1, 4 and 5 of section 57, point 2 of section 78, section 81, points 2#4, 6 and 7 of section 82, sections 83 and 84 points 1 and 5 of section 86 of this Act shall enter into force on 1 January 2004.

(4) Sections 65(1), 66(1) 67(1), 68(1) and 69(1) of this Act shall enter into force upon the entry into force of the Penal Code, but not earlier than on 1 January 2003.

(5) Sections 74, 88 and 99 of this Act shall enter into force on 1 July 2002.

(6) Sections 3(7<sup>2</sup>) and 72<sup>1</sup> shall enter into force on 1 January 2008.

(7) Sections 3<sup>1</sup> and 3<sup>2</sup> and point 15 of section 34(1) of this Act shall enter into force on 1 January 2009. Point 14 of section 34(1) shall enter into force on 1 January 2009 as amended on 27 September 2006.

[RT I 2006, 43, 326 - entry into force 22.10.2006]

(8) The provisions of sections 3(7), 3<sup>3</sup>(1) and 72<sup>1</sup>(1) of this Act as amended on 8 January 2013 shall apply until 8 July 2013 to buildings with indoor climate control which are not occupied by an agency of the government or of a local authority.

[RT I, 25.05.2012, 5 - entry into force 09.01.2013]

<sup>1</sup>Directive 89/106/EEC of the European Parliament and of the Council on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products (OJ L 40, 11.02.1989, pp. 12–26), amended by Directive 93/68/EEC (OJ L 220, 30.08.1993, pp. 1–22); Directive 2002/91/EC of the European Parliament and of the Council on the energy performance of buildings (OJ L 1, 04.01.2003, pp. 65–71), amended by Directive 2010/31/EU (OJ L 153, 18.06.2010, pp. 13–35); Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 108, 29.04.2010, p. 355).  
[RT I, 25.05.2012, 5 – entry into force 09.01.2013]