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Building Code¹

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Part 1

GENERAL PART

Chapter 1

General Provisions

§ 1. Aim of this Code

The aim of this Code is to promote sustainable development and to ensure the safety, purposeful functionality and usability of the built environment.

§ 2. Scope of application of this Code

(1) This Code applies to construction works, their design, building, use and maintenance insofar as this is not governed by other Acts, ratified international treaties or EU legislation. This Code also applies in the territorial sea and the exclusive economic zone.

(2) This Code does not apply to building work that is carried out forthwith due to an unavoidable and urgent need arising in connection with a rescue event, with countering a threat and eliminating a danger and with alleviating the consequences of a rescue event.

(3) This Code does not apply to extraction of mineral resources, unless the law governing the extraction of mineral resources provides otherwise.

(3¹) Unless otherwise provided by the Land Improvement Act, this Code does not apply to the building of land improvement systems.

[RT I, 31.05.2018, 3 – entry into force 01.01.2019]

(4) Provisions of the Administrative Procedure Act apply to the administrative proceedings provided for by this Code without prejudice to special rules established by this Code.

(5) This Code applies to construction works that serve national defence purposes, to construction works of security authorities and to infrastructure at the national border, as well as to the design, building, use and upkeep of such construction works and infrastructure insofar as this does not contravene the State Secrets and Classified Information of Foreign States Act. This Code does not apply to the building of temporary construction works in the course of training events of the Defence Forces and of the Defence League.

[RT 01.02.2019, 3 – entry into force 11.02.2019]

(6) Provisions of the Environmental Impact Assessment and Environmental Management System Act apply to the assessment of environmental impact of building work. Where possible, the procedure of environmental impact assessment is combined with the procedure provided by this Code. In that case, the requirements established for both procedures must be met.

§ 3. Construction work

(1) ‘Construction work’ means a structure that is created as a result of human action and that is attached to or supported by the ground underneath and whose purpose of use, aim, manner of use or durability make it distinguishable from other structures.

(2) A construction work is either a building or a civil engineering work. A building is a construction work that has an interior space that is separated from the external environment by the roof and other parts of the building envelope. A civil engineering work is any construction work other than a building.

(3) A complex structure that forms a functional whole and that may be composed of civil engineering works as well as of buildings may be regarded as a single construction work for the purposes of the notification and permit procedures provided by this Code.

(4) ‘Temporary construction work’ means a construction work which is built for a period of time that is shorter than five years and which is demolished after that period elapses.

(5) The Minister in charge of the policy sector enacts, by regulation, the list of technical specifications concerning construction works and the principles of calculating these specifications, including the area occupied by the construction work and its height and depth.

§ 4. Building work

(1) ‘Building work [in this translation, also ‘the building of’]’ means the erection, construction, installation and demolition of a construction work and any other operations in relation to the construction work that lead

to the creation of that construction work or to a change in its physical properties. 'Building work' also means the shifting of soil or paving layers to a degree that has a significant and permanent impact on the surrounding environment and is functionally related to the construction work.

(2) 'Adding an extension to a construction work' means building work in the course of which an existing construction work is modified by the building of an annex adjoining, abutting, overlying or underlying the construction work.

(3) 'Remodelling – i.e., renovation – of a construction work' means building work in the course of which the properties of the existing construction work are significantly altered. Replacement of specific elements of an existing construction work with equivalent elements is not regarded as remodelling. The remodelling of a construction work means, first and foremost, building work in the course of which:

- 1) the building's envelope elements are altered;
- 2) the building's loadbearing or stiffening elements are altered or replaced;
- 3) a utility system is installed, modified or demolished, which alters the properties of the construction work, including its external appearance;
- 4) the working parameters of the construction work or the technology used are significantly altered;
- 5) the construction work is brought into conformity with the requirements corresponding to its purpose of use;
- 6) a construction work that has been partially or completely destroyed is restored.

(4) 'Demolition of a construction work' means building work in the course of which a construction work is partially or completely removed or dismantled. If the aim of demolition is to build, on the site of the demolished construction work, a new construction work that essentially resembles the construction work that was demolished, this may be regarded as remodelling – i.e., restoration – of the construction work. If the aim of demolition is to build, on the site of the demolished construction work, an essentially new construction work, this is regarded as the demolition of one construction work and the building—i.e., erection or construction—of another. The new construction work is deemed to essentially resemble the previous construction work if its purpose of use, architectural design and volume remain unchanged.

(5) 'Utility system' means a set of equipment, installations or utility lines that are required for the functioning and use of the construction work and for ensuring its safety, including all structural elements required for the functioning of such equipment, installations or lines.

§ 5. Building design documentation

'Building design documentation' means a document or set of documents that is drawn up in the course of designing the construction work and that contains the information required to build the construction work. Where relevant, the building design documentation also reflects the information required for the use and maintenance of the construction work.

§ 6. Maintenance of construction works

The maintenance (upkeep) of a construction work encompasses operations whose purpose is to preserve the state in which the construction work retains its functionality and usability and corresponds to the conditions that must be fulfilled in order for the construction work to comply with its designed purpose, or to restore the construction work to such a state.

§ 6¹. Area of interest

For the purposes of this Code, 'area of interest' means an area defined by the network operator in which the operator's civil engineering works are located.
[RT I, 15.12.2016, 1 – entry into force 01.01.2017]

Chapter 2 Principles and Principal Requirements

Subchapter 1 Principles

§ 7. Good practice

Construction works must be designed, built and maintained according to good practice. Good practice must also be observed in pursuing any other actions or operations regulated by this Code.

§ 8. Principle of safety

Construction works, building work, the use of construction works and any other operations related to building work must be safe. Construction works, building work, the use of construction works and any other operations related to building work are safe if they do not become a danger to humans, property, the environment, national security or a national defence object. The safety of construction works and of building work encompasses the protection of valuable features of the natural environment and of items or structures of cultural significance and, where relevant, also the life and health of animals.
[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 9. Principle of environmental soundness

Construction works, building work and the use of construction works must be as environmentally sound as possible; this principle also includes the requirement of sparing use of natural resources in the course of building work.

§ 10. Principle of professionalism

(1) The principle of professionalism requires natural and legal persons to exercise due diligence in order to ensure that their actions are safe, comply with established requirements and lead to a result that conforms to the requirements. The prerequisites of professionalism are knowledge and skills that correspond to the specific character of the operations.

(2) The principle of professionalism requires natural and legal persons pursuing an economic or professional activity to comply with the duty to give explanations. The duty to give explanations extends to giving information in relation to matters connected to the activity as well as informing the parties concerned of facts which affect the safety of the construction work, its conformity to established requirements and its purpose of use.

(3) The principle of professionalism requires natural or legal persons pursuing an economic or professional activity to cooperate with other persons involved in the creation of the building design documentation and in the building work in order to ensure that building work is performed in a rational manner, the different parts of the building design documentation form a coherent whole, and all elements of the construction work function coherently in combination.

Subchapter 2 Principal Requirements for Constructions Works and Building Work

§ 11. Requirements for construction works

(1) Construction works must comply with the requirements for their use throughout their entire useful life, and must remain safe throughout their entire existence.

(2) Where relevant, the requirements for construction works encompass:

- 1) mechanical durability and stability;
- 2) fire safety;
- 3) hygiene, health and the environment;
- 4) safety of use and access, including the needs of evacuation and rescue of people from the construction work and an operational map;
- 5) protection from noise;
- 6) energy conservation and energy efficiency;
- 7) sparing use of natural resources;
- 8) special needs of disabled people;
- 9) the functionality of a construction work, its functional coherence and compatibility;
- 10) requirements arising from the purpose of use and from use of the construction work—i.e., requirements concerning the state of the construction work, including maintenance requirements;
- 11) the marking of the construction work and its location.

(3) The requirements for construction works are defined in accordance with the essential requirements established in Annex I of Regulation (EU) 305/2011 of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 04.04.2011, pp. 5–43).

(4) The Minister in charge of the policy sector may make regulations to specify the requirements for construction works.

§ 12. Requirements for building work

(1) Building work must be carried out according to building design documentation and in conformity with the requirements for construction works and with the requirements for building work.

(2) A construction work that is being built and, where relevant, also the corresponding building work, must conform to the restrictions and spatial plans rendered operative by the location of the construction work. In the absence of a detailed spatial plan, the construction work that is being built must conform to the comprehensive plan and, where the obligation to obtain design specifications applies, to the design specifications. In situations provided for by the Planning Act, the construction work that is being built must conform to the national or local special spatial plan.

(3) While carrying out building work, the rights of the persons affected by the building work must be taken into consideration and steps must be taken to avoid excessive harm to such rights.

(4) The properties of the products used in carrying out building work must be such that make it possible for the construction work to comply with the requirements during a reasonable period of time; this includes the obligation to ensure, when natural building materials which have not been processed industrially, or native construction products manufactured in a traditional way, or recovered construction products are incorporated in the construction work in a permanent manner, that construction works comply with the requirements. The requirements for construction products are provided by Regulation (EU) 305/2011 of the European Parliament and of the Council, and in the Product Conformity Act and the legislation enacted under that Act.

(5) The Minister in charge of the policy sector may make regulations to establish requirements for building work.

§ 13. Requirements for building design documentation

(1) Building design documentation must be such that the construction work built according to that documentation complies with the requirements; this includes taking into account the suitability and usability of the construction work and its need for maintenance.

(2) Building design documentation must be such that it is possible to build according to that documentation, to check the conformity of the construction work and of building work to the requirements and, where relevant, also to use and maintain the construction work.

(3) The Minister in charge of the policy sector enacts, by regulation, the requirements for building design documentation.

§ 14. Creation and verification of building design documentation

(1) The following must be taken into account when creating building design documentation:

- 1) the requirements established for the construction work, including special requirements arising from its purpose of use;
- 2) relevant risk analyses and other facts pertaining to the location of the construction work;
- 3) the spatial plan or design specifications where they exist or where their existence is mandatory;
- 4) restrictions arising from public law in relation to the location of the construction work;
- 5) requirements of the building process.

(2) Where this is needed, site investigations must be conducted in order to obtain important technical information required for the creation of the building design documentation. Site investigations may also include the determination of the impact of the construction work and of building work on other construction works. The results of site investigations must be filed with the register of construction works and, in situations provided for by legislation, to other databases or administrative bodies. The results of site investigations should be preferably filed in an electronic form.

(3) Before the commencement of building work, the conformity to the requirements of the building design documentation according to which the building work is to be carried out must be verified by a competent person who is independent of the person who created the building design documentation and who performs an expert assessment if:

- 1) the planned construction work is complicated in terms of its engineering, or for other reasons possesses an increased potential to become a danger or
- 2) the authority performing construction supervision has reasonable doubts as to the conformity of the building design documentation to the requirements, such as when the building design documentation has not been created by a person who meets the relevant qualification requirements.

(4) The Minister in charge of the policy sector enacts, by regulation:

- 1) the requirements for the expert assessment of building design documentation, including specific criteria for identifying construction works whose building design documentation must be subjected to expert assessment;
- 2) the requirements for site investigations, including the requirements for presentation of the results of such investigations and for the filing of these.

§ 15. Documentation of building work

(1) Where this is provided for by legislation, building work must be documented. Building work must always be documented if a building permit is required for carrying out such work. Building work is documented by the person who performs it.

(2) The documents that characterise building work (hereinafter, 'building documentation') must provide information on the construction work and on the building work performed that is relevant for using the construction work and for verifying the conformity of the construction work to the requirements, including information regarding the construction products and materials used. The building documentation must contain information that permits identification of the person responsible for the building work performed.

(3) Building documentation primarily consists of:

- 1) as-built drawings;
- 2) a journal of building operations;
- 3) reports of covered work;
- 4) minutes of work meetings;
- 5) other documents that characterise building work, including equipment setup and testing logs and installation, maintenance and use manuals.

(4) Building documentation must be handed over to the register of construction works, to the local authority or another competent authority designated by legislation. The documents should be preferably handed over in an electronic form.

(5) The Minister in charge of the policy sector enacts, by regulation:

- 1) the requirements for the documentation of building work;
- 2) the requirements for the preservation and handing over of building documentation, specifying the documents that must be handed over.

§ 16. Requirements for the use and maintenance of construction works

(1) During the existence of the construction work, its safe condition and, where relevant, good upkeep must be ensured.

(2) The construction work must be used prudently and according to its purpose of use. During the time of use of the construction work, the professional maintenance required for the continued stability and safe use of the construction work must be ensured.

(3) The requirements for the use and maintenance of a construction work emanate from good practice, legislation or from the instructions on use and maintenance (hereinafter, 'maintenance instructions') drawn up in respect of the construction work.

(4) The Minister in charge of the policy sector may make regulations to establish requirements concerning the maintenance of construction works.

§ 17. Maintenance instructions

(1) Maintenance instructions contain the use and maintenance requirements prescribed by the manufacturer of the material, equipment or product incorporated in the construction work, taking into account the particular characteristics of the use of the construction work. Maintenance instructions may also contain information regarding the mandatory or voluntary nature of the audit of the construction work and any other information required for the maintenance of the construction work.

(2) Maintenance instructions are issued by the person who designed or built the construction work or by another competent person. Where modifications are made to the construction work, the maintenance instructions must be amended if this is needed.

(3) Unless otherwise provided by legislation, the existence of maintenance instructions is not mandatory. The existence of maintenance instructions or the compliance with the requirements and performance of operations specified in such instructions does not preclude the responsibility of the owner in relation to any dangers arising from the construction work.

(4) Maintenance instructions must be electronically transmitted to the register of construction works and, in situations provided for by legislation, also to other registers or competent authorities.

(5) The Minister in charge of the policy sector may make regulations to establish requirements concerning maintenance instructions, their preservation and presentation, and may also specify the cases in which the existence of maintenance instructions is required.

§ 18. The audit of construction works

(1) The aim of the audit of a construction work is to prove that the construction work conforms to the requirements and that it is safe to use the construction work for its intended purpose and in the intended manner, or to provide another assessment concerning the construction work. Audits of construction works fall into pre-use, regular and extraordinary audits.

(2) Where this is provided by legislation, a pre-use audit of the construction work must be performed prior to commencement of the use of the construction work and a regular or extraordinary audit must be performed in the specified instances when the construction work is in use.

(3) The person who performs the audit of a construction work must be competent and independent and ensure the uniformity and reliability of the auditing process.

(4) The person who performs the audit of a construction work may not be connected to the owner, designer or builder of the construction work, to the manufacturer of a construction product incorporated into the construction work, to the importer or distributor of such a product and to the person who installed the product in a degree that would cast doubt on the independence and impartiality of the performer of the audit.

(5) The Minister in charge of the policy sector enacts, by regulation, the requirements for the audit of a construction work, the methods of the audit, and the instances and frequency of regular and extraordinary audits.

Subchapter 3 Obligations of Persons when Performing Certain Duties Related to Construction

§ 19. Obligations of the owner

(1) The owner must ensure the conformity of the construction work, of building work and of the use of the construction work to the requirements arising from legislation; amongst other things, the owner must ensure:

- 1) the conformity of the construction work to spatial plans or to design specifications;
- 2) the existence of permits required for building work and for the use and occupancy of the construction work and the making of the required notifications and notices;
- 3) that any work which is performed directly at the owner's instruction and which is governed by this Code is performed by a person possessing sufficient skills and knowledge (hereinafter, 'qualifications') that correspond to the specific character of the work;
- 4) the maintenance and safety of use of the construction work;
- 5) owner supervision in situations provided for by law.

(2) If the owner performs the building work or creates the building design documentation himself or herself or performs other work governed by this Code, they must observe the principle of professionalism and ensure the conformity of the work to the requirements; where relevant, this includes the duty to document the building work.

§ 20. Owner supervision of construction works

(1) The owner of the construction work ensures that professional supervision (hereinafter, 'owner supervision') is performed over any building work carried out on the construction work. Owner supervision over a construction work subject to the building permit requirement may only be performed by a person who meets the qualification requirements.

(2) A person performing owner supervision may not, as part of their economic activity, be connected to the builder of the construction work or to the persons whose work they are to supervise.

(3) Where the person performing owner supervision lacks the skills or knowledge to perform supervision over certain operations, a competent person is instructed to perform supervision over such operations. Responsibility for the actions of the instructed person lies with the party who instructed them.

(4) The performance of owner supervision does not preclude or restrict the contractor's responsibility under the contract for services.

(5) The Minister in charge of the policy sector enacts, by regulation, the rules for performing owner supervision.

§ 21. Obligations of undertakings

(1) A person who performs duties related to construction as part of their economic activity (hereinafter, 'undertaking') must in their actions observe the principles and requirements provided by laws; amongst other things, the undertaking must:

- 1) observe the principle of professionalism and ensure that the persons operating under its responsibility possess sufficient qualifications and that each particular project or site is assigned a competent person in charge of that project or site;
- 2) ensure that operations performed under its responsibility and governed by this Code are documented according to the requirements and that relevant documents are handed over to the competent authority following applicable rules;
- 3) comply with the requirements established in the General Part of the Economic Activities Code Act; this includes the requirements established with regard to service providers.

(2) An undertaking assumes responsibility for the actions of persons who act in the undertaking's interests if the undertaking uses such persons to perform its obligations and the actions of the persons acting in the undertaking's interests are connected to the performance of such obligations.

(3) The obligations that this Code provides for undertakings do not affect the undertaking's contractual obligations or any other obligations that the undertaking may have under the Law of Obligations Act. In the event of a conflict between a contractual obligation and an obligation arising from this Code, the obligation arising from this Code takes precedence.

§ 22. Competence of undertakings

(1) The undertaking must have the competence to perform any work it undertakes in a professional manner. The undertaking may not provide misleading information regarding its competence and may not perform work that it is not competent to perform.

(2) The competence of the undertaking corresponds to the qualifications of the persons acting in the undertaking's interests and under the undertaking's responsibility.

(3) The undertaking ensures that it is possible for the competent person to do their work with the due diligence that corresponds to the specific character of the work.

(4) The competent authority issuing building permits or the authority performing construction supervision may prohibit or suspend building work or refuse to issue a building permit until a sufficiently qualified person is appointed to manage the building work or to scrutinise the building design documentation, provided the lack of competence would have precluded professional performance of the work and given rise to danger.

§ 23. Competent person

(1) A competent person performs, scrutinises or manages work independently in an area of activity related to their competence and assumes responsibility for such work, files technical opinions in their own name or, when acting in the interests of an undertaking, in the name of the undertaking, and, where this is needed, arranges the allocation of resources and organises the work of others.

(2) A person is competent if they hold a qualification that corresponds to the specific character of the work. It is prohibited to provide misleading information regarding one's qualifications and to perform work that one is not qualified to perform.

(3) A competent person performs their tasks professionally and with the due diligence that corresponds to the specific character of the work; amongst other things, a competent person may not act as the competent person for several undertakings or be in charge of several sites if the resulting workload would not permit the competent person to perform their tasks as required.

(4) A person who holds a professional certificate or a certificate of competency is deemed to be qualified to perform any work covered by the certificate.

(5) In situations provided for by and in relation to the areas of activity specified in this Code, the qualification of the competent person must be certified.

(6) If this Code does not provide the qualification requirements for operating in a specific area of activity, including the manner of proving one's qualification, the suitability of the person's qualification is assessed first and foremost, if the person operates as an undertaking, by the owner of the construction work or by the party commissioning the person's services and, if the person is an employee or a subcontractor of an undertaking, the undertaking.

(7) The Minister in charge of the policy sector may, by regulation, enact recommended requirements for areas of activity in the field of construction.

§ 24. Requirements for certain areas of activity

(1) In situations mentioned in this section, the undertaking and the competent person may provide their services and perform duties in the field of construction as part of their economic activity if the qualification of the competent person who acts in the interests and under the responsibility of the undertaking is proved by means of a professional certificate issued on the basis of the relevant education and work experience in accordance with the Professions Act or by means of a certificate of competency issued under other legislation.

(2) The qualification of the competent person must be proved in the following areas of activity:

- 1) the building of construction works subject to the building permit requirement;
- 2) the creation of building design documentation of construction works subject to the building permit requirement;
- 3) the performance of owner supervision;
- 4) the issuing of energy performance certificates;
- 5) the performance of energy audits;
- 6) the performance of site investigations;
- 7) the performance of expert assessment of building design documentation;
- 8) the auditing of construction works;
- 9) construction and installation of heating appliances that use solid fuel and of chimneys and flue vent connectors;
- 10) chimney sweeping;
- 11) the performance of road safety audits;
- 12) the maintenance of public roads;
- 13) the creation of design documentation concerning traffic arrangements;

(3) If the person has acquired the qualification corresponding to the specific character of the work in a foreign state, they are not required to prove their qualification by means of a professional certificate issued in accordance with the Professions Act or of a certificate of competency issued under other legislation. The correspondence of the qualification acquired in a foreign state to the requirements provided by this Code is assessed and certified, in accordance with the Recognition of Foreign Professional Qualifications Act, by:

- 1) the Consumer Protection and Technical Regulatory Authority;
- 2) the Transport Administration in the field of road building and in the area of activity of road safety audits;
- 3) the Rescue Board in the areas of activity mentioned in clauses 9 and 10 of subsection 2 of this section.

(3¹) In the area of activity set out in clause 2 of subsection 2 of this section, ‘competent person’ also means an architect who has acquired their professional qualification in a member state of the European Economic Area or in the Swiss Confederation, which is proved by a document mentioned in paragraphs 3–5 of Article 23, in Article 49 and in Annexes V and VI of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ L 255, 30.09.2005, pp. 22–142).
[RT I, 10.07.2020, 3 – entry into force 15.07.2020]

(4) The Minister in charge of the policy sector enacts, by regulation, detailed divisions of the areas of activity provided for by subsection 2 of this section.
[RT I, 30.11.2021, 2 – entry into force 01.04.2022]

(5) [Repealed – RT I, 30.11.2021, 2 – entry into force 01.04.2022]

§ 25. Notification obligation

(1) A notice of economic activities must be filed with the register of economic activities by the undertakings who operate in the following areas of activity:

- 1) the building of construction works subject to the building permit requirement, except where the work of the competent person of the undertaking does not involve managing and arranging the work of others;
- 2) the designing of construction works subject to the building permit requirement;
- 3) the performance of owner supervision;
- 4) the performance of site investigations;
- 5) the performance of expert assessment of building design documentation;
- 6) the auditing of construction works, except where the undertaking is an accreditation body accredited for the auditing of construction works in accordance with Regulation (EC) No. 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No. 339/93 (OJ L 218, 13.08.2008, pp. 30–47).
- 7) the maintenance of public roads;
- 8) the creation of design documentation concerning traffic arrangements.

