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## District Heating Act

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Amended by the following acts

Passed	Published	Entry into force
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07.12.2006	RT I 2006, 58, 439	01.01.2007
07.02.2007	RT I 2007, 17, 80	09.03.2007
22.11.2007	RT I 2007, 66, 408	01.01.2008
10.06.2009	RT I 2009, 34, 225	06.07.2009
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22.04.2010	RT I 2010, 22, 108	01.01.2011 enters into force on the day determined by the decision of the Council of the European Union concerning repeal of the derogation established in respect of the Republic of Estonia on the basis of Article 140 (2) of the Treaty on the Functioning of the European Union, Decision No. 2010/416/EU of the Council of the European Union (OJ L 196, 28.07.2010, pp. 24–26).
03.06.2010	RT I 2010, 35, 192	08.07.2010
03.08.2010	RT I 2010, 56, 363	01.11.2010, in part 01.01.2011
23.02.2011	RT I, 25.03.2011, 1	01.01.2014; amended date of entry into force 01.07.2014 [RT I, 22.12.2013, 1]
05.12.2013	RT I, 22.12.2013, 1	01.01.2014
19.02.2014	RT I, 13.03.2014, 2	23.03.2014, in part 01.01.2015, 01.01.2017 and 01.01.2019
19.02.2014	RT I, 13.03.2014, 3	01.01.2018, in part 23.03.2014 and 01.01.2016
19.02.2014	RT I, 13.03.2014, 4	01.07.2014, in part 23.03.2014
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, official titles of ministers replaced on the basis of section 107 <sup>3</sup> (4) of the Government of the Republic Act
08.02.2017	RT I, 03.03.2017, 1	01.07.2017

## Chapter 1

# GENERAL PROVISIONS

## § 1. Scope of application of this Act

(1) This Act governs activities related to the production, distribution and sale of heat by way of district heating networks (hereinafter, 'networks'), and connection to district heating networks.

(2) The activities specified in subsection 1 of this section shall be coordinated and conform to the principles of objectivity, equal treatment and transparency in order to ensure a secure, reliable and effective heat supply which is provided at a justified price and in compliance with environmental requirements and the needs of the customer.

(3) The provisions of the Administrative Procedure Act apply to administrative proceedings provided in this Act without prejudice to the rules specific to this Act.

## § 2. Definitions

For the purposes of this Act:

- 1) 'district heating' means the production of heat and distribution thereof through a network with the aim of supplying customers with heat by way of district heating systems;
- 2) 'district heating system' means a technical system for the production, distribution and consumption of heat which is composed of technical equipment for the production, distribution and consumption of heat and of the construction works connected thereto;
- 3) 'network' means a fixed operational assembly of pipelines, equipment, auxiliary equipment and the construction works connected thereto, or the part of such an assembly which is necessary for the distribution of heat; consumer installations are not deemed to be part of a network for the purposes of this Act;
- 4) 'consumer installation' means an operational assembly which is or can be connected to a network of interconnected heat pipelines and auxiliary equipment for supplying a customer with heat and which is built within a registered immovable, construction work or a complex of construction works which are functionally linked to one another and which constitute a single economic unit, and on the land necessary for the servicing of such a complex;
- 5) 'supply point' means the point of connection of a network and a consumer installation;
- 6) 'service boundary of a network' means the boundary up to which the network operator maintains a district heating system on contract basis;
- 7) 'network area' means an area in which a network that is owned by or that is in the possession of a single network operator is located and developed;
- 8) 'licensed territory' means the area, defined in the heating undertaking's authorisation, in which the heating undertaking operates;
- 9) 'customer' means a person who purchases heat distributed through a network;
- 10) 'network operator' means an undertaking which uses a network to distribute heat;
- 11) 'connection' means the connection of a customer installation to a network.
- 12) 'non-fuel renewable energy sources' means solar energy and any thermal energy converted from solar energy, wind energy and any thermal energy converted from wind energy, geothermal energy and any thermal energy converted from geothermal energy through the use of electricity generated from renewable energy sources, any heat which is used in a building and which escapes from the building (via ventilation, sewerage, etc.) and any thermal energy converted from such heat through the use of electricity generated from renewable energy sources.