(2) In addition to the information provided for by the General Part of the Economic Activities Code Act, the notice of economic activity sets out the specific activity within the area of activity as provided by a regulation

enacted under subsection 4 of § 24 of this Code, and the information specified in subsection 2 of § 15 of the General Part of the Economic Activities Code Act with regard to the competent person of the undertaking.

(3) The notification of an economic activity is deemed to have been filed when a confirmation by the competent person regarding their legal relationship with the undertaking is recorded in the register of economic activities. A competent person may not, at any time, act as the competent person of more than three undertakings.

(4) If the notice mentioned in subsection 1 of § 58 of the General Part of the Economic Activities Code Act is not filed via the Estonian information portal, it is filed together with the consent of the competent person with the Consumer Protection and Technical Regulatory Authority who enters the information included in the notice and the competent person's consent in the register of economic activities.

(5) If the competent person does not file their consent or withdrawal of consent via the Estonian information portal, they file it with the Consumer Protection and Technical Regulatory Authority who enters the consent or withdrawal of consent in the register of economic activities.

(6) In the event of severance of the legal relationship between the competent person and the undertaking, the competent person is entitled to withdraw their consent. If the competent person has withdrawn their consent, the undertaking must file with the registrar a notice concerning changes in the general information regarding economic activities in accordance with subsection 5 of § 30 of the General Part of the Economic Activities Code Act. If the competent person who has withdrawn their consent is the only competent person of the undertaking with regard to the specific activity within an area of activity, the undertaking is deemed not to comply with the notification obligation with regard to that specific activity.

Chapter 3

Design Specifications

§ 26. Building design specifications in cases where the creation of detailed spatial plan is not mandatory

(1) Design specifications are required for the creation of building design documentation of buildings subject to the building permit requirement or of civil engineering works of significant public interest (hereinafter, 'significant civil engineering works') in cases where the creation of a detailed spatial plan is not mandatory.

(2) The competent authority issues design specifications:

- 1) for the erection or creation of buildings or significant civil engineering works;
- 2) for the expansion of buildings or significant civil engineering works by more than 33 per cent of their original volume.

(3) When issuing design specifications, consideration must be given to:

- 1) the environment that has become established around the building or significant civil engineering work, including the types of building characteristic of the area;
- 2) the avoidance of breaches of legislation or harm to the rights of persons or to the public interest;
- 3) the requirements established in the comprehensive plan;
- 4) special conditions of heritage conservation, if these are required under the Heritage Conservation Act.

[RT I, 19.03.2019, 13 – entry into force 01.05.2019]

(4) With regard to the building or significant civil engineering work, the design specifications establish, where relevant:

- 1) its purpose of use;
- 2) the maximum number permitted to be built in a land area;
- 3) its location;
- 4) the maximum ground projection area that the building or significant civil engineering work may occupy;
- 5) its height and, where relevant, depth;
- 6) the requirements concerning architectural solution, building work and appearance;
- 7) the possible location of the construction work required to service the construction works situated in the land or water area;
- 8) the need for site investigations;
- 9) the principles for planting vegetation, for street-side maintenance and for traffic arrangements.

(5) If it becomes known in the process of issuing design specifications that the determination of design specifications may entail the need to subject a registered immovable or part thereof to acquisition in the public interest, including to compulsory acquisition, or compulsory possession, the competent authority informs the owner of the registered immovable within seven days as of the date on which the need to subject the registered immovable to acquisition in the public interest, including to compulsory acquisition, or to impose compulsory possession on the registered immovable, became apparent.

[RT I, 29.06.2018, 1 – entry into force 01.07.2018]

§ 27. Issuing design specifications in a situation where a detailed spatial plan exists

(1) Where a detailed spatial plan exists, the competent authority may, if this is warranted by the circumstances, issue design specifications for the creation of the building design documentation of a building subject to the building permit requirement or of a significant civil engineering work if:

- 1) more than five years have passed since the adoption of the detailed spatial plan;
- 2) since the adoption of the detailed spatial plan, new important facts have emerged or the area governed by or influenced by the plan has significantly changed, due to which the detailed spatial plan can no longer be fully implemented, or
- 3) after the adoption of the detailed spatial plan, the relevant legislation has been amended or spatial plans have been adopted that significantly affect the implementation of the detailed spatial plan.

(2) When issuing design specifications, consideration must be given to:

- 1) the environment that has become established around the building or significant civil engineering work, including the types of building characteristic of the area;
- 2) the avoidance of breaches of legislation or harm to the rights of persons or to the public interest;
- 3) the requirements established in the comprehensive plan;
- 4) special conditions of heritage conservation provided by the detailed spatial plan, if these are required under the Heritage Conservation Act.

[RT I, 19.03.2019, 13 – entry into force 01.05.2019]

(3) Under subsection 1 of this section, no design specifications may be issued to change the essential character of the planning solution established by the detailed spatial plan, to supplement a detailed spatial plan that amends the comprehensive plan, to issue supplementary criteria for construction works that are to be built in a public water body and that have a permanent connection to the shore or are functionally connected to the shore, or to supplement the national or local special spatial plan.

(4) Where relevant, the design specifications specify, in respect of the building or significant civil engineering work, the provision made in the detailed spatial plan regarding:

- 1) its purpose of use; this includes specifying the proportions of the plot's land use purposes that serve as the basis for the purposes of use of the residential or office building, provided both land use purposes have been previously prescribed in the detailed spatial plan;
- 2) the definition of the area to be occupied by buildings, including increase, decrease, rotation or movement of the area, but not in excess of ten per cent of the original solution;
- 3) a change in its height or, if needed, depth, but not in excess of ten per cent of the original solution;
- 4) the requirements concerning architectural solution, building work and appearance;
- 5) the possible location of a construction work required to service the construction works situated in the land area;
- 6) the need for site investigations;
- 7) the principles for planting vegetation, for streetside maintenance or for traffic arrangements;
- 8) the types of building allowed in the area governed by the plan; this includes the boundaries of the plots in the area provided the matter of boundaries is connected to the building of a complex of construction works, and provided that the building rights originally granted in the area governed by the plan remain unchanged.

(5) If it becomes known in the process of issuing design specifications that the determination of design specifications may entail the need to subject a registered immovable or part thereof to acquisition in the public interest, including to compulsory acquisition, or compulsory possession, the competent authority informs the owner of the registered immovable within seven days as of the date on which the need to subject the registered immovable to acquisition in the public interest, including to compulsory acquisition, or to impose compulsory possession on the registered immovable, became apparent.

[RT I, 29.06.2018, 1 – entry into force 01.07.2018]

§ 28. Competent authority issuing design specifications

Design specifications are issued by the local authority unless otherwise provided by law.

§ 29. Application for design specifications

(1) The application for design specifications and the related documents are filed electronically with the competent authority via the register of construction works. Where it is not possible to file these documents via the register of construction works, they are filed with the competent authority and the competent authority enters the relevant information in the register of construction works.

(2) The application for design specifications states, first and foremost:

- 1) the applicant's name, contact information, signature and the date of the filing of the application;
- 2) the manner of delivery to the applicant of the design specifications;
- 3) the particulars and cadastral code of the registered immovable on which building work is envisaged;

- 4) the aim of applying for the design specifications, including the description of the envisaged building or civil engineering work of significant public interest or the manner of building work to be performed and the possible location of the building or civil engineering work on the registered immovable;
- 5) information regarding payment of the statutory fee.
- 6) other requisite information.

(3) The Minister in charge of the policy sector enacts, by regulation, the requirements concerning the form of the application and the form of design specifications and the rules for issuing design specifications.

§ 30. Checking the application for design specifications and refusal to consider the application

When the competent authority receives an application for design specifications, it checks the conformity of the application to the requirements. If it is obvious that the issuing of design specifications is impossible, the competent authority refuses to consider the application and returns it, stating the reasons for refusal. Above all, consideration of the application is refused and the application is returned if grounds mentioned in subsection 1 of § 26 or subsection 1 of § 27 of this Code do not apply.

§ 31. Procedure for issuing design specifications

(1) The competent authority decides whether to employ an open procedure to issue design specifications. In a situation mentioned in § 27 of this Code and in subsection 5 of § 125 of the Planning Act, open procedure must be employed to issue design specifications.

[RT I, 03.01.2022, 1 – entry into force 13.01.2022]

(2) The competent authority draws up proposed design specifications and, primarily by electronic means, arranges the gathering of opinions and the giving of approvals concerning the proposed specifications, and issues the design specifications within 30 days from the filing of the application. If the competent authority decides to conduct open proceedings, the design specifications are issued within 60 days from the filing. The competent authority sets a time limit of up to ten days to give its approval or express an opinion.

(3) Where the application is not filed by the owner of the registered immovable named in the application, the competent authority joins that owner to the proceedings and, if this is needed, also joins to the proceedings owners of the adjacent registered immovables.

(4) Where this is needed, the competent authority refers the proposed design specifications:

- 1) for approval to the authority in whom the law vests competencies that are related to the subject matter of the application for design specifications;
- 2) for an opinion to the authority or person whose rights or interests may be affected by the construction work or building work envisaged in the application.

(5) If observations are filed concerning the proposed design specifications in the course of the giving of approvals and opinions, the competent authority takes appropriate consideration of these observations or states the reasons for not taking them into consideration.

(6) If the authority whose approval or the person or authority whose opinion is requested has not, within ten days from receiving the proposed design specifications, refused to give the approval or opinion or applied for an extension of that time limit, the proposed specifications are deemed to have been tacitly approved by the authority or the person or authority is deemed to have declined to express an opinion regarding them, unless otherwise provided by law.

§ 32. Refusal to issue design specifications

The competent authority refuses to issue design specifications if:

- 1) the drawing up of a spatial plan has been initiated and in connection with that a temporary building ban has been established;
- 2) the application for design specifications does not conform to the comprehensive plan;
- 3) the application for design specifications does not meet the criteria established in § 27 of this Code;
- 4) the application for design specifications does not conform to public-law restrictions provided by legislation or rendered operative by the location of the construction work;
- 5) the construction work envisaged according to the design specifications may excessively infringe the rights of a third party;
- 6) the authority named in clause 1 of subsection 4 of § 31 of this Code has refused to approve the proposed design specifications and it is not possible to amend them;
- 7) the construction work envisaged according to the design specifications entails a significant environmental impact, which cannot be sufficiently avoided or alleviated;
- 8) in applying for design specifications, knowingly false information has been filed that has an impact on the decision on issuing the design specifications, or
- 9) the issue of design specifications is desired additionally to the national or local special spatial plan.

§ 33. Validity of design specifications

(1) Design specifications are valid for five years. Where this is warranted by the circumstances, the competent authority may establish a different validity period or modify the validity period of the design specifications issued.

(2) The design specifications issued earlier concerning the same subject matter are rendered invalid by the issuing of new design specifications in the matter.

§ 34. Revocation of design specifications

The competent authority may revoke design specifications where:

- 1) the possibility of revocation is provided for by the specifications;
- 2) the data or the spatial plan based on which the specifications were issued have changed or other requirements for the relevant construction work and building work have changed;
- 3) a detailed spatial plan has subsequently been established in respect of the relevant registered immovable;
- 4) a building ban has been established with regard to the registered immovable that is within the subject matter of the application for design specifications;
- 5) in applying for the specifications, knowingly false information has been filed that had an impact on the decision their issue.

Chapter 4 Building Notice and Building Permit

Subchapter 1 Building Notice

§ 35. Building notice

(1) In situations provided for by this section, the competent authority must be notified of building work prior to commencement of the work.

(2) The building notice is filed with the local authority, unless otherwise provided by law.

(3) The filing of a building notice is required regarding the construction works mentioned in Annex 1 to this Code.

(4) Where this is warranted by the circumstances, the competent authority is authorised to demand the filing of a building notice concerning a construction work that is not included in Annex 1 to this Code. When considering whether to demand the filing of such a notice, the danger posed by the construction work and its impact on public space and on the rights of individuals is taken into account and a comparison is made with any similar indications provided by Annex 1 to this Code.

(5) Where the building design documentation of a construction work subject to the building permit requirement includes construction works whose building is subject to the notification obligation, the building permit functions as the building notice.

(6) The Minister in charge of the policy sector enacts, by regulation, the requirements concerning the form of building notices and the rules for their filing.

§ 36. Filing a building notice

(1) The competent authority is notified of the building of a construction work electronically via the register of construction works. If notification via the register of construction works is not possible, a building notice is filed with the competent authority, who enters the corresponding information in the register of construction works.

(2) A building notice must be filed at least ten days before the building of the construction work commences. If, within ten days from the filing of the building notice, the competent authority does not inform the person who filed the building notice of the need for further verification of the information presented in the building notice, building work may commence.

(3) A building notice states:

- 1) the name, contact information and signature of the person filing the notice, the desired manner of the document's delivery and the date of the filing;

- 2) the particulars and cadastral code of the registered immovable on which building work is to be performed;
- 3) the aim of filing the notice, including a description of the envisaged construction work and the type of building work, the location of the construction work on the registered immovable and its purpose of use;
- 4) where the notice concerns a temporary construction work, the period of time envisaged for using the construction work;
- 5) where required, the energy performance certificate.

(4) Where this is mentioned in Annex 1 of this Code, the building notice must be accompanied by the relevant building design documentation.

(5) Where this is needed, the competent authority carries out a verification of whether, in relation to the construction work or building work stated in the building notice, it is necessary:

- 1) to bring the construction work or building work into compliance with the requirements;
- 2) to obtain the approval of the competent authority for the construction work or building work;
- 3) to establish further requirements for the construction work with regard to its architectural or engineering solution or appearance;
- 4) to join the owner of the registered immovable or owners of adjacent registered immovables to the proceedings.

(6) Where grounds provided by subsection 5 of this section apply, the rules established in relation to building permits are observed; this includes the time limit for issuing building permits and the grounds for refusal to issue a building permit. The requirements presented as a result of the verification are issued by the competent authority as an administrative decision.

§ 37. Commencement of building work based on a building notice

The building of a construction work according to a building notice may take place within two years following the filing of the building notice or receipt of further requirements or approval of corresponding building design documentation.

Subchapter 2 Building Permit

§ 38. Building permit

(1) A building permit grants a right to build a construction work that corresponds to the building design documentation based on which the building permit is issued.

(2) A building permit is required where this is mentioned in Annex 1 to this Code.

(3) Where this is warranted by the circumstances, the competent authority is authorised to issue a building permit or to demand that a building permit be issued in respect of a construction work not included in Annex 1 to this Code. When considering whether to issue the building permit, the danger posed by the construction work and its impact on public space and on the rights of individuals is taken into account and a comparison is made with the similar indications provided by Annex 1 to this Code.

§ 39. Authority competent to issue a building permit

(1) A building permit is issued by the local authority, unless otherwise provided by law.

(2) If the application for a building permit includes construction works that are to be built on the basis of a national special spatial plan, the corresponding building permit is issued by the Consumer Protection and Technical Regulatory Authority, unless otherwise provided by law.

(3) If the application for a building permit includes construction works in respect of which the issuing of the building permit is in the competency of the State and of the local authority, the corresponding building permit is issued by the Consumer Protection and Technical Regulatory Authority, unless otherwise provided by law.

(4) If the application for a building permit includes construction works in respect of which the issuing of the building permit is in the competency of several government agencies, the corresponding building permit is issued by the Consumer Protection and Technical Regulatory Authority, unless otherwise provided by law.

§ 40. Application for a building permit

(1) The application for a building permit and the related documents are filed with the competent authority electronically via the register of construction works. Where it is not possible to file these documents via the register of construction works, they are filed with the competent authority who enters the information in the register of construction works.

(2) The application for a building permit states:

- 1) the applicant's name, contact information and signature, and the date of the filing;
- 2) the manner of delivery of the building permit;
- 3) the particulars and cadastral code of the registered immovable on which building work is to be performed;
- 4) the aim of applying for the building permit, including the description and purpose of use of the envisaged construction work;
- 5) where the application concerns a temporary construction work, the period of time envisaged for using the construction work;
- 6) the particulars of the person who created the building design documentation; if the conformity of the building design documentation to the requirements was verified by a competent person who is independent of the person who created the building design documentation, also the particulars of that competent person;
- 7) where required, the energy performance certificate;
- 8) information regarding payment of the statutory fee.

(3) The application for a building permit must be accompanied by building design documentation that conforms to the requirements. If an expert assessment has been conducted to verify the conformity of the building design documentation to the requirements, the expert assessment report must also be filed.

(4) The Minister in charge of the policy sector enacts, by regulation, the requirements concerning the form of the application for a building permit and of the building permit, and the rules governing the filing of applications for a building permit.

§ 41. Checking an application for a building permit and refusing to consider the application

When the competent authority receives an application for a building permit, it checks the conformity of the application to the requirements. If it is obvious that the issuing of the building permit is impossible, the competent authority refuses to consider the application and returns it, stating the reasons for the refusal.

§ 42. Procedure for issuing building permits

(1) The building permit is issued if the building design documentation that has been filed conforms to the requirements established in legislation, i.e., above all to the detailed spatial plan or design specifications and to the requirements for construction works and for building work. Where so provided by law, the construction work must conform to the national or local special spatial plan.

(2) The competent authority decides on the need to initiate the assessment of environmental impact.

(3) By way of supplementary conditions, the building permit may, above all, stipulate the following:

- 1) restriction of the validity period of the building permit to the time limit for the demolition of the temporary construction work;
- 2) the possibility of varying the building permit in relation to the validity of several building permits issued in respect of the same registered immovable;
- 3) the possibility of varying the period of validity of the building permit;
- 4) the possibility of repeated installation of the same construction work in the same location or within the territory defined in the building permit without filing a building notice or building permit;
- 5) conditions for building work arising from the complexity of the construction work or building work or
- 6) the conduct of an expert assessment of the building design documentation.

(4) Where this is warranted by the circumstances, the competent authority is entitled to require the conduct of site investigations or of further investigations to elaborate the results of earlier investigations. The results of site investigations must be taken into account when creating building design documentation.

(5) The competent authority issues the building permit within 30 days from the date of filing the application. The competent authority sets a time limit of up to ten days for the giving of approvals or opinions.

(6) Where the application is not filed by the owner of the registered immovable named in the application, the competent authority joins that owner to proceedings and, if necessary, also joins to the proceedings owners of adjacent registered immovables.

(7) Where this is needed, the competent authority refers the proposed building permit:

- 1) for approval to the authority in whom the law vests competencies that are related to the subject matter of the application for the permit;
- 2) for an opinion to the authority or person whose rights or interests may be affected by the construction work or building work envisaged in the application.

(8) If observations are filed concerning the proposed building permit in the course of the giving of approvals and opinions, the competent authority takes appropriate consideration of these observations or states the reasons for not taking them into consideration. The building permit is issued electronically in the register of construction works.

(9) If the authority whose approval or the person or authority whose opinion is requested has not, within ten days from receiving the proposed building permit, refused to give the approval or opinion or applied for an extension of that time limit, the proposed permit is deemed to have been tacitly approved by the authority or the person or authority is deemed to have declined to express an opinion regarding the permit, unless otherwise provided by law.

§ 43. Notice of commencement of building work and notice of complete demolition of a construction work

(1) The person who applied for the building permit must file with the competent authority a notice of commencement of building work at least three days before the building work commences.

(2) The notice of commencement of building work sets out the information regarding the construction work, the time of commencement of building work, the name, contact information, personal identification code (in the absence of a personal identification code, the date of birth) or registration number in the commercial register or other register of the person performing owner supervision and of the person performing building work.

(3) The person who applied for a building notice or building permit for the complete demolition of a construction work must file with the competent authority a notice of the demolition of the construction work at least three days after the demolition.

(4) A notice of the demolition of a construction work sets out the cadastral code and the address of the land unit, its registration number in the register of construction works and a statement regarding the complete demolition of the construction work.

(5) The Minister in charge of the policy sector enacts, by regulation, the requirements concerning the form of the notice of commencement of building work and of the notice of demolition of a construction work and the rules for their filing.

§ 44. Refusal to issue a building permit

The competent authority refuses to issue a building permit if:

- 1) the envisaged construction work does not conform to the detailed spatial plan, design specifications, a national or local special spatial plan, the requirements established for construction works or for building work, or other public-law restrictions;
- 2) the building design documentation has not been created by a competent person or an expert assessment by a competent person has not been performed in respect of the building design documentation;
- 3) the building design documentation does not take into account the results of the site investigations conducted at the site of the construction work to be built or the required site investigations have not been performed;
- 4) the construction work or building work entails a permanent negative impact for the owner of the registered immovable or the owners of adjacent registered immovables or other persons affected by the construction work or building work and it is not possible to sufficiently reduce or alleviate that impact;
- 5) the building design documentation does not conform to the requirements established for building design documentation;
- 6) the authority mentioned in clause 1 of subsection 7 of § 42 of this Code has refused to approve the proposed building permit, where this is warranted by the circumstances;
- 7) the competent authority has initiated proceedings to repeal the detailed spatial plan that serves as the basis for the building design documentation;
- 8) the competent authority has initiated proceedings to revoke the design specifications that serve as the basis for the building design documentation;
- 9) a temporary ban on building work has been established with regard to the registered immovable in respect of which the building permit is applied for;
- 10) the construction work or building work entails a significant environmental impact that cannot be sufficiently avoided or alleviated;
- 10¹) the construction work of building work creates a danger to national security or to a national defence object and the danger cannot be avoided or averted;
[RT I, 27.04.2022, 1 – entry into force 07.05.2022]
- 10²) a building permit has been issued, or building permit proceedings are ongoing, for the same site and the simultaneous realisation of both permits is not possible;
[RT I, 27.04.2022, 1 – entry into force 07.05.2022]
- 11) the demolition of the construction work is contrary to a significant public interest;
- 12) in applying for the building permit, knowingly false information has been filed that has an impact on the decision on issuing the building permit.

§ 45. Effective period of building permits

(1) A building permit is effective for five years. When building work has commenced, the building permit remains effective for up to seven years from the time it became effective. Where this is justified, a longer effective period may be prescribed or the effective period may be varied.

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

§ 46. Revocation of a building permit

(1) The competent authority revokes a building permit where:

1) the building design documentation that served as the basis for the application for building permit has been amended in a way that significantly changes important specifications of the construction work such as fire safety, energy performance, purpose of use, loads affecting the construction work or other important technical parameters stated in the permit;

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

2) in applying for the permit, knowingly false information has been filed that had a significant impact on the decision on issuing the permit.

(2) The competent authority may revoke a building permit where:

1) the holder of the permit or the owner of the registered immovable has applied for the revocation, except where other persons have a legitimate interest in the effectiveness of the permit, or

2) the construction work or building work does not conform to the building design documentation, the detailed spatial plan, the design specifications, a national or local special spatial plan, or the requirements for construction works or for building work;

3) when issuing the permit, requirements emanating from legislation were not met and the construction works poses a danger to national security or to a national defence object and the danger cannot be avoided or averted – both of which conditions must be present simultaneously.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

Chapter 5

Use and Occupancy Notice and Use and Occupancy Permit

Subchapter 1

Use and Occupancy Notice

§ 47. Use and occupancy notice

(1) In situations falling under this section, the competent authority must be notified in advance of the use and occupancy of the construction work or of a change in its purpose of use.

(2) A use and occupancy notice must be filed when the construction work is complete if the construction work or a part of the construction work is intended to be used and occupied and if, with regard to the construction work or the part of the construction work, the requirements for the use and occupancy of construction works have been met.

(3) The use and occupancy notice is filed with the local authority, unless otherwise provided by law.

(4) The filing of a use and occupancy notice is required in respect of the construction works mentioned in Annex 2 to this Code.

(5) Where this is warranted by the circumstances, the competent authority is authorised to require the filing of a use and occupancy notice in respect of a construction work that is not included in Annex 2 to this Code. When considering whether to require the filing of such a notice, the danger posed by the construction work and its impact on public space and on the rights of individuals is taken into account and a comparison is made with similar indications provided by Annex 2 to this Code.

(6) Where the building design documentation of a construction work subject to the use and occupancy permit requirement includes construction works whose use and occupancy is subject to the notification obligation, the use and occupancy permit functions as the use and occupancy notice.

(7) The Minister in charge of the policy sector enacts, by regulation, requirements concerning the form of the use and occupancy notice and the rules for its filing.

§ 48. Filing a use and occupancy notice

(1) The competent authority is notified of the use and occupancy of a construction work electronically via the register of construction works. If it is not possible to effect the notification via the register of construction works, a use and occupancy notice is filed with the competent authority, who enters the corresponding information in the register of construction works.

(2) A use and occupancy notice must be filed at least ten days before commencement of the use and occupancy of the construction work or the change of its purpose of use. If, within ten days from the filing of the use and occupancy notice, the competent authority does not inform the person who filed the notice of the need for further verification of the information presented in the notice, the use and occupancy of the construction work may commence or the purpose of use of the construction work may be changed.

(3) A use and occupancy notice states:

- 1) the name, contact information and signature of the person filing the notice and the date of the filing;
- 2) the particulars and cadastral code of the registered immovable concerned by the location of the construction work;
- 3) the aim of filing the use and occupancy notice, including a description of the construction work, its purpose of use and the type of building work;
- 4) where the notice concerns a temporary construction work, the period time envisaged for the use of the construction work;
- 5) where required, the energy performance certificate;
- 6) the particulars of the builder.

(4) Where this is mentioned in Annex 2 to this Code, the use and occupancy notice must be accompanied by the building design documentation according to which the construction work was built.

(5) Where this is needed, the competent authority verifies whether in relation to the use and occupancy of the construction work or the change in its purpose of use as stated in the use and occupancy notice, it is necessary:

- 1) to bring the construction work into conformity with the requirements;
- 2) to obtain the approval of the competent authority for the use and occupancy of the construction work or for the change in its purpose of use;
- 3) to join the owner of the registered immovable or owners of adjacent registered immovable to the proceedings.

(6) Where the grounds provided by subsection 5 of this section are present, the procedure established in relation to use and occupancy permits is observed, including the time limit of that procedure and the grounds for refusal to issue a use and occupancy permit. The requirements specified as a result of the verification are issued by the competent authority as an administrative decision.

§ 49. Use and occupancy of a construction work on the basis of a use and occupancy notice

On the basis of a use and occupancy notice, the construction work may be used and occupied indefinitely, unless otherwise provided by law.

Subchapter 2 Use and Occupancy Permit

§ 50. Use and occupancy permit

(1) A use and occupancy permit is issued if the building work performed on the completed construction work conforms to the building permit and it is possible to use and occupy the construction work in compliance with the requirements and in accordance with its purpose of use. A use and occupancy permit is required in respect of construction works described in Annex 2 to this Code and in the event of a change in their purpose of use.

(2) Where this is warranted by the circumstances, the competent authority is authorised to issue a use and occupancy permit or to demand that a use and occupancy permit be issued in respect of a construction work not included in Annex 2 to this Code. When considering whether to issue the use and occupancy permit, the danger posed by the construction work and its impact on public space and on the rights of individuals is taken into account and a comparison is made with the similar indications provided by Annex 2 to this Code.

(3) The use and occupancy permit determines the purpose of use of the construction work or changes it.

(4) If the change in the purpose of use of the construction work does not entail any operations that are listed in Annex 1 to this Code as subject to the notice or permit requirement, that change in the purpose of use is subject to the column concerning changes in the purpose of use as established in Annex 2 to this Code.

(5) A use and occupancy permit may be issued in respect of a part of the construction work if that part is complete and the requirements established in legislation—first and foremost, the requirement that it is possible to use the construction work safely—have been complied with.

(6) If the building design documentation filed together with the application for a use and occupancy permit includes several construction works and the civil engineering works required for servicing those construction works, a use and occupancy permit is issued in respect of each construction work separately. A separate use and occupancy permit is also issued for each independently used civil engineering work.

(7) The Minister in charge of the policy sector enacts, by regulation:

- 1) the list of the purposes of use of construction works;
- 2) the requirements for construction works arising from their purpose of use.

§ 51. Authority competent to issue the use and occupancy permit

- (1) The use and occupancy permit is issued by the local authority, unless otherwise provided by law.
- (2) If the application for a use and occupancy permit includes construction works that were built on the basis of a national special spatial plan, the corresponding use and occupancy permit is issued by the Consumer Protection and Technical Regulatory Authority, unless otherwise provided by law.
- (3) If the application for a use and occupancy permit includes construction works in respect of which the issuing of the use and occupancy permit is in the competency of the State and of the local authority, the corresponding use and occupancy permit is issued by the Consumer Protection and Technical Regulatory Authority, unless otherwise provided by law.
- (4) If the application for a use and occupancy permit includes construction works in respect of which the issuing of the use and occupancy permit is in the competency of several government agencies, the corresponding use and occupancy permit is issued by the Consumer Protection and Technical Regulatory Authority, unless otherwise provided by law.

§ 52. Application for a use and occupancy permit

- (1) The application for a use and occupancy permit and related documents are filed with the competent authority electronically via the register of construction works. Where it is not possible to file these documents via the register of construction works, they are filed with the competent authority who enters the information in the register of construction works.
- (2) The application for a use and occupancy permit states:
 - 1) the applicant's name, contact information and signature, and the date of the filing;
 - 2) the manner of delivery of the use and occupancy permit;
 - 3) the particulars and cadastral code of the registered immovable on which building work is to be performed;
 - 4) the aim of applying for the permit, including the description and purpose of use of the completed construction work and the type of building work;
 - 5) where a temporary construction work is to be used, the period of use applied for;
 - 6) in situations provided for by legislation, maintenance instructions;
 - 7) the particulars of the person who built the construction work and, where relevant, the particulars of the person who created the building design documentation and, if the conformity of the building design documentation to the requirements was verified by a competent person who is independent of the person who created the building design documentation, also the particulars of that competent person;
 - 8) where required, the energy performance certificate;
 - 9) in situations provided for by legislation, proof of the construction work having been audited;
 - 10) building documentation, except where the scope of the application for a use and occupancy permit is limited to changing the purpose of use of the construction work;
 - 11) information regarding payment of the statutory fee.
- (3) The application for a use and occupancy permit must be accompanied by the building design documentation according to which the construction work was built. The filing of the building design documentation is not required if the scope of the application is limited to changing the purpose of use of the construction work.
- (4) The Minister in charge of the policy sector enacts, by regulation, the application for a use and occupancy permit, the rules for its filing and the requirements concerning its form.

§ 53. Checking the application for a use and occupancy permit and refusing to consider the application

When the competent authority receives an application for a use and occupancy permit, it checks the conformity of the application to the requirements. If it is obvious that the issuing of the use and occupancy permit is impossible, the competent authority refuses to consider the application and returns it, stating the reasons for refusal. The impossibility of issuing the use and occupancy permit is obvious, above all, if the building of the construction work required a building notice or building permit.

§ 54. Procedure for issuing use and occupancy permits

- (1) A use and occupancy permit is issued if the construction work conforms to the requirements established by legislation, i.e., above all to the requirements for construction works, and conforms to the building permit.

(2) The competent authority decides on the need to initiate the assessment of environmental impact above all, if the change in the purpose of use of the construction work may entail a significant environmental impact that has not been assessed before.

(3) By way of supplementary conditions, a use and occupancy permit may, above all, stipulate the following:

- 1) where warranted by the circumstances, the effective period of the permit;
- 2) the effective period of the permit as related to the time limit for the demolition of a temporary construction work, which may not exceed five years since the issuing of the permit;
- 3) where the permit is issued in respect of a part of the construction work, the ancillary requirement to apply, within a specified time limit, for a use and occupancy permit for the entire construction work;
- 4) the conduct of an expert assessment of the building design documentation, including the time limit for conducting the assessment;
- 5) the need to commission an opinion from a competent person to verify the compliance of the construction work with the requirements;
- 6) the requirement to perform an audit.

(4) The competent authority issues the use and occupancy permit within 30 days from the date of filing of the application. The competent authority sets a time limit of up to ten days for the giving of approvals or opinions.

(5) Where the application is not filed by the owner of the registered immovable named in the application, the competent authority joins that owner to the proceedings and, where this is needed, also joins to the proceedings owners of adjacent registered immovables.

(6) Where this is needed, the competent authority refers the proposed use and occupancy permit application:

- 1) for approval to the authority in whom the law vests competencies that are related to the subject matter of the application for the permit;
- 2) for an opinion to the authority or person whose rights or interests may be affected by the construction work.

(7) If observations are filed concerning the proposed use and occupancy permit in the course of the giving of approvals and opinions, the competent authority takes appropriate consideration of these observations or states the reasons for not taking them into consideration. The use and occupancy permit is issued electronically in the register of construction works.

(8) If the authority whose approval or the person or authority whose opinion is requested has not, within ten days from receiving the proposed use and occupancy permit, refused to give the approval or opinion or applied for an extension of that time limit, the proposed permit is deemed to have been tacitly approved by the authority or the person or authority is deemed to have declined to express an opinion regarding the proposed permit, unless otherwise provided by law.

§ 55. Refusal to issue a use and occupancy permit

The competent authority refuses to issue the use and occupancy permit if:

- 1) the construction work does not conform to the requirements;
- 2) the construction work poses a danger as a result of the change in its purpose of use;
- 3) the construction work does not conform to the building permit, to the national or local special spatial plan or detailed spatial plan currently in effect, including the operational plan for implementation of the detailed spatial plan, or to the design specifications;
- 4) the competent authority has initiated proceedings to revoke the building permit that served as the basis for the building of the construction work;
- 5) due to changes in the building design documentation or changes made in the course of building work, the building design documentation filed with the application for a use and occupancy permit differs significantly from the building design documentation filed with the application for the building permit;
- 6) the building design documentation does not conform to the requirements established for the building design documentation that served as the basis for the building work and, due to this, the completed construction work poses a danger;
- 7) the audit has not been performed;
- 8) where warranted by the circumstances, the authority mentioned in clause 1 of subsection 6 of § 54 of this Code has refused to approve the proposed use and occupancy permit;
- 9) the use and occupancy of the construction work entails a significant environmental impact that cannot be sufficiently avoided or alleviated;

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

9¹) the construction work does not correspond to the approval issued under subsection 3 of § 120 of this Code and its use and occupancy poses a danger to national security and the danger cannot be avoided or averted – both of which conditions must be present simultaneously, or

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

10) in applying for use and occupancy permit, knowingly false information has been filed that had a material impact on the decision to issue the use and occupancy permit.

§ 56. Effective period of use and occupancy permits

A use and occupancy permit is granted for an unspecified period, unless stipulated otherwise in the permit.

§ 57. Revocation of a use and occupancy permit

(1) The competent authority revokes the use and occupancy permit where, when applying for the permit, knowingly false information has been filed that had a significant impact on the decision to issue the permit.

(2) The competent authority may revoke a use and occupancy permit where:

- 1) the holder of the permit or the owner of the registered immovable has applied for the revocation, except where other persons have a legitimate interest in the effectiveness of the permit;
- 2) the audit has not been performed;
- 3) the construction work or its use does not conform to the permit or to the requirements established for the construction work.

Chapter 6

Register of Construction Works

§ 58. Register of construction works

(1) The purpose of the register of construction works is to store, provide and disseminate information regarding envisaged construction works, construction works that are being built, existing construction works, and the proceedings related to these.

(2) The Government of the Republic makes a regulation to establish the register of construction works and enact its constitutive regulations.

§ 59. Controller and processor of the data in the register of construction works

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

(2) The processors of the data in the register of construction works are designated in the constitutive regulations of the register of construction works.

§ 60. Information recorded in the register of construction works

(1) Regular information recorded in the register of construction works consists of:

- 1) particulars of the construction work;
- 2) particulars of the location of the construction work;
- 3) building documentation;
- 4) particulars of the building work performed;
- 5) in respect of a construction work that is a movable, the particulars of its owner;
- 6) information concerning the results of site investigations;
- 7) the particulars of any audits of the construction work;
- 8) maintenance instructions for the construction work;
- 9) particulars of the persons connected with the construction work or the building work performed;
- 10) information concerning the applications, design specifications, notices, permits and compliance notices linked to the construction work or the building work performed;
- 11) particulars of any regulatory enforcement action;
- 12) particulars of the energy performance certificate;
- 13) information concerning the interest area of the network possessor or owner;
- 14) where this is needed, other information related to the construction work or to the building work performed.

(2) The constitutive regulations of the register of construction works may, in relation to the purpose of use of construction works, specify the definition of the particulars or information set out in subsection 1 of this section and provide special rules to govern the entry of those particulars or that information in the register.

(3) The information in the register of construction works is disseminated through the website of the register. The information in the register of construction works is made available via the X-road interface.

(4) Access via the X-road interface and the website of the register of construction works is provided to the entirety of the particulars and information in the register, except the archived particulars and information of the register of buildings, the particulars and information connected to compliance notices that have been complied with and the particulars and information concerning construction works that have been removed from the register as well as any exchanges of information concerning the physical infrastructure of the communications undertaking or network operator.

[RT I, 15.12.2016, 1 – entry into force 01.01.2017]

(5) The Minister in charge of the policy sector enacts, by regulation, requirements concerning the form of the notice of particulars to be filed with the register of construction works and the rules for its filing.

§ 61. Significance of information stored in the register of construction works

(1) The information stored in the register of construction works has informational and statistical significance.

(2) Applications, design specifications, notices, building permits, use and occupancy permits, compliance notices and any decisions provided for by subsections 4 and 5 of § 61¹² of this Act have legal significance.
[RT I, 15.12.2021, 1 – entry into force 01.04.2022]

Chapter 6¹ **Facilitation of Deployment of High-Speed Electronic Communications Networks**

[RT I, 15.12.2016, 1 - entry into force 01.01.2017]

§ 61¹. Scope of application

The provisions of this Chapter apply to the deployment of high-speed electronic communications networks.
[RT I, 15.12.2016, 1 – entry into force 01.01.2017]

§ 61². Definitions

(1) ‘Physical infrastructure’ means infrastructure that permits the hosting of network elements that make it possible to offer an electronic communications service. For instance, physical infrastructure includes pipes, masts, cable ducts, manholes, access hatches, cable cabinets, antenna installations, towers and poles. Cables, as well as network elements that are used for the supply of water intended for human consumption, are not regarded as physical infrastructure for the purposes of this Chapter.

(2) ‘In-building physical infrastructure’ means physical infrastructure at the location of the end user that connects the building access point to the access point of the terminal device.

(3) ‘Building access point’ means a physical point at the boundary of the immovable property which is accessible to the electronic communications undertaking (hereinafter, ‘the communications undertaking’) and which is used to provide access to the in-building physical infrastructure that supports the high-speed electronic communications network.

(4) ‘High-speed electronic communications network’ (hereinafter, ‘the network’) means a network that makes it possible to transmit data at the speed of at least 30 megabits per second.

(5) ‘Major renovation’ means the remodelling, within the meaning of subsection 3 of § 4 of this Code, of the building at the location of the end user, in the course of which the in-building physical infrastructure or a part of it is modified and which requires the filing of a building notice or the making of an application for a building permit.

(6) ‘Network operator’ means a communications undertaking or other undertaking that operates the physical infrastructure whose purpose of use is to provide the service of producing, transmitting and distributing gas, electricity or thermal heat, or the production, transport and distribution of water, taking into account that the service of production, transmission and distribution of electricity includes street lighting and the service of production, transport and distribution of water includes the removal or purification of waste water or sewage and a sewerage system. The definition of network operator also includes a person that operates a railway infrastructure, highway, port or airport.

[RT I, 15.12.2016, 1 – entry into force 01.01.2017]

§ 61³. Exchange of information and determination of area of interest

(1) Any exchange of information concerning the physical infrastructure of the network operator between the communications undertaking and the network operator takes place electronically through the register of construction works.

(2) The network operator determines, or modifies, its area of interest regarding physical infrastructure within ten days of the filing of the building notice or the grant of the building permit regarding that physical infrastructure.

(3) The area of interest mentioned in subsection 2 of this section must also be determined in situations provided for by clauses 2 and 3 of subsection 1 of § 61⁶ of this Code.

(4) The Minister in charge of the policy sector may make regulations to establish specific rules concerning exchange of information regarding physical infrastructure between the communications undertaking and the network operator.

[RT I, 15.12.2016, 1 – entry into force 01.01.2017]

§ 61⁴. Access to data concerning physical infrastructure

(1) The communications undertaking has a right to file an application to the network operator to be allowed access to minimum information regarding any physical infrastructure of the network operator. In the application, the communications undertaking states the relevant area whose data it wishes to access.

(2) The minimum information mentioned in subsection 1 of this section includes:

- 1) the location and utility line of the infrastructure;
- 2) the type and purpose of use of the infrastructure;
- 3) the contacts of the network operator.

(3) The network operator is obligated to transmit to the communications undertaking, on the basis of a corresponding application by the latter, minimum information regarding its physical infrastructure within one month from the filing of the application.

(4) The communications undertaking has a right to make an application to the network operator to be allowed to inspect certain specific elements of its physical infrastructure on-site. The communications undertaking is obligated to identify, in its application, the relevant network elements that it wishes to inspect.

(5) The network operator is obligated to allow, within one month of receiving the application mentioned in subsection 4 of this section, the communications undertaking to inspect the relevant network elements of its physical infrastructure on-site.

(6) For valid reasons, the network operator may refuse to transmit the minimum information and to allow the on-site inspection of physical infrastructure, provided this may endanger:

- 1) the security or integrity of the network;
- 2) national security;
- 3) the life or health of humans;
- 4) business secrets.

(7) Should a dispute arise in relation to the rights and obligations provided for by this section, both of the parties to the dispute may have recourse to the Consumer Protection and Technical Regulatory Authority by filing the corresponding written application and paying the statutory fee in accordance with the rules provided by the Statutory Fees Act.

(8) The Consumer Protection and Technical Regulatory Authority makes its decision concerning resolution of the dispute within two months from receiving the written application. Where valid reasons require this, the Authority may extend the time limit for resolving the dispute by a reasonable period.

(9) The provisions of this section do not apply to physical infrastructure that is technically not suitable for the deployment of the communications network, or to any physical infrastructure that serves national defence purposes or is related to a building of a security authority or to infrastructure at the national border.

[RT 01.02.2019, 3 – entry into force 11.02.2019]

(10) The communications undertaking that obtains, under this section, access to the minimum information concerning the physical infrastructure of the network operator, undertakes to take requisite measures to protect the business secrets of the network operator.

[RT I, 15.12.2016, 1 – entry into force 01.01.2017 – applied starting 1 May 2017]

§ 61⁵. Access to physical infrastructure

(1) The communications undertaking has a right to apply to the network operator for access to the latter's physical infrastructure in order to deploy elements of the communications network.

(2) The communication undertaking has a right to address an application to the network operator to access the latter's physical infrastructure; the application must state detailed particulars regarding why, to what infrastructure and when the access is requested.

(3) The network operator decides on the application mentioned in subsection 2 of this section within two months of receiving it. The network operator is obligated to grant all reasonable applications in the order that they are received, allowing access to its physical infrastructure.

(4) The network operator may, for valid reasons, refuse to grant access to its physical infrastructure on the following condition:

- 1) its physical infrastructure is technically unsuitable for hosting the communications network;
- 2) it lacks the free space required to host the communications network, taking into account its future needs, which must be sufficiently justified;
- 3) granting the access may endanger the physical infrastructure or the life or health of humans;
- 4) granting the access may have an impact on the security or integrity of the network;
- 5) granting the access may cause significant disturbances in another service provided through the same physical infrastructure;
- 6) there exists an alternative access to physical infrastructure which is suitable for hosting the communications network, provided that access is offered on reasonable terms, or
- 7) this endangers national security.

(5) If the network operator refuses to grant access or, within two months of receiving the application mentioned in subsection 2 of this section, no agreement is reached concerning specific terms and conditions of access, both parties have a right, in order to resolve their dispute, to have recourse to the Consumer Protection and Technical Regulatory Authority by making a corresponding written application and by paying the statutory fee in accordance with the rules provided by the Statutory Fees Act.

(6) The Consumer Protection and Technical Regulatory Authority makes its decision concerning resolution of the dispute within four months from receiving the written application. Where this is needed, the Authority makes a decision that determines the terms and conditions of access to the network operator's physical infrastructure. Where valid reasons are present, the Authority may extend the time limit for resolving the dispute by a reasonable period.

(7) When setting the terms and conditions provided by subsection 6 of this section, the Authority must take account of the fact that the grantor of access has the opportunity to recoup the cost of allowing access to its physical infrastructure, considering all relevant circumstances.

[RT I, 15.12.2016, 1 – entry into force 01.01.2017 – applied starting 1 May 2017]

§ 61⁶. Access to information concerning planned building work

(1) Based on an application from the communications undertaking which states the relevant area, the network operator is obligated to make available, through the register of construction works, minimum information concerning any ongoing or planned building work which is related to its physical infrastructure and:

- 1) concerning which a building notice has been filed or a building permit issued;
- 2) concerning which the proceedings for issuing a building permit are pending or
- 3) concerning which the intention is to apply to the local authority for a building permit within the next six months.

(2) The minimum information mentioned in subsection 1 of this section includes:

- 1) the location and type of the building work;
- 2) a description of the network element;
- 3) the estimated start date and duration of the building work;
- 4) the contacts of the network operator.