[RT I 2010, 56, 363 – entry into force 01.11.2010]

## § 3. Energy conservation programme

[Repealed – RT I, 13.03.2014, 2 – entry into force 23.03.2014]

## Chapter 2 ORGANISATION OF DISTRICT HEATING

### § 4. Heating undertaking

(1) A heating undertaking is an undertaking which operates in at least one of the activity areas of production, distribution or sale of heat and which is responsible for resolving the commercial, technical or maintenance issues related to such activities.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

(2) A heating undertaking that is a network operator is regarded as provider of a service of general interest within the meaning of the General Part of the Economic Activities Code Act.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

## **§ 5. District heating regions**

(1) A district heating region is an area determined by a comprehensive plan within which consumer installations are provided with heat by way of district heating in order to ensure a secure, reliable and effective heat supply which is provided at a justified price and in compliance with environmental requirements and the needs of the customers.

(2) The council of a local authority possesses the authority to determine district heating regions within the boundaries of the administrative territory of the authority. Any decision which determines a district heating region must be informed by the principles provided in subsection 1 of this section.

(3) Persons who do not use district heating at the time when the district heating region is determined are not required to connect to the network.

(4) Subject to the conditions and pursuant to the procedure determined by the local council, consumer installations already connected to a network within a district heating region may be disconnected from the network and other means than district heating may be used to provide heat to a construction work which is under construction or which is being renovated.

(4<sup>1</sup>) In addition to heat provided by the district heating network, customers in a district heating region may also purchase thermal energy converted from non-fuel and renewable energy sources from the producers of such thermal energy.

[RT I 2010, 56, 363 – entry into force 01.11.2010]

(5) Before establishing a district heating region for an area designated as a densely populated area to be built up with new construction works, an analysis concerning the possibilities of arranging heat supply on the basis of the principles provided in subsection 1 of this section must be carried out. When a district heating region is established for an area designated as a densely populated area to be built up with new construction works, connection to the network shall be mandatory for all persons located within the district heating region unless the council of the local authority provides otherwise.

(6) A decision of the council of a local authority concerning the establishment of a district heating region shall, amongst other things, set out the following:

- 1) the boundaries of the district heating region;
- 2) the conditions and procedure for connection to and disconnection from the network, having regard to the provisions of subsections 4 and 5 of this section;
- 3) the general quality requirements for district heating;
- 4) [Repealed – RT I 2010, 56, 363 – entry into force 01.11.2010]
- 5) the development obligations of the heating undertaking;
- 6) the date as of which the conditions, requirements and procedures become effective.

(7) Before establishment of the conditions, requirements and procedures on the basis of subsection 6 of this section, endorsement must be obtained for such conditions, requirements and procedures from the heating undertakings operating within the relevant district heating region.

[RT I 2010, 56, 363 – entry into force 01.11.2010]

## **§ 6. Production, distribution and sale of heat**

(1) For the purposes of this Act, the production of heat means an activity which results in the creation of thermal energy used in customer installations.

(2) For the purposes of this Act, the distribution of heat means the transmission of heat to customer installations through a network.

(3) For the purposes of this Act, the sale of heat is the transfer of heat to a customer either for a charge or without charge.

## **§ 7. Obligations of heating undertakings**

(1) A heating undertaking must ensure that customers and other heating undertakings are supplied with heat in compliance with this Act, the conditions of the undertaking's authorisation and any contracts entered into.

(2) A heating undertaking must, in its accounting arrangements, keep separate accounts of the production, distribution and sale of heat and of any areas of activity not related to the production, distribution and sale of heat.

(3) HThe following are deemed providers of the vital service referred to in clause 1 of subsection 4 of section 36 of the Emergency Act:

1) producers of thermal energy whose estimated annual production volume amounts to at least 50,000 MWh and who operate in a network area whose annual sales total at least 50,000 MWh, and who provide their service in the territory of a local authority that has at least 10,000 residents;

2) heating undertakings who are network operators, and who operate in a network area whose annual sales total at least 50,000 MWh, and who provide their service in the territory of a local authority that has at least 10,000 residents.

[RT I, 03.03.2017, 1 - entry into force 01.07.2017]

(3<sup>1</sup>) A heating undertaking whose estimated annual production volume amounts to at least 500,000 MWh per network area is required to provide for the possibility of using reserve fuel for the production of heat such as to guarantee the supply of heat during a period of seventy-two hours.