(3) The network operator makes the minimum information mentioned in subsection 1 of this section available to the communications undertaking within two weeks from the filing of the application.

(4) The network operator limits access to the minimum information if the grounds provided by subsection 6 of § 61⁴ of this Code are present.

(5) The network operator may refuse to grant the application, provided it has made the information applied for electronically accessible to the public.

(6) Should a dispute arise in relation to the rights and obligations provided for by this section, both of the parties to the dispute may have recourse to the Consumer Protection and Technical Regulatory Authority by filing the corresponding written application and paying the statutory fee in accordance with the rules provided by the Statutory Fees Act.

(7) The Consumer Protection and Technical Regulatory Authority makes its decision concerning resolution of the dispute within two months from receiving the written application. Where valid reasons require this, the Authority may extend the time limit for resolving the dispute by a reasonable period.

(8) The provisions of this section do not apply to building work that is not subject to the requirement of filing a building notice or of obtaining a building permit, or to any physical infrastructure serving national defence purposes or related to a building of a security authority or to infrastructure at the national border.

[RT 01.02.2019, 3 – entry into force 11.02.2019]

§ 61⁷. Joint performance of building work

(1) The communications undertaking or the local authority may make an application to the network operator for joint performance of the building work. The network operator makes a decision on the application within one month from the making of the application.

(2) The application mentioned in subsection 1 of this section is granted provided:

- 1) this does not entail significant additional expenditure compared to the originally planned building work;
- 2) this does not adversely impact control over building work;
- 3) the application is made at least one month before the building notice, or the final building design documentation required to obtain a building permit is filed with the local authority.

(3) If no agreement is reached concerning joint performance of building work within one month from the filing of the application, both of the parties to the dispute have a right to have recourse to the Consumer Protection and Technical Regulatory Authority by filing the corresponding written application and paying the statutory fee in accordance with the rules provided by the Statutory fees Act.

(4) The Consumer Protection and Technical Regulatory Authority makes its decision concerning resolution of the dispute within two months from receiving the written application. Where this is needed, the Authority makes a decision that determines the terms and conditions of joint performance of the building work. Where valid reasons require this, the Authority may extend the time limit for resolving the dispute by a reasonable period.

(5) The provisions of this section do not apply to building work whose performance is not subject to the requirement of filing a building notice or of obtaining a building permit, or to any physical infrastructure serving national defence purposes or related to a building of a security authority or to infrastructure at the national border.

[RT 01.02.2019, 3 – entry into force 11.02.2019]

(6) Subsections 2–4 of this section are applied if the building activities of the network operator are fully or partially funded from the budget of the State or of a local authority.

[RT I, 15.12.2016, 1 – entry into force 01.01.2017]

§ 61⁸. In-building physical infrastructure

(1) The owner of a new building or of a building undergoing major renovation work must equip that building with in-building physical infrastructure that is situated at the location of the end user and that supports communications networks.

(2) The provision of subsection 1 of this section is not applied:

- 1) to buildings provided for by subsection 2 of § 62 of this Code;
- 2) to buildings whose ground projection area is up to 60 m² in accordance with Annex 1 of this Code;
- 3) to single-apartment residential buildings;
- 4) to construction works that serve national defence purposes, to construction works of the security authorities or to infrastructure at the national border.

[RT 01.02.2019, 3 – entry into force 11.02.2019]

(3) Any new residential building that has two or more apartments, or any residential building that has two or more apartments and that is undergoing major renovation work, must be equipped with a building access point.

[RT I, 15.12.2016, 1 – entry into force 01.01.2017 – the obligations provided by subsections 1 and 3 apply to buildings in respect of which the building notice, or building permit application, has been filed starting 1 April 2017]

§ 61⁹. Access to in-building physical infrastructure

(1) The communications undertaking has a right, at its own cost, to roll out its own communications network up to the building access point.

(2) The communications undertaking has a right to obtain access to any pre-existing in-building physical infrastructure for the purpose of deploying a communications network, provided its duplication is technically impossible or economically inefficient. To obtain access to the physical infrastructure, the communications undertaking files a corresponding application to the owner of the building access point or of the in-building physical infrastructure.

(3) The owner of the building access point or of the in-building physical infrastructure grants the access applications filed by the communications undertaking.

(4) The provisions of subsections 2 and 3 of this section are not applied in relation to buildings in which end users are ensured access to communications networks.

(5) If no agreement is reached concerning the access provided for by subsection 3 of this section within two months of the date of receiving the access application, both parties have a right, in order to resolve their dispute, to have recourse to the Consumer Protection and Technical Regulatory Authority by making the corresponding written application and by paying the statutory fee in accordance with the rules provided by the Statutory fees Act.

(6) The Consumer Protection and Technical Regulatory Authority makes its decision concerning resolution of the dispute within two months from receiving the application. Where this is needed, the Authority makes a decision that determines the terms and conditions of access to the in-building physical infrastructure. Where valid reasons are present, the Authority may extend the time limit for resolving the dispute by a reasonable period.

(7) Should the building lack in-building physical infrastructure to support the communications network, the communications undertaking has a right to connect, at its own cost, its communications network to the enclosed premises of the end user, provided the end user consents to this and provided the impact on third-party property is kept as low as possible.

[RT I, 15.12.2016, 1 – entry into force 01.01.2017]

§ 61¹⁰. Resolution of disputes before the Consumer Protection and Technical Regulatory Authority

(1) When the application mentioned in subsection 7 of § 61⁴, subsection 5 of § 61⁵, subsection 6 of § 61⁶, subsection 3 of § 61⁷ or subsection 5 of § 61⁹ is filed, the Consumer Protection and Technical Regulatory Authority notifies the other party to the dispute of the filing of the application within ten business days and demands clarification. The Authority sets a reasonable time limit for the filing of the clarification, which may not be shorter than ten business days from receiving the demand for clarification.

(2) Provided the parties to the dispute agree to this, the Consumer Protection and Technical Regulatory Authority is authorised, when this is needed, to commission an expert opinion for deciding on the dispute. When commissioning the opinion, the Authority has regard to the positions of the parties. The Authority sets the time limit for the filing of the opinion in consultation with the expert.

(3) The expert opinion is transmitted to both parties at dispute.

(4) The costs related to the provision of the expert opinion are borne by the parties at dispute in equal shares, and are paid up before the expert assessment is carried out, unless the Consumer Protection and Technical Regulatory Authority decides otherwise.

(5) The Consumer Protection and Technical Regulatory Authority is authorised to commission an expert opinion for deciding on the dispute also in cases where the opinion is sought by one of the parties at dispute, and that party agrees to pay the costs connected to this.

[RT I, 15.12.2016, 1 – entry into force 01.01.2017]

§ 61¹¹. Obligation to provide information to the Consumer Protection and Technical Regulatory Authority

(1) The Consumer Protection and Technical Regulatory Authority has a right to demand from the parties at dispute information and documents that are needed for deciding on the disputes mentioned in this Chapter.

(2) The request for information or documents is made by the Consumer Protection and Technical Regulatory Authority in writing. In the request, the Authority sets out an explanation concerning the task for whose fulfilment it requires the information and concerning the manner in which the information is to be used. In the request, the Authority sets a reasonable time limit, which may not be shorter than ten business days from receiving the request, for the addressee to provide the information.

(3) Any information that an official of the Consumer Protection and Technical Regulatory Authority has become privy to in the course of resolving a dispute, is kept confidential by that official.

[RT I, 15.12.2016, 1 – entry into force 01.01.2017]

§ 61¹². Right of access to a construction work owned by the State or a local authority

(1) A communication undertaking has a right to present, electronically via the Register of Construction Works, an application to the State or to a local authority, to be granted a right of access to a construction work owned by the State or the local authority in order to install a small-area wireless access point.

(2) The State or local authority may charge a reasonable fee for the installation of an access point mentioned in subsection 1 of this section, which covers the costs incurred by the State or local authority in relation to the installation.

(3) An application mentioned in subsection 1 of this section must contain at least:

- 1) the communication undertaking's contact particulars;
- 2) the location of the small-area wireless access point, including its coordinates;
- 3) a technical drawing concerning installation of the access point.

(4) Within two months following receipt of a corresponding application, the State or a local authority makes a decision by which it grants a right to install a small-area wireless access point. Decisions are made in the order in which the applications were filed.

(5) The State or a local authority may make a decision by which it refuses to grant a right to install a small-area wireless access point where:

- 1) due to its technical or architectural characteristics, the construction work is not suitable for the installation of a small-area wireless access point;
- 2) this poses a danger to human life or health;
- 3) the construction work concerned is a building mentioned in clauses 1 and 2 of subsection 2 of § 62 of this Act;
- 4) this poses a danger to national security.

(6) Any decisions mentioned in subsections 4 and 5 of this section are provided electronically to the Register of Construction Works. Such decisions, with the exception of the decision mentioned in clause 4 of subsection 5, are made public in the Register.

[RT I, 15.12.2021, 1 – entry into force 01.04.2022]

Part 2

SPECIAL CONSTRUCTION WORKS AND SPECIAL REQUIREMENTS

Chapter 7

Energy Performance of Buildings

§ 62. Scope of application

(1) The requirements established in this Chapter apply to buildings that use energy to control indoor climate and the quality of indoor air, including to maintain, increase or reduce indoor temperature.

(2) The requirements established in this Chapter do not apply to the following buildings:

- 1) buildings that, according to the relevant comprehensive plan or detailed spatial plan, are located within a built-up area of cultural and historical value or have been recognised as a valuable monument, or buildings which, under the Heritage Conservation Act, have been designated as monuments, are located in a heritage conservation area or included in the UNESCO World Heritage List and in which compliance with the minimum requirements for energy performance would significantly alter the building's nature or appearance;
- 2) buildings which are mainly used as places of worship or for religious activities;
- 3) temporary buildings whose useful life is two years or less, industrial sites, workshops and non-residential agricultural buildings with low energy demand;
- 4) residential buildings which are either intended to be used during less than four months of the year or have an alternatively limited period of annual use and whose expected energy consumption is less than 25 per cent of the energy consumption corresponding to year-round use;
- 5) buildings whose enclosed net floor area does not exceed 50 m².

§ 63. Definitions

(1) 'Energy performance of a building' means the calculated or measured amount of energy needed to meet the energy demand associated with the typical use of the building, which includes, inter alia, energy used for heating, cooling, ventilation, the heating of water and lighting.

(2) 'Minimum requirements for energy performance' means the ceiling values of the total energy consumption of existing or new buildings, which are based on the purpose of use of the buildings and which take into account technical parameters, the requirements established for utility systems with a significant impact on the building's energy performance or the conditions for introducing the use of renewable energy in buildings. Minimum requirements for energy performance may also include requirements for the building's other utility systems if the operation of those systems causes the building's energy demand to increase significantly.

[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

(3) [Repealed – RT I, 30.06.2020, 9 – entry into force 01.07.2020]

(4) Renovation is deemed to be major if the costs of modification of the building's envelope elements and the modification or replacement of the building's loadbearing or stiffening elements, or of modification of the building's outer envelope and the building's utility systems or parts thereof, or of the complete replacement of a utility system, exceed one quarter of the average building cost of a building that is equivalent to the building that is being renovated.

(5) The Minister in charge of the policy sector may make regulations to establish the rules for assessing average building cost.

§ 64. Requirements for the energy performance of buildings

(1) The building's outer envelope and utility systems with a significant impact on the building's energy performance must ensure that the total energy consumption of the building corresponds to the climatic conditions of its location and to the purpose of its use.

[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

(2) Measures have to be taken to improve the energy performance of the building, taking into consideration the following conditions:

- 1) the energy performance may not be achieved in a manner that would adversely affect the building's indoor climate and the building's conditions of use;
- 2) different options have to be weighed and cost-effective solutions have to be preferred;
- 3) when renovating a utility system with a significant impact on the building's energy performance, the optimum performance of such a system has to be ensured.

[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

(3) A prerequisite for the optimum performance of a utility system is the appropriate choice of the system and of the equipment, their appropriate installation, setup and check and, where this is needed, the employment of a smart measuring system.

(4) The energy audit is performed in order to obtain requisite knowledge concerning the energy consumption profile of a building or group of buildings, of an industrial or commercial process or installation or of specific services. The energy audit identifies cost-effective energy saving opportunities and quantifies the corresponding savings; an audit report is drawn up based on its results.

(5) The Minister in charge of the policy sector enacts, by regulation, requirements for the energy audits of buildings and for the methodology of calculating the energy performance of buildings.

§ 65. Minimum requirements for energy performance

(1) Any new building that is being built or any existing building that is undergoing major renovation must conform to the minimum requirements for energy performance after the completion of the building or renovation work. If the building work was performed on the basis of a building permit, the construction work must conform to the minimum requirements for energy performance that were effective at the time the permit was issued.

(2) The building's outer envelope and utility systems with a significant impact on the building's energy performance must be designed and built such that approaching them as an integral whole would allow for conformity to the minimum requirements for energy performance.

[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

(3) The Minister in charge of the policy sector enacts, by regulation, the minimum requirements for energy performance, including the requirements for utility systems with a significant impact on the building's energy performance, and the conditions for introducing the use of renewable energy in buildings. The minimum requirements for energy performance are reviewed at least once every five years. When reviewing the minimum requirements for energy performance, technical progress is taken into account.

[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

§ 65¹. Electric car charging infrastructure

(1) 'Electric car charging infrastructure' means cabling infrastructure or a charging point or a combination of cabling infrastructure and a charging point.

(2) 'Electric car cabling infrastructure' means a cable protection conduit through which it is possible to run an electrical cable in order to install a charging point.

(3) 'Electric car charging point' means an interface of the charging infrastructure by means of which it is possible to charge one electric car at a time or to change the battery of one electric car at a time.

(4) When erecting a building for the servicing of which more than ten parking spaces are prescribed, the following are to be installed:

- 1) cabling infrastructure for each parking space, if the building is a residential one,

2) cabling infrastructure at least for each fifth parking space and an electric car charging point at least for one parking space, if the building is a non-residential one.

(5) When electric car charging infrastructure is to be installed in a building with several purposes of use of which at least one is a residential use or at least one is a non-residential use, the installation is subject either to the requirements applicable to residential or to non-residential buildings, according to the principal use recorded in respect of the building in the register of construction works.

(6) When undertaking a major renovation of a building for the servicing of which more than ten parking spaces are prescribed, the requirements provided for by subsections 4 and 5 of this section are to be complied with if the work to be carried out as part of such renovation also extends to:

- 1) the building's car park or
- 2) the electrical system of the building or of the car park.

(7) If more than 20 parking spaces are prescribed for the servicing of a non-residential building, an electric car charging point has to be installed at least for one such space.

[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

§ 65². Renovation support measure

(1) Renovation support measures intended for improving the energy performance of buildings are linked to envisaged or achieved energy savings.

(2) To determine the energy saving, the situation prior to renovation is compared to the envisaged or realised solution, using at least one of the following indicators:

- 1) the energy performance indicator determined based on typical use data;
- 2) the value of weighted specific energy consumption determined based on actual consumption data;
- 3) estimated change in energy consumption set out in the relevant energy audit.

(3) If, to determine energy savings, a renovation support measure employs an indicator other than those provided for by subsection 2 of this section, the measure must include a description of the envisaged indicator and the energy savings determined using that indicator must be comparable and verifiable.

(4) Where equipment or material is installed by a person who meets the relevant qualification requirements, to determine the corresponding energy saving the energy performance indicator of existing equipment or material may be compared to that of the equipment or material that is being installed.

[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

§ 66. Energy performance certificate

(1) Conformity to the minimum requirements for energy performance is proved by means of the energy performance certificate. An energy performance certificate provides information on the rated energy demand or the actual energy consumption of a building that already exists or that is being designed.

(2) A list of recommendations for improving the energy performance of the building is annexed to the energy performance certificate, except where there is no reasonable possibility for making the corresponding improvements.

(3) An energy performance certificate issued in respect of the rated energy demand is valid for two years after the completion of the building. An energy performance certificate issued in respect of actual energy consumption is valid for ten years. A subsequently issued energy performance certificate revokes the energy performance certificate issued previously in respect of the same building or part of the building.

(4) If the building lacks a common heating system, a separate energy performance certificate may be issued in respect of a part of that building that can be used separately.

(5) The energy performance certificate is issued by a competent person who is a member of the relevant profession. The person who issues the energy performance certificate enters the particulars of that certificate electronically in the register of construction works. The particulars of the energy performance certificate issued in respect of a building that is being designed are entered in the register of construction works at the latest at the time of the filing of the use and occupancy notice or of the application for a use and occupancy permit.

(6) The Minister in charge of the policy sector enacts, by regulation, the requirements for energy performance certificates and for the issuing of such certificates.

§ 67. Energy performance certificate when ownership of a building is transferred or the right to use and occupy the building is assigned for a fee

(1) In order to allow a person interested in buying a building or acquiring the right to use and occupy a building to make an informed choice, the advertisement regarding the transfer of ownership in the building or part of the building for a fee or regarding assignment of the right to use and occupy the building – or a part of the building that can be used separately – for a fee must include the particulars of the energy certificate, including the energy performance indicator or the weighted specific energy use and the corresponding class.

(2) A person interested in buying a building or acquiring the right to use and occupy a building or a part of the building that can be used separately must be allowed to inspect the energy performance certificate. The energy performance certificate or a copy of the certificate is delivered upon the execution of the corresponding agreement to the person who acquires ownership of or the right to use and occupy the building or a part of the building that can be used separately. This requirement is deemed to have been met if it is possible to view the energy performance certificate in the register of construction works.

§ 68. Displaying the energy performance certificate

(1) The energy performance certificate must be displayed in a prominent place clearly visible to the public in any building in which:

- 1) the enclosed net floor area exceeds 500 square metres and which is visited by crowds of people;
- 2) a local authority or government agency or any other public-law authority has possession of an enclosed net floor area that exceeds 250 square metres and that is often visited by people.

(2) The Minister in charge of the policy sector may make regulations to establish a list of the types of building which are linked to the gathering of crowds and in relation to which the presence of an energy performance certificate is required.

(3) The energy performance certificate must be displayed in a prominent place clearly visible to the public in any building that is covered by the list of the types of building established under subsection 2 of this section.

§ 69. Energy performance of heating and cooling systems

[Repealed – RT I, 30.06.2020, 9 – entry into force 01.07.2020]

§ 69¹. Utility system with a significant impact on the building's energy performance

(1) 'Utility system with a significant impact on the building's energy performance' means:

- 1) a heating system or a household water heating system together with the source of heat;
- 2) a cooling system;
- 3) an automation and control system (below, 'automation system');
- 4) a ventilation system;
- 5) a lighting system;
- 6) a system producing thermal energy or electricity locally.

(2) 'Automation system' means a system that comprises all products, software and services that support the energy-efficient, sustainable and safe operation of a building's utility systems. An automation system must facilitate control of such systems, at the same time allowing for them to be controlled manually.

[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

§ 69². Installation of a utility system with a significant impact on the building's energy performance

(1) Any utility system with a significant impact on the building's energy performance, including any manually built system operating on solid fuel, has to be installed or constructed in accordance with the requirements. To be deemed in accordance with the requirements, installation or construction needs to have observed the good practice of the relevant field, the relevant standard or the installation instructions.

(2) The settings of a utility system with a significant impact on the building's energy performance have to be adjusted to an optimal level, considering the typical use of the building or room to be served by that system.

(3) Together with a utility system with a significant impact on the building's energy performance, which allows for automated regulation, a central automation system that makes it possible to constantly control and monitor the building's utility systems has to be installed.

(4) Where, in connection with the installation of a heating source, replacement of the heating system and the household water heating system, or the existing heating source, is performed, such a heating source's seasonal coefficient of performance, which has been reduced to primary energy terms and which is determined following the requirements of Directive 2009/125/EC of the European Parliament and of the Council establishing a framework for the setting of eco-design requirements for energy-related products (OJ L 285, 31.10.2009, pp. 10–35), must be at least 80 per cent.

(5) The limit value of the seasonal coefficient of performance provided for by subsection 4 of this section does not apply if the unadjusted payback period of the heating source to be installed is longer than 20 years. When determining the unadjusted payback period, the installation cost of the equipment and of the utility system connected to that equipment, as well as the total of the energy, maintenance and operating costs for a 20-year period, are taken into account.

(6) When replacing the heating source of a heating system, the system is equipped with self-regulation equipment, provided this is technically feasible.

(7) Where this is technically feasible and economically justified, the heating system of a building to be erected is furnished with self-regulation equipment which controls temperature in each room to be heated or in the area to be heated in each of the building's parts.

[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

§ 69³. Assessment of the energy performance of a utility system with a significant impact on the building's energy performance

(1) When a utility system with a significant impact on the building's energy performance is installed, replaced or remodelled, the energy performance of the installed, replacement or remodelled system is assessed. The assessor enters the particulars of the assessment in the register of construction works electronically.

(2) To assess the energy performance of an existing building's heating or cooling system whose rated capacity exceeds 70 kilowatts and which may or may not include a ventilation system, an inspection of the building's utility system is performed. In the course of the inspection, the effectiveness and capacity of the heating source or the cooling equipment or, where the system is a combined one, also of the ventilation unit, is assessed based on the building's heating or cooling need. The assessor enters the particulars of the assessment in the register of construction works electronically.

(3) When filing the application for a use and occupancy permit, or a use and occupancy notice, the assessment of the energy performance of a heating or cooling system whose rated capacity exceeds 70 kilowatts is annexed to such an application or such a notice.

(4) Where, subsequently to an energy performance assessment under subsection 2 or subsection 3 of this section, the heating or cooling system, which may or may not include a ventilation system, has not been modified, or the building's heating or cooling need has not changed, the assessment is not repeated.

(5) An assessment of the energy performance of the heating or cooling system under subsection 2 or subsection 3 of this section is not conducted if:

- 1) an energy efficiency agreement within the meaning of the Energy Sector Organisation Act has been concluded for improving the energy performance of the heating or cooling system, which may or may not include a ventilation system;
- 2) an automation system meeting the requirements provided for by subsection 2 of § 69⁴ of this Act has been installed in the building.

(6) The Minister in charge of the policy sector makes regulations to enact the rules for assessing the energy performance of a utility system with a significant impact on the building's energy performance, the list of particulars to be entered in the register of construction works concerning the assessment and the rules concerning the filing of those particulars.

[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

§ 69⁴. Improving the energy performance of a heating or cooling system of a non-residential building

(1) To improve the energy performance of a non-residential building's actual or designed heating or cooling system whose rated capacity exceeds 290 kilowatts and which may or may not include a ventilation system, the building's owner installs in it an automation system, provided this is technically feasible and economically justified. Information concerning the technical feasibility and economic justifiability of an automation system of an existing non-residential building is filed electronically in the register of construction works and information concerning a designed non-residential building is annexed to the application for a use and occupancy permit or to the use and occupancy notice.

(2) An automation system installed in order to comply with the requirement provided for by subsection 1 of this section must:

- 1) make it possible to constantly control and monitor the building's energy consumption and to collect and analyse the building's energy performance consumption data;
- 2) make it possible to analyse the building's energy performance in a comparative manner so as to ascertain any reductions in the energy performance of the building's utility systems, in order to notify building's owner or the operator of the building's utility systems of possibilities for improving the energy performance;

- 3) provide for data transmission between a utility system with a significant impact on the building's energy performance, which is connected to the building's automation system, and other equipment located in the building;
- 4) provide for interoperability between technical solutions, equipment and utility systems with a significant impact on the building's energy performance which belong to different manufacturers.
- [RT I, 30.06.2020, 9 – entry into force 01.07.2020]

Chapter 8

Construction Works – Protection Zone

§ 70. Construction works – protection zone

(1) The protection zone of a construction work is the land underneath and around the construction work within which the owner of the registered immovable is obligated to tolerate the presence of a construction work belonging to another and within which the use of the registered immovable and operations on the registered immovable are restricted for the purposes of safety and of ensuring the functionality of such a construction work.

(2) In the protection zone, it is prohibited:

- 1) to endanger the construction work or any use of the construction work that follows established rules;
- 2) to build another construction work subject to the building permit requirement, including the removal or heaping of soil;
- 3) to obstruct access to the construction work;
- 4) to obstruct maintenance of the construction work, including the installation of signs to alert the observer to the location of the construction work that has a protection zone or to the danger posed by such a construction work;
- 5) to obstruct the preservation of the plant life or soil within the protection zone in a condition that does not endanger the construction work;
- 6) to pursue any other activities provided for by law.

(3) The restrictions of the protection zone may be derogated from with the consent of the owner of the construction work that enjoys the protection zone, provided this does not reduce the safety of the construction work. The owner of such a construction work may not charge a fee for giving their consent or demand the establishment of additional restrictions that are not related to safety. The owner may not refuse to give their consent without valid reasons. The owner is entitled to demand that any person carrying out operations within the protection zone act under their immediate supervision.

(4) The owner of a construction work that enjoys a protection zone provides information regarding the location of that construction work free of charge to the owner of the registered immovable and to any lawful user of the immovable.

(5) The owner of a construction work that enjoys a protection zone must:

- 1) act in a manner that entails the least possible infringement of the rights of the owner of the registered immovable;
- 2) when exercising their rights, take into consideration the legitimate interests of the owner of the registered immovable, including giving reasonable advance notice to the owner of the land of any building work or repair work before the commencement of such work;
- 3) ensure the preservation of the registered immovable in good condition during any maintenance work performed on the construction work that enjoys a protection zone and, once the maintenance work has been completed, restore the registered immovable to its former condition, except where restoration to the former condition would contravene the restrictions of the protection zone.

(6) If several construction works that enjoy a protection zone are built on the same registered immovable, the greatest possible spatial overlap of the protection zones and the least possible encumbrance of the registered immovable must be preferred where this is possible. It is deemed possible that a construction work that enjoys a protection zone may be built in the protection zone of another construction work that enjoys a protection zone.

(7) The information regarding the existence of a protection zone, its content and spatial extent is entered in the Land Cadastre. The information to be entered in the Land Cadastre is provided by the owner of the construction work that enjoys the protection zone. If, after the building of a new construction work or after changing the location of an already existing construction work the application for entering the information concerning the protection zone in the Land Cadastre has not been filed with the Land Cadastre within 30 days following the completion of the building of the construction work or following its relocation, the obligation to tolerate the construction work does not arise and the owner of the registered immovable is entitled to demand the removal of the construction work from the registered immovable.

(8) The Minister in charge of the policy sector enacts, by regulation, the extent of protection zones, their protection and marking out and the recommendations for carrying out operations within protection zones.

§ 71. Protection zone – public roads

(1) The protection zone of a public road is the area of land that surrounds the road and allows for the protection of the road, permits the organisation of road maintenance, allows for safe traffic on the road and reduces the negative impact that is produced by the road with respect to the environment and the hazard that the road represents for people. If the road is a public road, it has a protection zone.

(2) The width of the protection zone of a road designated by the UN Economic and Social Council (hereinafter, the 'road in the European road network') is up to 50 metres from the outer edge of the outermost lane on both sides of the road. The width of the protection zone of other roads is up to 30 metres from the outer edge of the outermost lane on both sides of the road. The owner of the road may reduce the width of the protection zone where this is warranted by the circumstances.

(3) The width of the protection zone of a street is up to 10 metres from the outer edge of the outermost lane on both sides of the street. The width of the protection zone may be extended up to 50 metres where this is stipulated in the comprehensive plan or detailed spatial plan.

§ 72. Operations within the protection zone of a road

(1) In the protection zone of a road, it is prohibited to:

- 1) install any lighting equipment, information or advertising device that disturbs traffic on the road;
- 2) hold sports events and other public events;
- 3) extract mineral resources and earth materials;
- 4) carry out forest clearcutting operations;
- 5) perform land improvement operations that entail a change in the water regime.

(2) The owner of the registered immovable to which the protection zone of the road extends must permit the removal of plantations, trees or bushes that restrict visibility or the removal of any civil engineering works that pose a traffic hazard. The owner of the registered immovable must allow the installation of temporary snow fences, the erection of snow walls and ditches to block drifting snow and must allow snow to be removed to land outside the road area provided this does not obstruct access to the registered immovable.

(3) Detours may be constructed and built and another registered immovable used for their maintenance only on contractual basis. In the event of an accident or natural disaster, the making of the contract is not required. The owner of the registered immovable must be paid compensation for any damage resulting from the temporary use of the registered immovable.

(4) In areas where the creation of a detailed spatial plan is mandatory, buildings that are subject to the detailed spatial plan requirement may be built in the protection zone of the road if this is permitted in the detailed spatial plan or in the national or local special spatial plan.

§ 73. Protection zone – railways

(1) The protection zone of a railway includes the ground underneath the railway and extends to 30 metres from the axis of the track or, in multitrack railways and railway stations, from the axis of the outermost track.

(2) In the protection zone of a railway, it is prohibited to endanger rail traffic and to obstruct visibility on the railway.

(3) In addition to permission of the owner of the railway, the permission of the Consumer Protection and Technical Regulatory Authority is required to carry out the following operations in the protection zone of a railway:

- 1) the creation of land improvement systems, extraction of mineral resources, performance of excavation work;
- 2) renewal cutting of forest and other work that changes the natural environment;
- 3) production and storage of flammable substances or explosives;
- 4) installation and storage of equipment and materials if this jeopardises visibility in the protection zone;
- 5) any building work performed on a construction work.

(4) Where this is warranted by the circumstances, the Consumer Protection and Technical Regulatory Authority is authorised to require the drawing up of a risk analysis or other relevant analysis in order to assess the impact of the envisaged operations on the condition of the railway and on railway traffic.

(5) Where a grove of trees located in the protection zone obstructs the visibility needed for ensuring the safety of railway traffic or where a grove located within ten metres from the axes of the track is the source of a potential risk of fire and the owner of the registered immovable does not file the notice of forest cutting operations or does not cut the grove, or where the visibility needed for ensuring the safety of railway traffic is obstructed or the source of the potential risk of fire is represented by other plants that do not qualify as woodland and the owner of the registered immovable does not clear these plants, the railway infrastructure

manager or other owner or operator of the railway is authorised to arrange, in the railway protection zone and in order to ensure the safety of railway traffic, the cutting of the grove or the clearing of other plants. The railway infrastructure manager or other owner or possessor of the railway informs the owner of the registered immovable in advance of the corresponding operations and of the measures to be taken while performing them.

§ 74. Protection zone – public water supply or sewerage construction works

(1) The protection zone of a public water supply or sewerage construction work is the area of land that surrounds such a construction work and in that the use of a registered immovable has been restricted in order to ensure the safety and protection of that construction work.

(2) In the protection zone of a public water supply or sewerage construction work, it is prohibited to:

- 1) store materials and carry out any blasting, drilling, excavation, pile ramming, mineral resource extraction, land raising, flooding or land drainage operations, and, near construction works, also any lifting operations;
- 2) near a public water supply or sewerage construction work that is located in a water body, perform any dredging operations or remove soil, dispose of solid substances, anchor water craft, or drag anchors, chains, logs, trawls or nets.

§ 75. Protection zone – pressure equipment

(1) The protection zone of pressure equipment is the land area which surrounds the pressure equipment that constitutes an independent construction work, and within which the use of the registered immovable has been restricted in order to ensure the safety and protection of the pressure equipment.

(2) In the protection zone of pressure equipment, it is prohibited to:

- 1) store waste, chemicals or fertilisers;
- 2) perform any blasting, drilling and excavation, as well as flooding, irrigation and land improvement operations, to store and move heavy objects and to arrange crossings of vehicles and to perform other work that may jeopardise the safety of the pressure equipment.

§ 76. Protection zone – gas installations

(1) The protection zone of a gas installation is the land area which surrounds the gas installation that constitutes an independent construction work, and within which the use of the registered immovable has been restricted in order to ensure the safety and protection of the gas installation.

(2) In the protection zone of a gas installation, it is prohibited to light fires and to grow trees. In the protection zone of a gas installation located in a water body, it is prohibited to perform dredging operations, anchor water craft or navigate with sunk anchors, chains, logs, trawls or nets.

§ 77. Protection zone – electrical installations

(1) The protection zone of an electrical installation is the land area which surrounds an electrical installation within the meaning of the Electricity Market Act that constitutes an independent construction work, and within which the use of the registered immovable has been restricted in order to ensure the safety and protection of the electrical installation.

(2) In the protection zone of an electrical installation, it is prohibited:

- 1) to store waste, materials and substances, to perform any kind of mining, loading, deepening, blasting and land improvement operations, to light fires, plant and cut trees;
- 2) to anchor water craft or navigate with sunk anchors, chains, logs, trawls or nets, to install traffic signs and buoys for water craft, and—in the protection zone of an electrical installation constructed as a submerged cable line—to harvest ice;
- 3) —in the protection zone of overhead transmission lines—to drive machines and mechanisms whose total height above ground with or without cargo exceeds 4.5 metres;
- 4) —in the protection zone of overhead transmission lines of high-voltage installations—to build wired fences, to construct drinking sites for animals and to hold large-scale events;
- 5) —in the protection zone of overhead transmission lines and of underground cable lines—to work with impact mechanisms, to level ground, to perform topsoil work at a level deeper than 0.3 metres below ground or at a level deeper than 0.45 metres in land subject to ploughing, and to store and move heavy objects.

§ 78. Protection zone – communication installations

(1) The protection zone of a communication installation is the land area which surrounds a communication installation that constitutes an independent construction work, and within which the use of the registered immovable has been restricted in order to ensure the safety and protection of the communication installation. A communication installation is taken to mean communication installation as defined in Chapter 10 of this Code.

(1) In the protection zone of a communication installation, it is prohibited:

- 1) to perform any kind of mining, loading, deepening, blasting, flooding, irrigation and land improvement operations, to plant or cut trees, to remove tree stumps, to light fires, to use flammable materials and substances,

to store waste, to obstruct access to the communication installation and, by any actions, to cause corrosion of the communication installation;

2) to climb a radio tower and to attach objects to a radio tower or to the fencing structures around the radio tower;

3) to perform deepening operations, to anchor water craft or navigate with sunk anchors, chains, logs, trawls or nets, to install traffic signs and buoys for water craft, and—in the protection zone of a communication installation located in a water body—to blast and harvest ice;

4) —in the protection zone of a communication installation constructed as an overhead transmission line—to drive machines and mechanisms whose total height above ground with or without cargo exceeds 4.5 metres;

5) —in the protection zone of a communication installation located in the ground—to work with impact mechanisms, to compact or level ground, to perform topsoil work at a level deeper than 0.3 metres below ground or at a level deeper than 0.45 metres in land subject to ploughing.

Chapter 9

Communication Installations and Other Installations

§ 79. Scope of application

The provisions in this Chapter apply to communication installations and other installations.

§ 80. Communication installations and other installations

(1) For the purposes of this Code, ‘other installations’ means equipment within the meaning of the Equipment Safety Act that is permanently installed in a construction work or that constitutes an independent construction work. Other installations are primarily:

- 1) electrical installations;
- 2) storage tanks and piping, including gas installations;
- 3) lifts;
- 4) cableways.

(2) ‘Communication installation’ means a line or a line facility within the meaning of the Electronic Communication Act.

(3) ‘Lift’ means:

1) a lifting device which is permanently installed in a construction work, which moves between the different levels of the construction work, whose platform or car moves along guides that are rigid and inclined at an angle of more than 15 degrees to the horizontal plane, and which is intended exclusively for the transport of people, or for the transport of people and objects, or exclusively for the transport of objects provided people may enter upon the platform or enter the car without difficulty and the platform or car is fitted with controls located inside the car or within the reach of the persons inside;

2) a lifting device that moves along a fixed course as provided for by clause 1 of this subsection even if it does not move along rigid guides (for example, a scissor lift).

(4) The platform or car is the part of the lift that is used to lift or lower people or objects that are on it or in it.

(5) The installer of a lift is the person who assumes responsibility for the design, manufacture, installation and placing on the market of the lift. The installer of a lift is its manufacturer within the meaning of the Product Conformity Act.

§ 81. Requirements for lifts and for the building of lifts

(1) The lift and its safety components must conform to the requirements arising from the Product Conformity Act and the conformity of the lift and its safety components to these requirements must be proved following applicable rules before the lift and its safety components are placed on the market and put into commission.

(2) Access to the engine assembly and related equipment of the lift or cableway must be obstructed. Access to the engine assembly and related equipment of the lift or cableway must only be possible for repair and maintenance purposes or in the case of danger.

(3) The shaft of the lift may not contain cables, pipes and other equipment that is not required for the functioning of the lift. The room that contains the lift’s engine assembly and related equipment may not contain equipment that is not required for the operation of the lift if such equipment obstructs maintenance and repair operations on the lift.

(4) The installer of the lift and the person responsible for the building of the construction work must provide information to each other in matters pertaining to the installation of the lift and take the necessary measures to ensure the conformity of the installation to the requirements and the safety of use of the lift.

§ 82. Requirements for the marking out of communication installations

(1) The marking out of the location of a communication installation that is being designed or built is specified in the building design documentation of the communication installation and the owner of the registered immovable is asked for an opinion in the matter.

(2) Where the owner of the registered immovable desires this or where the owner of the communication installation deems this necessary, the location of a communication installation in use is marked out with above-ground stakes or with warning signs.

(3) Unauthorised removal, relocation or damaging of the markings of a communication installation or reducing the visibility of the markings in any other manner is prohibited.

§ 83. Design specifications

(1) Design specifications are required:

- 1) in relation to a communication installation, for the creation of the building design documentation concerning a new line facility;
- 2) for the creation of a new electrical installation that crosses several registered immovables or
- 3) for increasing the nominal voltage of an existing electrical installation to 110 kilovolts or more.

(2) Design specifications are not required for building a line or electrical installation or where the building of the line or installation is provided for by a detailed spatial plan or a national or local special spatial plan.

§ 84. Resolution of disputes arising in relation to communication installations

(1) In resolving disputes arising in relation to communication installations, the Consumer Protection and Technical Regulatory Authority takes guidance from the provisions established in § 149 of Electronic Communications Act.

(2) Disputes arising in relation to communication installations must be resolved within six months.

§ 84¹. Building permit for a thermal power station

(1) In relation to the building or remodelling of a thermal power station, the application for the building permit is to be filed together with an analysis which meets the requirements of § 10 of the Energy Sector Organisation Act of the costs and benefits of turning the thermal power station into an efficient cogeneration plant, if such an analysis is required under that section.

(2) The building permit applied for in order to build or remodel a thermal power station is not granted if the building design documentation of the electrical installation of the thermal power station to be built or remodelled does not conform to a positive result of the analysis of costs and benefits mentioned in subsection 1 of this section.

[RT I, 05.07.2016, 3 – entry into force 15.07.2016]

§ 85. Use and occupancy notice and use and occupancy permit

(1) If, in order to begin using a construction work, a use and occupancy notice has to be filed or a use and occupancy permit is required, and if the construction work or an installation in the construction work is subject to an audit or inspection requirement, the use and occupancy notice or the application for a use and occupancy permit has to be accompanied by an opinion resulting from a pre-use audit or from an inspection, which shows the construction work or installation to be in conformity with the requirements.

[RT 30.12.2020, 2 – entry into force 01.03.2021]

(2) In relation to a lift, conformity assessment in accordance with the Product Conformity Act functions as a pre-use audit and the declaration of conformity by the lift's manufacturer that is drawn up based on such an assessment functions as the opinion resulting from the pre-use audit mentioned in subsection 1 of this section.

Chapter 10

Railway Civil Engineering Works

§ 86. Scope of application

The provisions in this Chapter apply to railway civil engineering works.

§ 87. Requirements for use and maintenance

In addition to the requirements arising from this Act, the use and maintenance of railway civil engineering works is subject to the requirements arising from the Railways Act.
[RT I, 30.10.2020, 1 – entry into force 31.10.2020]

§ 88. Design specifications

(1) The creation of building design documentation concerning a railway civil engineering work that is subject to the building permit requirement and that is mentioned in Annex 1 to this Code Design requires corresponding design specifications, except where such a civil engineering work is to be demolished.

(2) Design specifications for a railway civil engineering work are issued by the Consumer Protection and Technical Regulatory Authority.
[RT I, 30.10.2020, 1 – entry into force 31.10.2020]

(3) Approval for design specifications of a railway civil engineering work has to be obtained from the local authority concerned.
[RT I, 30.10.2020, 1 – entry into force 31.10.2020]

§ 89. Building notice and building permit

To build a railway civil engineering work, a building notice is filed with the Consumer Protection and Technical Regulatory Authority or a building permit is issued by the Authority.
[RT I, 30.10.2020, 1 – entry into force 31.10.2020]

§ 90. Use and occupancy notice and use and occupancy permit

In order to start using a railway civil engineering work, the use and occupancy notice is filed with the Consumer Protection and Technical Regulatory Authority who also issues the use and occupancy permit.

Chapter 11 Roads

§ 91. Scope of application

- (1) The requirements in this Chapter apply to public roads and to private roads accessible to the public.
- (2) The building, design and maintenance of roads and the related activities are not subject to the provisions concerning the register of construction works.

§ 92. Definitions

- (1) 'Road' means a civil engineering work that is intended for the movement or traffic of humans, vehicles or animals. Tunnels, bridges, overpasses and other civil engineering works used for traffic and required for the functioning of the road are regarded as parts of the road.
- (2) 'Highway' means a road that is located outside cities, towns or small towns and that is intended for vehicle and pedestrian traffic.
- (3) 'Street' means a road that is located in a city, town or small town.
- (4) A road may consist of different road types.
- (5) 'Public road' means a national road, local road and a private road appropriated for public use. Public roads may be used by everybody while observing the restrictions established in legislation.
- (6) 'National road' means a road that belongs to the State and in respect of which the duties of the owner are performed by the Transport Administration.
- (7) 'Local road' means a road in respect of which the duties of the owner are performed by the local authority. A local road may be a private road appropriated for public use, a road owned by the local authority or any other road that is needed for the organisation of local traffic and that is administrated by the local authority in accordance with a resolution of the local council.

(8) 'Private road accessible to the public' means a road that has a public function as determined by its owner and that is not a national or local road.

(9) 'Road of the trans-European road network' means a road that is located on the territory of Estonia and that is mentioned in Regulation (EU) No 1315/2013 of the European Parliament and of the Council.

(10) The Minister in charge of the policy sector enacts, by regulation, the list of road types and the list of civil engineering works that constitute a part of a road, the definitions of the terms related to the building and maintenance of roads and the list of national roads.

§ 93. Forest roads

(1) 'Forest road' means a road that is situated on land retained in the ownership of the State and that is used predominantly for the management of public forests. A forest road may be used by anyone, unless the person or government agency who arranges the management of public forests has closed the forest road or a part of the road or restricted traffic on the road.

(2) The person or government agency who arranges the management of public forests is authorised to enter into agreements concerning the use of forest roads and to arrange for the upkeep of such roads.

(3) The Minister in charge of the policy sector enacts, by regulation, the requirements for the condition of forest roads.

(4) A forest road must be marked by a name or indication.

(5) The person or government agency who arranges the management of public forests arranges for the building and upkeep of forest roads.

(6) The person or government agency who arranges the management of public forests may close a forest road or a part of the road or restrict traffic on the road:

- 1) if the load-bearing part of the road has deteriorated due to the thawing of the ground, rain or other factors that significantly affect traffic and traffic may damage the road or traffic on the road is dangerous;
- 2) for the purpose of fire safety;
- 3) for the purpose of protecting the ecosystems of the forest;
- 4) for the purpose of preventing the commission of an offence;
- 5) for the purpose of ensuring safety during forestry work or
- 6) if the road is not needed for the management of public forests or for local traffic.

(7) In order to close the forest road or restrict traffic, the person or government agency who arranges the management of public forests must install the required traffic control devices.

(8) The Minister in charge of the policy sector may make regulations to establish the requirements for the marking of forest roads and the rules for the road marking system.

§ 94. Acquisition of private roads in the public interest or appropriation of private roads for public use

[RT I, 29.06.2018, 1 – entry into force 01.07.2018]

(1) A private road is appropriated for public use by the State or the local authority in whose area of administration the private road is located.

(2) Acquisition of a private road in the public interest or subjection of a private road to compulsory possession is decided, in accordance with the rules provided by the Acquisition of Immovables in Public Interest Act, by the State or by the local authority in whose area of administration the private road is located.

[RT I, 29.06.2018, 1 – entry into force 01.07.2018]

(3) When a private road is appropriated for public use, the State or local authority assumes all obligations, rights and liability of the owner of the road. It is possible to stipulate, by a regulatory contract, that the obligations, rights and liability of the owner of the road remain vested in the owner of the private road.

[RT I, 29.06.2018, 1 – entry into force 01.07.2018]

(4) Within 7 days from the entry into force of the decision on appropriating a private road for public use, the State or local authority presents that decision and, in a machine-readable form, the data concerning the spatial extent of the road, to the keeper of the Land Cadastre.

[RT I, 29.06.2018, 1 – entry into force 01.07.2018]

§ 95. Right of pre-emption

(1) When a registered immovable is sold that is crossed by an existing or envisaged road which, according to the detailed spatial plan, is to be appropriated for public use, the local authority in whose area of administration the registered immovable is located has a right of pre-emption.