[RT I, 03.03.2017, 1 - entry into force 01.07.2017]

(4) The quantity of reserve fuel shall be calculated on the basis of the daily maximum consumption of the previous year.

[RT I 2007, 17, 80 – entry into force 09.03.2007]

## **§ 8. Sale and pricing of heat**

(1) A customer shall purchase heat from the network undertaking to whose network the customer's consumer installation is connected.

(2) Within technical limits of the network, a heating undertaking shall be required to sell heat to all customers who have a network connection and who are located within its network area.

(3) The maximum price of heat shall be set such that:

1) the necessary operating expenses, including the expenses incurred in relation to the production, distribution and sale of heat, are covered;

2) any investments necessary in order to perform the operational and development obligations can be made;

3) environmental requirements are met;

4) quality and safety requirements are met;

5) justified profitability is ensured.

(4) A heating undertaking must make public the maximum price set within its network area at least one month before the date as of which the price applies.

[RT I 2009, 34, 225 – entry into force 06.07.2009]

## **§ 9. Approval of price of heat**

(1) A heating undertaking which:

1) sells heat to customers;

2) sells heat to a network operator who sells heat to customers;

3) produces heat in a process of combined generation of heat and power

must obtain, for each network area separately, the approval of the Competition Authority regarding the maximum price of the heat to be sold.

[RT I 2010, 56, 363 – entry into force 01.11.2010]

(2) [Repealed – RT I 2010, 56, 363 – entry into force 01.11.2010]

(3) [Repealed – RT I 2010, 56, 363 – entry into force 01.11.2010]

(4) A heating undertaking which is required to obtain approval regarding the maximum price of heat may sell heat at a price which does not exceed the approved maximum price.

(5) The Competition Authority shall make a decision concerning approval of the maximum price specified in subsection 1 of this section within thirty days as of the submission of a duly filled out application to set prices. If the application is particularly complex or requires more processing work than usual, the Competition Authority may extend the term for processing the application to a maximum of 90 days and shall inform the applicant of the extension of the term before the original term expires.

[RT I 2010, 56, 363 – entry into force 01.11.2010]

(6) If the Competition Authority so requires, a seller of heat must explain and provide reasons for the principles which it applies in the setting of maximum prices.

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

(7) The run of term for processing an application for approval of a maximum price specified in subsection 4 of this section shall be suspended by operation of law if the Competition Authority has not received all the information which it has required to be submitted and which is necessary to give the approval requested in the application to set prices.

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

(8) A heating undertaking specified in subsection 1 of this section which seeks approval regarding a maximum price shall allow the Competition Authority to inspect its accounts and shall provide any needful explanations regarding its economic activities.

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

(9) The Competition Authority shall have the right to request additional information from the heating undertaking, a government agency or a local authority agency if this is required for making a decision concerning approval of the maximum price or for verification of any information submitted.

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

(9<sup>1</sup>) A heating undertaking shall monitor developments which are independent of its activities and which influence the price of heat charged to customers and shall submit to the Competition Authority a new application for approval of a maximum price within 30 days as of learning of a development which may decrease the price of heat charged to customers by more than 5 per cent.

[RT I 2010, 56, 363 – entry into force 01.11.2010]

(10) A heating undertaking may seek approval of a price formula from the Competition Authority for a period of up to three years. The price formula is used in the process of approving maximum prices of heat at the request of the heating undertaking in a situation in which developments which are independent of its activities and which influence the price of heat are ascertained. The Competition Authority shall make a decision concerning approval of maximum prices on the basis of a price formula within ten working days as of receipt of a duly filled out application.

[RT I 2010, 56, 363 – entry into force 01.11.2010]

(10<sup>1</sup>) The Competition Authority may revoke the approval it has given regarding a maximum price and may determine a temporary selling price of heat for the heating undertaking in the situation in which the heating undertaking sells heat at a price which does not comply with the requirements set out in section 8(3) of this Act and has failed to comply with an enforcement order of the Competition Authority. The price determined by the Competition Authority shall remain in force until the heating undertaking obtains the approval of the Competition Authority regarding a new maximum price of heat.