(2) The local authority does not have a right of pre-emption if the property is sold to the owner's spouse, descendant or parent, as well as to the owner's brother, sister, or any of their descendants or to the Republic of Estonia, and also when the property sold is a commonhold apartment, the right of superficies or the right of commonhold apartment superficies.

(3) A note concerning the fact that the registered immovable has been encumbered with a right of pre-emption mentioned in subsection 1 of this section is recorded in the third division of the land register entry concerning the immovable following an application by the local authority who adopted the detailed spatial plan that provides for designating the existing or envisaged road for public use. The recording of the note does not require the consent of the owner of the immovable. The application and the recorded note must cite this Code and this section and the detailed spatial plan that provides for designating the existing or envisaged road for public use.

(4) Where the entry in the Land Register shows that the registered immovable is encumbered with a right of pre-emption within the meaning of this section, the notary public, within five business days from authenticating the sales or other agreement that stipulates the obligation to acquire or transfer the registered immovable, transmits a notarially certified copy of the agreement by electronic means to the local authority in whose area of administration the registered immovable or construction work that is being sold is located, in order for the local authority to decide on the exercise of the right of pre-emption.

(5) The right of pre-emption provided by this section may not be exercised in respect of property that is sold by way of compulsory enforcement or as part of insolvency proceedings, and when immovable property is subjected to acquisition in the public interest, including to compulsory acquisition. Where an auction is to be held in respect of immovable property whose entry in the Land Register shows that it is encumbered with a right of pre-emption within the meaning of this section, the bailiff or trustee in bankruptcy transmits, at least ten days before the auction is held, the corresponding notice to the local authority in whose territory the immovable property is located.

[RT I, 29.06.2018, 1 – entry into force 01.07.2018]

§ 96. Requirements for the building of roads

(1) When building or designing any tunnels whose length exceeds 500 metres, regard must be had to the requirements established in Directive 2004/54/EU of the European Parliament and of the Council on minimum safety requirements for tunnels in the trans-European road network.

(2) The Minister in charge of the policy sector may make regulations to establish the requirements for the building and designing of tunnels whose length exceeds 500 metres and to designate the authority responsible for ensuring the safety of the tunnel.

(3) The Minister in charge of the policy sector enacts, by regulation, the quality requirements for the building of roads.

§ 97. Road maintenance

(1) Roads and any civil engineering works required for the functioning of the road must be maintained such that they conform to the requirements and such that the conditions for safe traffic are ensured.

(2) The Minister in charge of the policy sector enacts, by regulation, the requirements for the condition of roads.

(3) At level crossings, building and maintenance work on the intersection is performed and conditions for safe traffic are ensured by the owner of the road, the railway infrastructure manager or the owner or possessor of the railway within the extent of the registered immovable in their possession, except for winter maintenance work which is to be performed by the owner of the road to the extent of the entire area of the level crossing. The owner of the road, the railway infrastructure manager or any other owner or possessor of the railway conclude an agreement that stipulates the details pertaining to winter maintenance work.

(4) At the crossing of roads belonging to different owners, each owner is responsible, within their registered immovable, for the condition of the road that is necessary for ensuring safe traffic.

(5) The upkeep of a non-road civil engineering work, including a soil amelioration or hydro-technical civil engineering work, that is located on the road and that is owned by another person is ensured by the owner of the non-road civil engineering work, which does not preclude the responsibility of the owner of the road to the person who sustained damage due to the non-conformity of the road to the requirements for road condition. The owner of the non-road civil engineering work is liable to compensate the owner of the road in accordance with the rules established in the Law of Obligations Act.

(6) In a city, town and small town, the owner of the land adjacent to the road must arrange the clearing of the pavement that runs between their registered immovable and the carriageway, including snow clearing and gritting to an extent that allows for safe pedestrian traffic on the pavement.

(7) The undertaking that maintains a national road is deemed a provider of the vital service mentioned in clause 4 of subsection 1 of § 36 of the Emergencies Act.
[RT I, 03.03.2017 – entry into force 01.07.2017]

(8) The undertaking that maintains a local road and that operates in a densely populated area in the territory of a local authority that has at least 10,000 residents, is deemed a provider of the vital service mentioned in clause 2 of subsection 4 of § 36 of the Emergencies Act.
[RT I, 03.03.2017 – entry into force 01.07.2017]

(9) The undertaking that maintains a local road is deemed a provider of services of general economic interest for the purposes of the General Part of the Economic Activities Code Act.
[RT I, 03.03.2017 – entry into force 01.07.2017]

§ 98. Owner supervision

When building a road subject to the building permit requirement, owner supervision must be performed.

§ 99. Building design documentation and design specifications

(1) Design specifications are required for the creation of building design documentation concerning any road that is subject to the building permit requirement and that is named in Annex 1 to this Code, provided the exact location of the road has not been determined in the relevant spatial plan.

(2) The design specifications for the road, except for national roads, are issued together with the traffic arrangement requirements by the local authority. The design specifications for national roads are issued by the Transport Administration.

(3) When connecting to an existing road or constructing utility network lines within the road area, the building design documentation must be approved by the owner of the road. The owner of the road may stipulate requirements, above all, in respect of:

- 1) materials;
- 2) measurements;
- 3) structural parameters;
- 4) technology.

(4) The Minister in charge of the policy sector enacts, by regulation, standards for the design of roads.

§ 100. Documentation of the building work performed on roads

The documents concerning building work performed on a national road must be handed over to the Transport Administration and the documents concerning building work performed on a local road must be handed over to the local authority.

§ 101. Building notice and building permit

(1) In order to perform building work on a road, a building notice is filed with the local authority, or a corresponding building permit is issued by the local authority.

(2) In order to perform building work on a national road, a building notice is filed with the Transport Administration, or a corresponding building permit is issued by the Transport Administration.

(3) Where a road is to be built together with other construction works that form a functional whole with it, the authority to issue the building permit may consolidate the proceedings concerning the issuing of the building permits concerned.

§ 102. Audits

(1) The tasks of the competent entity provided for by Directive 2008/96/EU of the European Parliament and of the Council on road infrastructure safety management (OJ L 319, 29.11.2008, pp. 59–67) are performed with regard to national roads by the Transport Administration and with regard to local roads by the local authority.
[RT I, 30.11.2021, 2 – entry into force 17.12.2021]

(1¹) Within the framework of the tasks provided for by subsection 1 of this section, the competent entity also arranges the performance of road safety impact assessments, road safety audits, network-wide road safety assessments and periodic road safety inspections with regard to:

- 1) roads which are part of the trans-European road network;
 - 2) motorways and primary roads;
 - 3) public-use roads built with funds from the European Union, except for roads providing access to a plot, pavements, foot paths, bicycle paths as well as foot and bicycle paths.
- [RT I, 30.11.2021, 2 – entry into force 17.12.2021]

(2) The Minister in charge of the policy sector enacts, by regulation:

- 1) the requirements for road safety impact assessments;
 - 2) the requirements for road safety audits;
 - 3) the requirements for network-wide road safety assessments;
 - 4) the requirements for periodic road safety inspections;
 - 5) the curriculum for road safety auditor training courses.
- [RT I, 30.11.2021, 2 – entry into force 17.12.2021]

§ 103. Register of Roads

- (1) The purpose of the Register of Roads is to process and disseminate information concerning roads.
- (2) The Government of the Republic, by regulation, establishes the Register of Roads and enacts its Constitutive Regulations.
- (3) The controller of the data in the Register of Roads is the Transport Administration.
- (4) The information in the Register of Roads includes:
 - 1) technical specifications of the road;
 - 2) specifications concerning the civil engineering works required for the functioning of the road.
- (5) The Register of Roads consists of:
 - 1) the Database of National Roads;
 - 2) the Database of Local Roads;
 - 3) the Database of Private Roads Assigned for Public Use.
- (6) The information in the Register of Roads is accessible to the public.
- (7) The owner of a road is obligated to file the particulars of the road within 30 days following acceptance of the road or following the issue of a use permit in respect of the road.
- (8) The Constitutive Regulations may also provide for the possibility of other roads, which are not regulated in this part of the Code or in this Code, being registered in the Register of Roads.
- (9) The information in the Register of Roads is disseminated through the Register's website.

Chapter 12 Construction Works in Public Water Bodies

Subchapter 1 Scope of Application

[RT I, 27.04.2022, 1 - entry into force 07.05.2022]

§ 104. Scope of application

- (1) The provisions of this Chapter apply to the building of construction works in a public water body, and to encumbering such a water body with a construction work that does not have a permanent connection to the shore.
[RT I, 27.04.2022, 1 – entry into force 07.05.2022]
- (2) Submerged cable lines, pipelines and other utility network lines and utility works that are connected to the shore, as well as construction works that are connected to the shore by means of submerged cable lines, pipelines and other utility network lines and utility works, are not deemed to constitute construction works that have a permanent connection to the shore.
- (3) The provisions of this Chapter do not apply to the deepening of water bodies, to navigation signs and to the building of bridges that form a part of the road.
- (4) Any monuments located in public water bodies are subject to special rules provided by the Heritage Conservation Act.

Subchapter 2 Building a Construction Work in a Public Water Body

§ 105. Design specifications

(1) Design specifications for construction works to be situated in a public water body and to have a permanent connection to the shore are issued by the local authority within whose area of administration the registered immovable that is located on the shoreline and that is to support the building of the construction work.

(2) Unless otherwise provided by law, design specifications are not required for creating building design documentation concerning construction works that do not have a permanent connection to the shore.

(3) Where this is needed, the local authority issues design specifications for the following construction works that do not have a permanent connection to the shore (hereinafter, 'construction work functionally connected to the shore'):

- 1) a harbour facility required to service water craft, including any quays, protection moles or breakwaters;
- 2) a water traffic facility that is functionally connected to the harbour;
- 3) a utility network line or utility work required to service the construction works mentioned in clauses 1 and 2 of this subsection;
- 4) a civil engineering work which is to be situated in a public water body and which is required to service a construction work located on the shore, except for any utility network lines or utility works that cross the national border or an administrative boundary between counties;
- 5) a sport or recreation facility which is envisaged without a permanent connection to the shore and which is to service a bathing beach;
- 6) to a construction work such as a floating hotel, sauna, restaurant or any other such work that serves persons arriving from the shore.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 106. Building notice

(1) In order to build, in a public water body, a construction work that has a permanent connection to the shore or that is functionally connected to the shore, a building notice is filed with the local authority.

(2) In order to build, in a public water body, a construction work that has no permanent connection to the shore, a building notice is filed with the Consumer Protection and Technical Regulatory Authority.

(3) In order to build, in a public water body, a construction work that has no permanent connection to the shore, a superficies licence is filed together with the building notice.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 107. Authority competent to issue building permits

(1) The competent authority to issue the building permit for building, in a public water body, a construction work that has a permanent connection to the shore or that is functionally connected to the shore is the local authority.

(2) The competent authority to issue the building permit for building, in a public water body, a construction work that has no permanent connection to the shore is the Consumer Protection and Technical Regulatory Authority.

§ 108. Application for a building permit

(1) Applications for a building permit concerning construction works that have a permanent connection to the shore or that have no such connection state, in addition to the particulars required under the General Part of this Code, the coordinates and surface area to be occupied by the construction work, or the coordinates and the surface area on which building work is to be performed.

(2) For a construction work that will not have a permanent connection to the shore and that is mentioned in clauses 1–4 of subsection 3 of § 105 of this Code, a superficies licence must be applied for in accordance with § 113³ of this Code before filing the application for a building permit.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

(3) When filing an application for a building permit concerning a construction work that will not have a permanent connection to the shore, the requirements for applications for a superficies licence applicable by virtue of the General Part of this Code and by virtue of subsection 2 of § 113³ are followed.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

(4) Where, in respect of the area identified in the application, other proceedings for the issue of a building permit or superficies licence have been opened, and the nature of the construction work to be built based on those proceedings is such as to rule out the issue, in respect of the area, of a second superficies licence, the competent authority may return the application for a building permit without considering it.

§ 109. Procedure for issuing building permits

(1) The competent authority may, by way of ancillary conditions to the building permit for a construction work which is to be situated in a public water body and which will not have a permanent connection to the shore, in addition to the conditions contained in the General Part of this Code, establish:

- 1) the time limit for demolishing the construction work and removing it from the public water body, and the related conditions, or
- 2) conditions connected to the use and operation mode of the construction work.

(2) The competent authority refuses to issue a building permit for a construction work which is to be situated in a public water body and which will, or will not, have a permanent connection to the shore, in addition to the conditions contained in the General Part of this Code, under the conditions provided by § 113³.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

(3) [Repealed – RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 110. Use and occupancy notice

(1) In order to use and occupy a construction work that is located in a public water body and that has a permanent connection to the shore or that is functionally connected to the shore, the use and occupancy notice is filed with the local authority.

(2) In order to use and occupy a construction work that is located in a public water body and that does not have a permanent connection to the shore, a use and occupancy notice is filed with the Consumer Protection and Technical Regulatory Authority.

(3) Where the building, in a public water body, of a construction work that has a permanent connection to the shore, led to a shift in the shoreline of the water body and to an increase in the surface area of the registered immovable located on the shore, the use and occupancy notice may be filed only after the shift of the shoreline and the increase of the registered immovable located on the shore have been recorded in the Land Cadastre and in the Land Register.

§ 111. Authority competent to issue use and occupancy permits

(1) The competent authority to issue the use and occupancy permit in respect of a construction work that is located in a public water body and has a permanent connection to the shore or that is functionally connected to the shore is the local authority.

(2) The competent authority to issue the use and occupancy permit in respect of a construction work that is located in a public water body and has no permanent connection to the shore is the Consumer Protection and Technical Regulatory Authority.

§ 112. Applications for use and occupancy permit

Applications for use and occupancy permit concerning construction works that have a permanent connection to the shore or that have no such connection state the coordinates and surface area of the area occupied by the construction work or of the area on which building work was performed.

§ 113. Procedure for issuing use and occupancy permits

(1) The competent authority may, by way of ancillary conditions to the use and occupancy permit for a construction work that is located in a public water body and that has or does not have a permanent connection to the shore, in addition to the conditions contained in the General Part of this Code, establish:

- 1) the time limit for demolishing the construction work and removing it from the public water body, and the related conditions, or
- 2) conditions connected to the use and operation mode of the construction work.

(2) The competent authority refuses to issue the use and occupancy permit for a construction work that is located in a public water body and that has or does not have a permanent connection to the shore, in addition to the conditions contained in the General Part of this Code, if the construction work:

- 1) contravenes the interests of national security;
- 2) may disturb air traffic, vessel traffic on shipping lanes or in a harbour, or disturb the safe mooring of water craft;
- 3) contravenes the conditions established in the superficies licence or
- 4) contravenes another public interest.

(3) Where the building, in a public water body, of a construction work that has a permanent connection to the shore, led to a shift in the shoreline of the water body and to an increase in the surface area of the registered

immovable located on the shore, the use and occupancy permit is issued only after the shift of the shoreline and the increase of the registered immovable located on the shore have been recorded in the Land Cadastre and in the Land Register and when, in accordance with the Water Act, the fee for encumbering a public water body with a construction work has been paid.

(4) The competent authority may refuse to issue the use and occupancy permit for a construction work that is located in a public water body and that does not have a permanent connection to the shore if the applicant is not a person of a member state of the European Union or the European Economic Area.

(5) A use and occupancy permit for using and occupying a construction work that is located in a public water body and that does not have a permanent connection to the shore is effective until expiry of the superficies licence on the basis of which the construction work was built, unless otherwise provided by the permit.

Subchapter 3

Encumbering a Public Water Body with a Construction Work that Does Not Have a Permanent Connection to the Shore

[RT I, 27.04.2022, 1 - entry into force 07.05.2022]

§ 113¹. Superficies licence

(1) ‘Superficies licence’ means a right to encumber, for a specified period of time, a delimited part of a public water body with a construction work that is permanently connected to the bottom of the water body but does not have a permanent connection to the shore. The State is not required to apply for a superficies licence to encumber a public water body with a construction work.

(2) A construction work which has been built under a superficies licence and which is covered by that licence constitutes an essential part of the licence and belongs to the holder of the licence as the holder’s property. Any construction works that are permanently connected to the bottom of a public water body but do not have permanent connection to the shore and do not possess a superficies licence – or whose superficies licence has expired or has been revoked – constitute an essential part of the public water body and belong to the State as the State’s property.

(3) Unless otherwise provided by law, the superficies licence does not replace other permits prescribed by law that are required for building and using a construction work that constitutes an essential part of the licence.

(4) The area to be encumbered in the public water body is made up of the surface projection area of the construction work and of any civil engineering works required to service the construction work. Where construction works are built under a single superficies licence, the area to be encumbered is also deemed to include any distances of up to 1000 metres between the construction works, which are calculated based on the width dimension of the construction works. In the case of a wind power plant, the surface projection area is also deemed to include distances of up to 1000 metres between wind turbines that are part of the plant – calculated based on the width dimension of the turbines – as well as the surface projection area of any civil engineering works required to service the plant.

(5) This Subchapter does not apply to the dredging of public water bodies or to any navigation aids that are to be installed in such bodies.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113². Superficies licence proceedings commenced by the State

(1) The State may apply for a superficies licence in order to encumber a public water body with:

- 1) an offshore wind farm;
- 2) a construction work intended to serve the purposes of an aquaculture-related commercial venture.

(2) Within 18 months following the issuing of the superficies licence, the State arranges a public auction or a selective tender to transfer the licence.

(3) When conducting the public auction or selective tender, the administrator of State assets or a person authorised by the administrator follows the State Assets Act without prejudice to special rules provided by this Act.

(4) Where the State files an application for a superficies licence, any other such applications that have been filed for the same water body area are returned by the Consumer Protection and Technical Regulatory Authority (hereinafter in this Subchapter, ‘the competent authority’) without further consideration.

(5) Section 113⁶ does not apply in proceedings on an application for a superficies licence filed by the State.

(6) The rules for proceedings on applications commenced by the State for a superficies licence to encumber a public water body with a construction work, and the rules for public auctions and selective tenders of the superficies licence are enacted by a regulation of the Government of the Republic.
[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113³. Applying for a superficies licence

- (1) An application for a superficies licence is filed with the competent authority.
- (2) An application for a superficies licence must contain the following information:
- 1) the purpose of use of the construction work;
 - 2) the maximum height and depth of the construction work and other technical particulars that are material in the case;
 - 3) the number of construction works on the encumbered area and the ground projection area of the construction works;
 - 4) the coordinates of the area to be encumbered in the public water body and the area's size in square metres;
 - 5) where a public water body is to be encumbered by a power plant, the potential capacity of the plant and the system operator's technical conditions for its connection to the transmission network, except where the applicant is the system operator;
 - 6) a list of envisaged investigations which the applicant intends to undertake in order for a decision to be made concerning the application;
 - 7) the applied-for duration of the licence;
 - 8) for a company or a non-profit association, a declaration certifying that the information filed with the Commercial Register or the Register of Non-Profit Associations and Foundations concerning the company's shareholders or members of the non-profit association, and its beneficial owners, is complete and accurate;
 - 9) particulars concerning the sources of funding intended to finance the completion and subsequent use of the construction work that constitutes the subject matter of the licence;
 - 10) where this is required by the competent authority, any other relevant information or documents related to the application.
- (3) A map of the layout of the envisaged construction work and of any civil engineering works required for servicing the construction work, including submerged cable lines, and any other documents material to deciding on encumbering the public water body with the construction work are annexed to the application. When the investigations and the environmental impact assessment – as determined by the competent authority – have been performed, the applicant files the investigation reports and the environmental impact assessment report with the authority. Where, on having conducted the investigations and environmental impact assessment, new specifics are included in the documents initially annexed to the application, the applicant files the documents anew.
- (4) The Minister in charge of the policy sector may, by regulation, enact a list of particulars to be stated in applications for a superficies licence as well as specific requirements for such applications and their annexes.
[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113⁴. Initiating superficies licence proceedings

- (1) Initiation of, or refusal to initiate, superficies licence proceedings is decided by the competent authority.
- (2) Within the time limit provided by subsection 3 of § 113⁷, subsection 3 of § 113⁹ or subsection 4 of § 113¹¹ of this Code, the competent authority makes a decision to initiate – or refuse to initiate – superficies licence proceedings. Where this is justified, the authority has a right to extend the time limit.
- (3) When initiating superficies licence proceedings, the competent authority determines:
- 1) the person on whose application the proceedings are to be conducted;
 - 2) whether or not to initiate environmental impact assessment;
 - 3) where this is needed, any investigations that the applicant for the superficies licence must conduct for a decision to be made concerning the issuing of the licence, and the time limits for such investigations;
 - 4) where this is needed, any conditions that are to be observed if other superficies licence proceedings have been initiated regarding the area identified in the application, or where – concerning a delimited area in the public water body concerned – another valid superficies licence is present;
 - 5) any other conditions that are required.
- (4) The competent authority may, on a reasoned application of the applicant for a superficies licence, extend the time limit for conducting any investigations or for complying with any other conditions determined on initiation of superficies licence proceedings.
[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113⁵. Opinion of the relevant authority

(1) The competent authority refers an application for a superficies licence to the relevant authorities for an opinion. The time limit for providing an opinion is 30 days. If, within the set time limit, the relevant authority has not provided an opinion or extended the time limit, the application may be disposed of without that authority's opinion.

(2) The relevant authority provides an opinion – in relation to the applicant and to the envisaged construction work – concerning their potential to endanger humans, property, the environment, national security, continuity of provision of a vital service, operation of the State's communications, a national defence object or the economy.

(3) The relevant authority may request – from any person and from the applicant – any documents or additional information that it needs in order to form its opinion.

(4) The relevant authority has a right to propose that initiation of superficies licence proceedings be refused, if:

- 1) in the authority's assessment, a significant adverse impact to human life, health, the environment or property is present which it is not possible to sufficiently avoid or alleviate;

- 2) based on the authority's assessment of potential dangers involved, the applicant or the envisaged construction work poses a danger to national security, continuity of provision of a vital service, operation of the State's communications, a national defence object or the economy and it is not possible to avoid the danger;

- 3) the applicant has not, within the time limit set, produced the documents or additional information mentioned in subsection 3 of this section or made an application for the time limit to be extended;

- 4) the documents or additional information produced under subsection 3 of this section are inaccurate and the applicant has not cured their defects within 30 days following having been issued the corresponding requirement by the relevant authority.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113⁶. Notice of application for a superficies licence

(1) Where the relevant authority does not, under subsection 4 of § 113⁵ of this Code, make a proposal to refuse initiation of the superficies licence and where circumstances provided for by subsections 1 and 2 of § 113¹¹ do not apply, the competent authority – prior to initiating superficies licence proceedings – publishes a notice in the official publication *Ametlikud Teadaanded*, in at least one daily newspaper of national circulation and on its website.

(2) The notice states the particulars of the applicant and of the application and – according to § 113⁷ of this Code – the rules and time limit for filing any parallel applications for a superficies licence.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113⁷. Parallel application for a superficies licence

(1) Within 60 days following publication of the notice provided for by subsection 1 of § 113⁶ of this Code, an interested party has a right to file their own application for a superficies licence for encumbering the same delimited area of the public water body part with a construction work.

(2) Where consideration of the application suggests an absence of interest by any other parties in filing a parallel application for a superficies licence, the competent authority has a right to reduce – but not to less than 30 days – the time limit provided by subsection 1 of this section for the filing of such applications.

(3) If no parallel application for a superficies licence has been filed within the time limit stated in the notice provided for by subsection 1 of § 113⁶ of this Code, within 90 days following expiry of the time limit the competent authority makes a decision on initiating superficies licence proceedings. Where this is justified, the authority has a right to extend the time limit.

(4) Where a parallel application for a superficies licence is filed within the time limit stated in the notice published in accordance with subsection 2 of § 113⁶ of this Code and the construction work that the application envisages to encumber the delimited area of the public water body is substantially different from the construction work described in the first application, the competent authority, following the rules provided by § 113⁵ of this Code, refers the parallel application to the relevant authorities for an opinion.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113⁸. Amending an application for a superficies licence

(1) Where the area to be encumbered in the public water body, as stated in the application for a superficies licence, is amended before a decision is made on initiating superficies licence proceedings. The competent authority requests an opinion from the relevant authorities following the rules provided by § 113⁵ of this Code. Where the amendment reduces the area to be encumbered, the competent authority may decide not to request such an opinion.

(2) Where this is justified, the area to be encumbered in the public water body – as stated in the application for a superficies licence – can be amended after the notice provided for by § 113⁶ of this Code has been published and the procedure provided by § 113⁹ has taken place. Where, after publication of the notice, the location of the area is changed or the area is increased by more than 33 per cent, the competent authority publishes a new notice according to § 113⁶ of this Code and, if any parallel applications are filed, deals with these according to subsection 4 of § 113⁷ and § 113⁹.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113⁹. Assessment of competing applications for a superficies licence

(1) Where more than one application has been filed with the competent authority concerning a delimited area in a public water body (hereinafter, ‘competing application’), in relation to which no grounds apply for refusing to initiate superficies licence proceedings, the proceedings are initiated on the application that meets the aspects provided by subsection 2 of this section. If these aspects are met by several competing applications, a competitive tender provided for by subsection 1 of § 113¹⁰ of this Code is held. With respect to any other applications, the authority issues a refusal decision.

(2) The competent authority assesses competing applications having regard to:

- 1) the opinion of the relevant authority;
- 2) guidelines provided by relevant spatial plans;
- 3) environmental considerations;
- 4) substance of the business activities of the applicant;
- 5) economic strength of the applicant;
- 6) economic profit that accrues to the State;
- 7) the period for erecting and using the construction work to be built on an area in a public water body;
- 8) the social usefulness of the project;
- 9) the purpose of use of the area in the public water body;
- 10) whether the project meets the aims provided for by the State’s strategic documents;
- 11) the preferences of the State for use of the area in the public water body.

(3) The competent authority makes the decision by which it initiates or refuses to initiate superficies licence proceedings within 90 days following approval of the results of assessment of applications for a superficies licence. Where this is justified, the authority has a right to extend the time limit.

(4) The conditions and rules for assessment of competing applications are enacted by a regulation of the Minister in charge of the policy area.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113¹⁰. Initiating superficies licence proceedings by competitive tender

(1) Where no refusal decision has been made under subsection 1 of § 113⁹ of this Code, the competent authority – within 60 days following approval of the results of assessment of the applications – arranges an auction-based competitive tender between the parties who filed the competing applications.

(2) When it announces a competitive tender, the competent authority determines:

- 1) the starting price for the auction, depending on the size of the area to be encumbered in the public water body, the purpose of use and type of the construction work;
- 2) the amount of the deposit fee, which is two per cent of the starting price in the case of offshore wind farms and ten per cent in the case of other construction works;
- 3) whether the competitive tender is held as a public or a written auction;
- 4) the requirements for bids.

(3) The deposit fee is returned once the winner has emerged or the tender has been declared unsuccessful. The winner’s deposit is deducted from the bid made in the auction.

(4) The deposit fee is not returned to a person who caused the auction to be declared unsuccessful under clause 2 or 3 of subsection 7 of this section.

(5) The competent authority does not admit to the competitive tender – as a participant in that tender – an applicant who filed a competing application if they have not paid the deposit fee within the time limit.

(6) The competent authority rejects a bid made by a participant if the bid does not comply with the requirements.

(7) The competent authority declares a competitive tender unsuccessful if:

- 1) the rules for conducting the tender have been broken;

2) after the tender has taken place, it comes to light that the winner has filed false information;
3) – when the winner does not, within the time limit, pay the amount they have bid or withdraws their application for a superficies licence – only one bid remains which complies with the requirements.

(8) Where a competitive tender is declared unsuccessful, the competent authority arranges a new competitive tender within 30 days following the day on which the bids were opened.

(9) The person who filed a competing application and whose actions or omissions caused the competitive tender to be declared unsuccessful is not allowed to participate in a new competitive tender arranged under subsection 8 of this section and, with respect to their application, the competent authority makes a decision by which it refuses to initiate superficies licence proceedings.

(10) Superficies licence proceedings are initiated for the participant of the competitive tender who has bid the highest price in that tender and who, within the time limit determined in the notice of the tender, pays the amount they have bid.

(11) Where a competitive tender is declared unsuccessful under clause 3 of subsection 7 of this section, superficies licence proceedings are initiated for the participant of the tender who bid the next best price, provided that, within the time limit set by the competent authority, they pay the amount they have bid.

(12) Based on subsections 10 and 11 of this section, the competent authority ascertains the applicant for whom superficies licence proceedings are to be initiated, and – within 90 days following the applicant's having been ascertained – makes a decision by which it initiates such proceedings. With respect to any other competing applications, the authority – within the same time limit – enters a decision by which it refuses to initiate the proceedings. Where this is justified, the authority has a right to extend the time limit.

(13) Where circumstances provided for by § 113¹¹ of this Code come to light, superficies licence proceedings that were initiated by competitive tender may end with a refusal to issue the licence.

(14) The rules for initiating superficies licence proceedings by competitive tender as well as the methods for setting the starting price of the auction and the deposit fee of the tender are enacted by a regulation of the Minister in charge of the policy sector.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113¹¹. Refusing to initiate superficies licence proceedings

(1) Where it is manifest that it is impossible to issue a superficies licence, the competent authority refuses to initiate superficies licence proceedings.

(2) The competent authority also refuses to initiate superficies licence proceedings where:

1) for the delimited area of the water body that is described in the application, proceedings have already been initiated for the issue of another superficies licence, and it is not possible to issue a second superficies licence for the area due to the nature of the construction work to be built under the superficies licence that may be issued as a result of such proceedings;

2) the application is contrary to a spatial plan that is in effect for the delimited area of the water body that is described in the application;

3) a spatial planning proceedings have been initiated in respect of the delimited area of the water body described in the application, and have not been completed;

4) a national special spatial plan has to be adopted in order to build the envisaged construction work;

5) a significant adverse impact for human life, health, the environment or property is present which cannot be sufficiently avoided or alleviated;

6) the applicant or a person connected to the applicant or the envisaged construction work creates a danger to national security, to continuity of provision of a vital service, to operation of the State's communications, to a national defence object or the economy and the danger cannot be eliminated;

7) regarding the applicant, circumstances are present that are provided for by clause 3 or 4 of subsection 4 of § 113⁵ or by the third sentence of subsection 1 of § 113⁹ or by subsection 9 or the second sentence of subsection 12 of § 113¹⁰ or by clause 2, 4 or 6 of subsection 1 or by subsection 3 of § 113¹³ of this Code.

(3) The provision of clause 3 of subsection 2 of this section does not apply to a construction work provided for by subsection 2 of § 104 of this Code and to a temporary construction work if the applicant accepts that the superficies licence will be issued for the period of validity provided by subsection 4 of § 113¹⁴.

(4) Unless otherwise provided for by this Code, within 90 days following emergence of a circumstance provided for by subsection 2 of this section the competent authority makes a decision by which it refuses to initiate superficies licence proceedings. Where this is justified, the authority has a right to extend that time limit. that constitutes an essential part of the superficies licence would interfere with aviation, with navigation along a fairway or in a port basin or with the safe docking of water craft

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113¹². Issuing a superficies licence

- (1) A superficies licence is issued by the competent authority.
- (2) When issuing a superficies licence, the following conditions of the licence are determined:
 - 1) the licence holder;
 - 2) the coordinates and size in square metres of the encumbered area in the public water body, including the area to be taken up by the envisaged construction work;
 - 3) the location of the construction work in the area encumbered;
 - 4) the purpose of use of the construction work;
 - 5) the maximum authorised height and depth as well as any other important technical particulars of the construction work;
 - 6) the maximum authorised number of construction works and the maximum ground projection area that is authorised for a construction work;
 - 7) the validity period of the licence;
 - 8) restrictions on using the licence;
 - 9) any other necessary conditions.
- (3) In the course of superficies licence proceedings, based on the results of environmental impact assessment and of any investigations that have been conducted, the location of the area to be encumbered in a public water body may – by reference to the coordinates stated and compared to the area determined in the decision by which the proceedings were initiated – be modified, or the area may be increased, by up to 33 per cent, or reduced to a greater extent. The location of the area must not be modified or increased such that it comes to encompass a location to which a superficies licence has been issued or regarding which proceedings for issuing another superficies licence have been initiated, and it is not possible to realise both licences concurrently.
- (4) The competent authority requests the opinion of the relevant authority under the rules provided by § 113⁵ of this Code concerning any increase of or modification of location to the area to be encumbered in a public water body where such increase or modification exceeds 33 per cent.
[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113¹³. Refusing to issue a superficies licence

- (1) The competent authority refuses to issue a superficies licence where:
 - 1) the applicant has not fulfilled the requirements set in the decision to initiate superficies licence proceedings and has not applied for a new time limit for fulfilling these;
 - 2) the conditions of the licence applied for are contrary to a superficies licence which is in effect;
 - 3) the conditions of the licence applied for are contrary to a spatial plan that is in effect;
 - 4) the conditions of the licence applied for are contrary to the State's security interests;
 - 5) there is a significant negative environmental impact that cannot be sufficiently avoided or alleviated;
 - 6) the construction work that constitutes an essential part of the licence would interfere with air traffic, with vessel traffic in a fairway or port basin or with the safe berthing of water craft;
 - 7) based on the results of superficies licence proceedings, the area to be encumbered in the public water body needs to be modified and the applicant does not accept the modifications.
- (2) The competent authority may also refuse to issue a superficies licence if reasonable doubts are present that the applicant, a person connected with the applicant or the envisaged construction work may endanger national security, continuity of provision of a vital service, operation of the State's communications, a national defence object or the economy.
- (3) The competent authority may refuse to issue a superficies licence to a person who is not a citizen or legal person of Estonia or of a state party to the European Economic Area and whose superficies licence application is not aligned with material interests of the State.
[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113¹⁴. Period of validity of a superficies licence

- (1) A superficies licence is valid for up to 50 years. When determining the period of validity, the competent authority has regard to the type and purpose of use of the construction work.
- (2) The competent authority may, on an application of the licence holder, extend a superficies licence by up to 50 years. An application for extending the licence is filed at least three months before expiry of the licence period.
- (3) Extending the period of validity of a superficies licence is subject to the provisions of § 113¹⁵ of this Code.

(4) Where an application for a superficies licence is filed regarding an area in respect of which a spatial planning exercise has been initiated and the proceedings have not been concluded, the competent authority may issue a provisional superficies licence. The provisional licence is reviewed within one year following entry into effect of the spatial plan. If there are no incompatibilities between the provisional licence and the plan, the authority issues a superficies licence for a period of validity determined in accordance with subsection 1 of this section – on the same terms as those of the provisional licence. In the case of incompatibility with the plan, the superficies licence is not issued and the provisional licence lapses.
[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113¹⁵. Varying the conditions of a superficies licence

(1) The competent authority may, on an application of the holder of the superficies licence or of its own motion, vary the conditions of the licence.

(2) The competent authority may, on an application of the holder of the superficies licence, transfer the licence to another person.

(3) The competent authority refuses to vary the conditions or particulars of a superficies licence where grounds for refusing to issue the licence apply.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113¹⁶. Passing of a superficies licence to the universal successor

(1) Where a superficies licence has passed to another person under the rules of universal succession, the competent authority amends the licence holder particulars on an application of the universal successor or of its own motion.

(2) When a superficies licence passes to a universal successor, the other conditions of the licence remain unchanged.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113¹⁷. Preliminary verification on transfer of a superficies licence or on transfer of a significant holding in a company that holds a superficies licence

(1) Before acquiring a superficies licence or a significant shareholding – within the meaning of § 9 of the Securities Market Act – in a company that holds a superficies licence, the person who wishes to acquire (below in this section, ‘the acquiring party’) such a licence or shareholding files an application with the competent authority which contains at least the following particulars:

1) the name, seat, registration number or personal identification number (or, where the person does not possess such a number, their date of birth), information concerning participation in another legal person or in a pool of assets and particulars concerning the person who is under the control of the acquiring party;

2) a list of the shareholders of the legal person who is the acquiring party, information concerning the number of shares and of votes that belongs to each shareholder in the legal person or pool of assets, and particulars concerning persons who have control over shareholders of the acquiring party;

3) for each member of the management board and of the supervisory board of the legal person who is the acquiring party, their given name and surname, personal identification number or, where the person does not possess such a number, their date of birth;

4) where the legal person who is the acquiring party is part of a consolidation group, a description of the structure of the group together with particulars concerning the size of the shareholdings of the undertakings that belong to the group.

(2) A legal person who is the acquiring party and who has been established and whose activities are mainly conducted outside Estonia files the particulars mentioned in subsection 1 of this section together with the annual report of its last financial year which has been translated into the Estonian or the English language and certified by a public document certificate (*apostille*).

(3) The competent authority may require additional information in order to obtain more specific information in respect of or verify the particulars mentioned in subsections 1 and 2 of this section.

(4) The competent authority requests the opinion of the relevant authorities concerning transfer, to another person, of a superficies licence or of a significant shareholding in a company that holds such a licence.

(5) Having regard – in respect of the acquiring party – to the provisions of § 11313 of this Code, the competent authority makes a decision by which it authorises the transfer of the superficies licence or the acquisition of a significant shareholding in a company that holds the licence, or refuses to authorise it. Where the authority has made a decision by which it refused to authorise the transfer or acquisition, the transfer or acquisition is prohibited and any transaction that violates the prohibition is void.

(6) On the transfer of a superficies licence to another person the competent authority amends the licence holder particulars on the licence. The other conditions of the licence remain unchanged on transfer.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113¹⁸. Revoking a superficies licence

(1) The competent authority may revoke a superficies licence of its own motion or on an application of the licence holder.

(2) The competent authority revokes a superficies licence where:

- 1) the licence holder has applied for this;
- 2) the licence holder has materially violated the conditions of the licence;
- 3) within five years following the issue of the licence, no building permit has been issued to the licence holder in respect of the area covered by the licence, and the holder has not applied for an extension of that time limit;
- 4) within two years following the destruction or becoming unfit for use of the construction work that constitutes an essential part of the licence, the licence holder has not filed an application for a building permit or applied for a new time limit to make such an application;
- 5) the construction work that constitutes an essential part of the licence poses a danger to human life, health, property, the environment, national security, continuity of provision of a vital service, operation of the State's communications, a national defence object or the economy;
- 6) the licence holder has been late paying the superficies fee on three consecutive due dates;
- 7) the licence holder has knowingly filed false particulars which had an impact on the decision to issue the licence.

(3) The competent authority may also revoke a superficies licence where a ground mentioned in subsection 2 of § 113¹³ comes to light after the licence has been issued.

(4) The competent authority decides on revoking the superficies licence after it has issued a compliance notice to the licence holder for the defects to be cured, and the holder has not complied with the notice.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113¹⁹. Replacing a superficies licence with a right of superficies

(1) Where, during the period of validity of a superficies licence, the part of the public water body encumbered with the licence permanently becomes land, the validity of the licence lapses as of the creation of the corresponding cadastral unit.

(2) The holder of a superficies licence has a right to claim the creation – under the conditions of the superficies licence – of a right of superficies on the plot of land that has emerged. Proceedings on an application for creation of the right of superficies are conducted by the competent authority.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113²⁰. Removing a construction work from the water body on expiry of the superficies licence

Unless the conditions of the superficies licence determine otherwise, the licence holder is obligated to remove a construction work that constitutes an essential part of the licence from the public water body when the period of validity of the licence expires.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

Subchapter 4 Superficies Fee

[RT I, 27.04.2022, 1 - entry into force 07.05.2022]

§ 113²¹. Superficies fee

(1) Where a public water body is encumbered with a construction work that does not have a permanent connection to the shore, the owner of the construction work must pay a yearly superficies fee.

(2) The rate of the superficies fee is four per cent of the price calculated based on the Estonian average value of land whose zoned purpose corresponds to the purpose of use of the construction work; the fee is calculated for the area that is encumbered in the public water body.

(3) Where a public water body is encumbered with a wind power plant, the rate of the superficies fee is seven per cent of the price calculated based on the Estonian average value of industrial production land; the fee is calculated for the ground projection area of the power plant. The plant's ground projection area is deemed to include any distances of up to 1000 metres – calculated based on the width dimension of the turbines – between individual turbines that are part of the plant as well as the ground projection area of any civil engineering works required to service the plant.

(4) For the setting of superficies fees, the Land Board calculates the average value, by zoned purpose, of land in all of Estonia based on the results of a regular valuation of land conducted in accordance with the Land Valuation Act.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 113²². Rules for paying the superficies fee

(1) The superficies fee is calculated starting from the date that follows the date on which a building permit was issued under the superficies licence. The fee must be paid until the period of validity of the licence expires or the licence is revoked. Where a construction work is removed from the public water body after the licence period has expired or the licence has been revoked, the fee must be paid until the construction work has been removed from the water body.

(2) The holder of a superficies licence pays a superficies fee to the State once a year for the previous calendar year by the date provided by subsection 2 of § 216 of the Water Act.

(3) For the period following the issuing of the superficies licence until the beginning of intended use of the construction work, the superficies fee that must be paid is ten per cent of the rate provided by subsections 2 or 3 of § 113²¹ of this Code. The fee must be paid at the full rate starting from the beginning of intended use of the construction work.

(4) The superficies fee is paid according to the rules provided by subsection 2 and subsections 4–6 of § 216 of the Water Act.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

Chapter 13

Construction Works that Serve National Defence Purposes, Construction Works of Security Authorities and Infrastructure at the National Border

[RT I, 01.02.2019, 3 - entry into force 11.02.2019]

§ 114. Scope of application

The provisions of this Chapter apply to construction works that serve national defence purposes, to construction works of security authorities and to infrastructure at the national border. The provisions of this Chapter apply to roads serving national defence purposes.

[RT 01.02.2019, 3 – entry into force 11.02.2019]

§ 115. Definitions

(1) For the purposes of this Code, ‘construction work that serves national defence purposes’ means any construction work belonging to the sphere of administration or in the possession of the sphere of administration of the Ministry of Defence, including any road that serves national defence purposes.

(1¹) In addition to what has been provided for by subsection 1 of this section, the Government of the Republic may, on a proposal of the Minister in charge of the policy area and based on the relevant threat assessment, designate as ‘construction work that serves national defence purposes’ a construction work which exists solely to ensure national security or resolve an emergency situation.

[RT I, 29.06.2022, 1 – entry into force 09.07.2022]

(2) For the purposes of this Code, ‘construction work of a security authority’ means any construction work in the possession of a security authority.

(3) For the purposes of this Code, ‘infrastructure at the national border’ means construction works required for guarding the national border.

[RT 01.02.2019, 3 – entry into force 11.02.2019]

§ 116. Documentation of building work

The Government of the Republic enacts, by regulation, the requirements for the documenting of the construction works serving national defence purposes, of the construction works of security authorities and of infrastructure at the national border.

[RT 01.02.2019, 3 – entry into force 11.02.2019]

§ 117. Design specifications

Design specifications are not required for the creation of building design documentation regarding construction works serving national defence purposes, construction works of security authorities and infrastructure at the national border.

[RT 01.02.2019, 3 – entry into force 11.02.2019]

§ 118. Building notice and building permit

(1) To construct a construction work serving national defence purposes, a construction work of a security authority, or infrastructure at the national border, a building notice is filed with the Consumer Protection and Technical Regulatory Authority. The building notice is not required for the building of a road that serves national defence purposes.

[RT 01.02.2019, 3 – entry into force 11.02.2019]

(2) The building permit for a construction work serving national defence purposes, of a construction work of a security authority, or of infrastructure at the national border is issued by the Consumer Protection and Technical Regulatory Authority. The building permit is not required for the building of a road that serves national defence purposes.

[RT 01.02.2019, 3 – entry into force 11.02.2019]

(3) In situations provided for by law, the building permit for a construction work serving national defence purposes and for a construction work of a security authority must respect the national special spatial plan.

(4) No building permit must be applied for in order to demolish a temporary construction work serving national defence purposes. A temporary construction work serving national defence purposes is demolished within one year after its use has ceased.

§ 119. Use and occupancy notice and use and occupancy permit

(1) The filing of a use and occupancy notice and the application for a use and occupancy permit is not required in order to use and occupy a construction work serving national defence purposes, a construction work of a security authority or infrastructure at the national border.

[RT 01.02.2019, 3 – entry into force 11.02.2019]

(2) The owner notifies the commencement of the use and occupancy to the Consumer Protection and Technical Regulatory Authority who enters the corresponding modification in the register of construction works.

§ 120. Restrictions related to building work around a construction work serving national defence purposes and to the building of construction works that have a potential impact on the construction work serving national defence purposes

(1) In situations falling under this section, the erection, extension or remodelling of construction works is prohibited unless approved by the Ministry of Defence. The design specifications for erecting or extending a construction work or, in a situation provided for by subsection 11 or by clause 1 of subsection 2 of this section, for remodelling the construction work – or, where there is no obligation to issue such specifications, the proposal for a building permit or the notice of building work – is filed for approval with the Ministry of Defence if:

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

1) a construction work whose height exceeds 28 metres is envisaged;

1¹) the envisaged construction work is a wind turbine or a wind farm;

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

2) the envisaged construction work is situated in the protection zone of a construction work that serves national defence purposes;

3) the envisaged construction work may result in a reduction of the functional capacity of a construction work that serves national defence purposes.

(2) The protection zone of a construction work serving national defence purposes extends, from the exterior wall of the building that serves national defence purposes or from the exterior boundary of the civil engineering work that serves those purposes or from the exterior boundary of the registered immovable, to:

1) up to 25 metres with respect to any construction work whose purpose of use may endanger the construction work that serves national defence purposes, or fulfilment of the functions of that construction work;

2) up to 300 metres in cities, towns and small towns with respect to any construction work that may affect the functional capacity of the construction work that serves national defence purposes;

3) up to 2000 metres in villages with respect to any construction work that may affect the functional capacity of the construction work that serves national defence purposes.

(3) The Ministry of Defence may, in the process of approving design specifications, establish, by way of ancillary conditions, the requirement to obtain further approvals concerning the building permit and the use and occupancy permit to be issued on the basis of such specifications.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

(4) The Government of the Republic or, where it has delegated the corresponding authority to the Minister in charge of the policy sector, that minister, enacts, by regulation, the functional capacity criteria of construction works that serve national defence purposes, the spatial extent of the restrictions and the particulars concerning construction works that affect the functional capacity of construction works that serve national defence purposes.

(5) The provisions of this section do not apply to infrastructure at the national border.

[RT 01.02.2019, 3 – entry into force 11.02.2019]

§ 121. Restrictions related to building work around construction works of security authorities

Any building work within 50 metres from the boundary fence of the construction work of a security authority or, where there is no boundary fence, the exterior wall of the building or the exterior boundary of the civil engineering work has to be approved by the security authority. The security authority may prohibit building work in respect of a building or a civil engineering work if such building work may obstruct performance of the functions of the security authority or affect the security environment of the construction work of the security authority.

Chapter 14 Drilled Wells, Boreholes and Dug Wells

§ 122. Scope of application

(1) The provision of this Chapter apply to the designing, construction, commissioning, conservation and demolition of drilled wells, boreholes and dug wells.

(2) The redoing of drilled wells and boreholes is subject to sections 123–126 of this Code.

§ 123. Definitions

(1) ‘Drilled well’ means wells drilled for water extraction, for ground water monitoring and for heat systems.

(2) ‘Borehole’ means a hole drilled for ground water monitoring and for heat systems.

(3) ‘Remodelling of a drilled well or borehole’ means the redoing of the drilled well or borehole, the addition of parts to the drilled well or borehole or the replacement of parts in order to improve the condition or repair a malfunction of the drilled well or borehole, or to extend its useful life.

§ 124. Approval of the location of drilled wells and boreholes

(1) A person who envisages to construct a drilled well or borehole (hereinafter, ‘applicant’) must obtain the approval of the local authority regarding the location of such a well or borehole. The application for approval of the location includes:

- 1) the applicant’s name, registration number or personal identification code, contact information and, if the owner of the land is not the person who envisages to construct the drilled well or borehole, the consent of the owner of the land;
- 2) the address of the location envisaged for the drilled well or borehole, the name and cadastral code of the land unit;
- 3) the envisaged water extraction rate from the drilled well or borehole—in cubic metres per 24-hour day;
- 4) the purpose of use of the drilled well or borehole.

(2) In the giving of approval for the location of a drilled well or borehole, a local authority has regard to the comprehensive plan and the detailed spatial plan, the public water supply and sewerage development plan and the existing service areas of the water undertaking.

(3) A local authority approves the location envisaged for a drilled well or borehole, or refuses to approve it, within ten business days following receipt of an application for approval of the location envisaged for such a well or borehole.

§ 125. Documenting the building of drilled wells and boreholes

(1) A person who performs the work of drilling the well or borehole (hereinafter, ‘driller’) must during the drilling operations keep a drilling journal that records the following:

- 1) the location of the drilled well or borehole;
- 2) the time of performing the operation;

- 3) a description of the method of drilling and of isolation;
- 4) the diameter of the drill and of the casing, and a description of the geological section in correspondence with the drilling depth;
- 5) the method used for sediment evacuation;
- 6) the hydrogeological particulars of the drilled well or borehole.

(2) When drilling operations are completed, the driller is required to file the particulars of the drilling journal with the Estonian Nature Information System in accordance with the rules made under subsection 6 of § 126 of this Code.

[RT I, 27.05.2022, 1 – entry into force 06.06.2022]

§ 126. Procedure for issuing building permits for drilled wells and boreholes

(1) The competent authority refers the application for a building permit regarding a drilled well or borehole for approval to the Environmental Board. The Environmental Board approves the location of the drilled well or borehole, or refuses to approve it, within ten business days from receiving the application.

(2) When referring the application for approval, in addition to those required under the General Part of this Code, the following documents are annexed to the proposed building permit:

- 1) the approval of the location of the drilled well or borehole;
- 2) the design documentation of the sanitary protection zone or of the supply zone of the water extraction point, if the drawing up of such documentation is required by legislation;
- 3) the building design documentation of the drilled well or borehole.

(3) The Environmental Board is authorised to refuse its approval regarding the application for a building permit regarding the drilled well or borehole under subsection 1 of this section, if:

- 1) the building design documentation has been drawn up by a person who has not been authorised to perform hydrogeological work for the creation of building design documentation for drilled wells or boreholes;
- 2) in choosing the location of the drilled well or borehole, the geological or hydrogeological conditions of the area, the possibility of establishing a due sanitary protection zone, maintenance zone or supply zone or the impact radius of existing drilled wells or boreholes in the area have not been taken into account;
- 3) the depth of the drilled well as provided by its building design documentation does not allow for the water extraction rate or quality that is provided by the building design documentation;
- 4) the depth, structure or drilling method of the drilled well or borehole as provided by the building design documentation do not allow to observe the requirements of groundwater protection;
- 5) the choice of the aquifer to be opened by the drilled well or borehole as provided by the building design documentation is not justified given the purpose of using the water;
- 6) the extraction rate of the drilled well as provided by the building design documentation exceeds the approved unallocated reserve of groundwater in the area;
- 7) it is likely that the quality of the aquifer to be opened by the drilled well for public water supply does not conform to the quality requirements regarding groundwater that is used or intended to be used for the production of drinking water;
- 8) the applicant has not filed all required documents, or has knowingly filed false information.

(4) In order to give its approval to the application for a building permit regarding a drilled well or borehole, the Environmental Board is authorised to require the applicant to conduct hydrological or hydrogeological investigations.

(5) Where the total extraction rate provided for by the building design documentation of a drilled well or wells for public water supply exceeds 500 cubic metres per 24-hour day, the Environmental Board is authorised, when giving its approval to the application for the corresponding building permit, to require the applicant to create groundwater monitoring boreholes in order to monitor the condition of water in the aquifer to be opened by the drilled well or wells for public water supply within the impact area of the groundwater extraction point or points.

(6) The Minister in charge of the policy sector enacts, by regulation:

- 1) the requirements concerning the design, construction, commissioning, reconstruction and demolition of dug wells;

[RT I, 22.02.2019, 1 – entry into force 01.10.2019]

- 2) the requirement concerning the structure and building design documentation of drilled wells and boreholes, and the building design documentation regarding their demolition or remodelling;
- 3) the rules to govern the designing, constructing, commissioning, remodelling, demolishing and conserving of drilled wells and boreholes;
- 4) the rules for approving the location of drilled wells or boreholes, the rules for the filing, for entry in the Estonian Nature Information System, of the particulars of applications for building permits and for use and occupancy permits, of building notices and of use and occupancy notices, of the drilling journal, as well as of the drilled well or borehole, and the forms of notices, or the list of particulars to be filed by such notices, regarding demolition of drilled wells or boreholes.

§ 127. Commissioning of drilled wells or boreholes

(1) Where the yield of the drilled well as provided by the building design documentation exceeds 10 cubic metres per 24-hour day or where the well is used by more than 50 people, the application for a use and occupancy permit concerning the well includes, in addition to what is required under the General Part of this Code, the following:

1) an extract from the Estonian Nature Information System or a reference to the particulars recorded in that system regarding the drilled well in respect of which a use and occupancy permit is applied for;

[RT I, 27.05.2022, 1 – entry into force 06.06.2022]

2) the name, registration number or personal identification code and contact information of the person who performs owner supervision;

3) the maintenance instructions of the drilled well.

(2) The application for a use and occupancy permit in respect of a drilled well for public water supply is referred for approval to the Health Board. The Board does not approve the application in respect of the drilled well or wells for public water supply if the water extracted from the well, after being treated in accordance with the requirements, has a directly or indirectly negative effect on human health.

(3) Where the yield of the drilled well as provided by the building design documentation is less than 10 cubic metres per 24-hour day or where the well is used by fewer than 50 people, the use and occupancy notice concerning the drilled well or borehole includes, in addition to what is required under the General Part of this Code, the following:

1) an extract from the Estonian Nature Information System or a reference to the particulars recorded in that system regarding the drilled well;

[RT I, 27.05.2022, 1 – entry into force 06.06.2022]

2) the name, registration number or personal identification code and contact information of the person who performs owner supervision;

3) the maintenance instructions of the drilled well or borehole.

§ 128. Demolition of drilled wells or boreholes

(1) The owner of a drilled well or borehole or the owner of the land is required to demolish any drilled well or borehole that is unfit for use, poses a danger to the condition of groundwater or no longer serves a useful purpose.

(2) The competent authority refers the building design documentation concerning the demolition of a drilled well or borehole for approval to the Environmental Board.

(3) The Environmental Board is authorised to refuse to give approval to the building design documentation for demolishing a drilled well or borehole if:

1) the drilled well or borehole constitutes a national environment monitoring station;

2) the local authority has provided valid reasons for the need for the drilled well as a reserve well for drinking water;

3) the building design documentation does not ensure compliance with the requirements of groundwater protection.

(4) In addition to the competent authority, the notice of demolition of the drilled well or borehole is also filed with the Environmental Board.

§ 129. Conservation of drilled wells or boreholes

The owner of a drilled well or borehole or the owner of the land is required to conserve any drilled well or borehole that has not been used for more than a year, and to notify this to the Environmental Board and the local authority.

Part 3 REGULATORY ENFORCEMENT AND LIABILITY

Chapter 15 Regulatory Enforcement

§ 130. Authority to perform regulatory enforcement

(1) Regulatory enforcement of compliance with the requirements provided by this Code and the legislation enacted under it is performed by the authorities mentioned in this section.

(2) A local authority performs regulatory enforcement by carrying out the following functions:

- 1) verifying whether the building or the building design documentation of construction works, including any construction work that has a permanent connection or functional link to the shore, conforms to the detailed spatial plan, the relevant local special spatial plan, the design specifications or other requirements rendered operative by the location of the construction work;
- 2) verifying whether construction works or the building of construction works conforms to the requirements, including pre-use safety inspection of construction works;
- 3) verifying the existence of the building notice or building permit and the correspondence of the information stated in that notice or permit to actual facts;
- 4) verifying the existence of the use and occupancy notice or use and occupancy permit and the correspondence of the information stated in that notice or permit to actual facts;
- 5) verifying the correspondence of the upkeep and use and occupancy of construction works to the requirements rendered operative by the purpose of use of the construction works;
- 6) verifying whether the requirements for the use and protection of local roads are complied with.

(3) The Consumer Protection and Technical Regulatory Authority performs regulatory enforcement by carrying out the following functions:

- 1) the functions provided by clauses 2–5 of subsection 2 of this section in relation to verifying the conformity to the requirements of railway civil engineering works, of pressurised piping and pressurised containers, of electrical installations, of communication installations, of lifts, cableways or other lifting equipment, of construction works that are located in public water bodies and that do not have a permanent connection to the shore, of construction works that serve national defence purposes, of construction works of security authorities and of infrastructure at the national border;

[RT I, 01.02.2019, 3 – entry into force 11.02.2019]

- 2) the functions provided by clauses 2–5 of subsection 2 of this section, above all in relation to verifying whether the construction work is safe to use and occupy;
 - 3) verification of the conformity of construction works built on the basis of a national special spatial plan to such a plan and to other requirements;
 - 4) verification of compliance with the requirements for protection zones of construction works and for operations undertaken in such zones;
 - 5) verification of compliance with the requirements established with respect to the energy performance of buildings, to energy performance certificates, to energy audits, to the charging infrastructure of existing non-residential buildings and to the installation of automation systems for improving the energy performance of the heating or cooling systems of non-residential buildings as provided for by subsection 1 of § 69⁴ of this Act;
- [RT I, 30.06.2020, 9 – entry into force 01.07.2020]
- 5¹) verification of compliance with the requirement of determining the area of interest;
- [RT I, 15.12.2016, 1 – entry into force 01.01.2017]
- 5²) verification of the requirements for granting access to a small-area wireless access point;
- [RT I, 15.12.2021, 1 – entry into force 01.04.2022]
- 6) verification of compliance with the requirements applicable to undertakings and competent persons;
 - 7) in respect of buildings or parts of buildings which are in use and occupancy and in which services are provided that are intended for the general public, verification of compliance with the requirements related to special needs of disabled persons;
- [RT I, 12.12.2018, 3 – entry into force 01.01.2019]
- 8) checking the safety of wind turbines and wind farms.
- [RT I, 27.04.2022, 1 – entry into force 07.05.2022]

(4) Based on random sampling, the Consumer Protection and Technical Regulatory Authority verifies whether the energy performance certificates issued during the year conform to the requirements. The number of energy performance certificates that are verified must be sufficiently high to constitute a representative sample on which to base the assessment of such certificates' conformity to the requirements.

[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

(4¹) The verification conducted by the Consumer Protection and Technical Regulatory Authority in respect of energy performance certificates includes:

- 1) verification of input data that served as the basis for the issuing of the certificate and of the results shown on the certificate;
- 2) verification of the relevance of the input data and of the results and recommendations shown on the certificate;
- 3) comprehensive verification of input data that served as the basis for the issuing of the certificate and comprehensive verification of the relevance of the results and recommendations shown on the certificate, as well as, where possible, a visit to the building in order to verify whether the information shown on the certificate corresponds to the building in question.

[RT I, 30.06.2020, 9 – entry into force 01.07.2020]

(5) The Environment Board performs regulatory enforcement of the requirements for use of construction works for environmental protection and nature protection purposes, in respect of radiation safety, in respect of the sanitary protection zones and maintenance zones of drilled wells or boreholes and dug wells, and of the

requirements imposed on construction works with regard to the use of environmental protection resources and of natural resources in protected areas and in limited-conservation areas, in the conservation zones of individual protected natural feature, in permanent habitats and in the shoreline or bankline building ban zones.
[RT I, 10.12.2020, 2 – entry into force 01.01.2021]

(6) The Transport Administration performs regulatory enforcement:

1) in respect of the building of public roads, of the requirements concerning the condition of local authority roads, in respect of the protection zone and compliance with the requirements concerning the use and protection of national roads, and in respect of compliance with the requirements applicable in respect of undertakings connected to the building of roads and of competent persons;

2) to the extent provided for by the Aviation Act, in respect of construction works located in the immediate vicinity of aerodromes and heliports or in respect of construction works otherwise connected to the safety of aviation;

3) in respect of compliance with the requirements related to the safety of maritime navigation and of navigation on inland waterways.

[RT I, 10.12.2020, 2 – entry into force 01.01.2021]

(7) [Repealed – RT I, 10.12.2020, 2 – entry into force 01.01.2021]

(8) Police officials perform regulatory enforcement of the requirements concerning the use and protection, and condition, of national roads and local roads where a violation of the requirements is identified in the course of police work.

(9) The National Heritage Board performs enforcement operations in accordance with the grounds and rules provided by the Heritage Conservation Act.

(10) The Rescue Board performs regulatory enforcement in respect of compliance with fire safety requirements for construction works.

(11) The Health Board performs regulatory enforcement in respect of compliance with the health requirements concerning construction works.

(12) [Repealed – RT I, 10.12.2020, 2 – entry into force 01.01.2021]

(13) The Agriculture and Food Board performs regulatory enforcement in respect of construction works used for the keeping of animals.

[RT I, 01.07.2020, 1 – entry into force 01.01.2021]

§ 131. Special measures authorised in relation to the exercise of regulatory enforcement

A law enforcement agency may, when exercising regulatory enforcement as provided for by this Code, apply the special measures of regulatory enforcement provided by §§ 30, 31, 32, 49, 50, 51 and 52 of the Law Enforcement Act on the grounds and following the rules provided by that Act.

§ 132. Special rules concerning regulatory enforcement

(1) The Consumer Protection and Technical Regulatory Authority may require the owner of the building to inform the public of the dangers connected with the building or, at the owner's expense, itself inform the public of those dangers.

(2) The measure provided for by § 50 of the Law Enforcement Act may only be applied when entering a construction work or part of construction work or, after the placing on the market of a construction product, when entering the premises on which that product is stored, installed or sold, or on which the product is used.

(3) A law enforcement agency takes the decision to demolish a construction work primarily when:

1) the construction work does not conform to the requirements for construction works, and the non-conformity entails a significant or heightened danger;

2) the unlawful building of the construction work has resulted in a permanent negative impact on the owner of the registered immovable or the owners of the adjacent registered immovable, and that impact is excessively burdensome and it is not possible to sufficiently avoid or alleviate it.

§ 133. Rate of non-compliance levy

In the event of non-compliance with a compliance notice, the law enforcement authority may impose a means of compelling compliance according to the rules provided by the Substitutional Performance and Non-Compliance Levies Act. The maximum rate of the non-compliance levy is 6400 euros for compelling a natural person and 450,000 euros for compelling a legal person to comply.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

Chapter 16

Liability

§ 134. Violation of requirements applicable to a construction work

(1) Violation of requirements applicable to a construction work, where the violation causes the construction work that has been built or is being built to become a danger to property, the environment, national security or a national defence object is punishable by a fine of up to 300 fine units.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

(2) The same act, when committed by a legal person, is punishable by a fine of up to 100,000 euros.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 135. Violation of requirements applicable to building work

(1) Violation of the requirements applicable to building work, where the violation causes the construction work to become a danger to property, the environment, national security or a national defence object is punishable by a fine of up to 300 fine units.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

(2) The same act, when committed by a legal person, is punishable by a fine of up to 100,000 euros.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 136. Designing a construction work that does not conform to requirements

(1) The issuing of building design documentation – where the construction work that has been built or is being built according to the the documentation – poses a danger to the life or health of humans, property, the environment, national security or a national defence object is punishable by a fine of up to 300 fine units.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

(2) The same act, when committed by a legal person, is punishable by a fine of up to 100,000 euros.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 137. Violation of the obligation to retain data

(1) Failure to retain, in their full extent, for at least seven years, the building documentation or the particulars of the site investigations performed, the particulars concerning verification of the building design documentation, audit documentation, the particulars related to the issuing of energy performance certificates for buildings, or copies of these, where that failure significantly impedes assessment of the safety of a building, 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 100,000 euros.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 138. Performance of building work without building permit

(1) The performance of building work without a building permit, where the building permit was required, 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 100,000 euros.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 139. Use and occupancy without use and occupancy permit

(1) Use and occupancy without a use and occupancy permit, where a building permit was required, 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 100,000 euros.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 140. Illegal operations in the protection zone of the construction work

(1) In the event of operations in the protection zone of the construction work that do not conform to the requirements, where this results in danger to the life or health of humans, to property or to the environment, such operations are 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 100,000 euros.

[RT I, 27.04.2022, 1 – entry into force 07.05.2022]

§ 141. Proceedings

The out-of-court proceedings authority to deal with the misdemeanours provided by §§ 134–140 of this Code is – according to their sphere of competency –:

- 1) the executive of the city or rural municipality;
- 2) the Consumer Protection and Technical Regulatory Authority;
- 3) the Environment Board;
[RT I, 10.12.2020, 2 – entry into force 01.01.2021]
- 4) the Transport Administration;
[RT I, 10.12.2020, 2 – entry into force 01.01.2021]
- 5) the National Heritage Board;
- 6) the Rescue Board;
- 7) [Repealed – RT I, 10.12.2020, 2 – entry into force 01.01.2021];
- 8) the Health Board;
- 9) the Agriculture and Food Board.
[RT I, 10.12.2020, 2 – entry into force 01.01.2021]
- 10) [Repealed – RT I, 10.12.2020, 2 – entry into force 01.01.2021]

§ 142. Entry into force of this Code

This Code enters into force at the time specified in the Act to Implement the Building Code and the Planning Act.

¹Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings (OJ L 285, 31.10.2009, pp. 13–35), amended by Directive (EU) 2018/844 (OJ L 156, 19.06.2018, pp. 75–91) and by Regulation (EU) 2018/1999 (OJ L 328, 21.12.2018, pp. 1–77); Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, pp. 1–56), amended by Directives 2013/12/EU (OJ L 141, 28.05.2013, pp. 28–29), (EU) 2018/844 (OJ L 156, 19.06.2018, pp. 75–91), (EU) 2018/2002 (OJ L 328, 21.12.2018, pp. 210–230) and (EU) 2019/944 (OJ L 158, 14.06.2018, pp. 125–199) and by Regulations (EU) 2018/1999 (OJ L 328, 21.12.2018, pp. 1–77) and (EU) 2019/826 (OJ L 137, 23.05.2019, pp. 3–9); Directive 2004/54/EU of the European Parliament and of the Council on minimum safety requirements for tunnels in the trans-European road network (OJ L 167, 30.04.2004, pp. 39–91), amended by Regulation (EU) 596/2009 (OJ L 188, 18.07.2009, pp. 14–92); Directive 2008/96/EU of the European Parliament and of the Council on road infrastructure safety management (OJ L 319, 29.11.2008, pp. 59–67), amended by Directive (EU) 2019/1936 (OJ L 305, 26.11.2019, pp. 1–16); Directive 2014/33/EU on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts (OJ L 96, 29.03.2014, pp. 251–308); Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks (OJ L 155, 23.05.2014, pp. 1–14); Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications (OJ L 255, 30.09.2005, pp. 22–142), amended by Directives 2006/100/EC (OJ L 363, 20.12.2006, pp. 141–237), 2013/25/EU (OJ L 158, 10.06.2013, pp. 368–375) and 2013/55/EU (OJ L 354, 28.12.2013, pp. 132–170); Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, pp. 36–214).
[RT I, 15.12.2021, 1 - entry into force 01.04.2022]

[Annex 1](#) Tabulated overview of the obligation to file the building notice or building design documentation and to apply for building permit
[RT I, 30.12.2020, 2 - entry into force 01.03.2021]

[Annex 2](#) Tabulated overview of the obligation to file the use and occupancy notice or building design documentation and to apply for use and occupancy permit
[RT I, 30.12.2020, 2 - entry into force 01.03.2021]