[RT I 2010, 56, 363 – entry into force 01.11.2010]

(10<sup>2</sup>) In determining the price referred to in subsection 101 of this section, the Competition Authority shall rely on the existing price structure of the heating undertaking, the justified expenses incurred by the undertaking during the financial year preceding the year when the enforcement order was issued and the rate of justified profitability. If the heating undertaking has an approved price formula, the Competition Authority shall rely on the price formula in determining the price. The minister responsible for the area shall, by means of a regulation, establish the procedure for determining the price of heat, having regard to the principles set out in this subsection.

[RT I 2010, 56, 363 – entry into force 01.11.2010]

(11) The Competition Authority may not disclose to any third party any information received in relation to approving a maximum price, except where disclosure of such information is prescribed by law or where communication of such information is necessary in order to perform obligations arising from this Act.

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

## **Chapter 3**

### **OPERATION OF NETWORKS**

#### **§ 10. Connection to network**

(1) Within technical limits of the network, a network operator shall be required to provide a network connection to the customer installation of any person who is located within its network area and who has applied for a connection (hereinafter, 'connectee'), unless this endangers the security of supply for earlier connectees.

(1<sup>1</sup>) In the case of an immovable property ownership that is divided into apartment ownerships, the connectee shall be the apartment association. An apartment owner may be the connectee if it is possible to connect his or her consumer installation to the network through a connection that meets the requirements established in this Act.

[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(2) A network operator must provide written reasons for any refusal to grant an application of a connectee within thirty days as of receipt of the application.

(3) On the basis of an application from a connectee, the network operator shall issue conditions for connection to the network (hereinafter, 'conditions of connection').

(4) The conditions of connection shall:

- 1) be transparent and unambiguous;
- 2) comply with the principle of equal treatment of similar connectees;
- 3) take into consideration the technical and economic conditions of each particular connection;
- 4) take into consideration the interests of network development and stability;
- 5) take into consideration the technical capacity of the network.

(5) The conditions of connection shall determine:

- 1) the supply point;
- 2) location of the metering system;
- 3) the service boundary of the network;
- 4) the obligations of the connectee and of the network operator;
- 5) calculation of the connection fee;
- 6) the term of validity of the conditions of connection;
- 7) any other special conditions.

(6) For the purposes of this Act, replacement of a consumer installation, or any part thereof, which is connected to a network, or a change of owner or possessor of a consumer installation is not regarded as connection to the network, and no connection fee shall be charged to the owner or possessor in such cases, provided that the following conditions are met concurrently:

- 1) the location of the supply point remains unchanged;
- 2) no change is requested of the technical conditions;
- 3) the technical conditions necessary for connecting the connectee's consumer installation continue to exist.

#### **§ 11. Entry into network connection contract**

(1) In order to connect to a network, the owner or possessor of the consumer installation to be connected to the network shall enter into a written connection contract (hereinafter, 'contract') with the network operator.

(2) The contract shall, amongst other things, determine:

- 1) the supply point;
- 2) location of metering system;
- 3) the service boundary of the network;
- 4) the connection fee;
- 5) the technical conditions for connection;
- 6) the term for performance of the contract.

(3) The Competition Authority has the right to scrutinise the justifications for any activities of a heating undertaking specified in section 9(1) of this Act in refusing to grant an application for connection, in determining the connection fee and in establishing the terms and conditions of contracts.

[RT I 2010, 56, 363 – entry into force 01.11.2010]

(4) The contract specified in subsection 1 of this section constitutes the basis for entry into a contract for the purchase and sale of heat.

#### **§ 12. Calculation of connection fees**

(1) Network operators have the right to charge justified connection fees to connectees.

(2) The connection fees shall be calculated with the aim of ensuring the following for each connection provided:

- 1) coverage of necessary investments;
- 2) compliance with environmental requirements;
- 3) compliance with quality and safety requirements.
- 4) justified profitability.

(3) The connection fee shall be calculated by the network operator.

(4) If the technical conditions of the connection provided by the contract are modified on the initiative of the network operator, the costs involved shall be borne by the network operator.

(5) A network operator may charge a justified fee for any changes in the technical conditions of the consumption of heat made on the initiative of the customer.

#### **§ 13. Licensed territory of network operators**

(1) A network operator shall define its network area and ensure that all interested parties have access to the layout and description of the networks.

(2) A network operator may have several network areas which together constitute the licensed territory of the network operator.

(3) The network areas of different network operators may overlap.

#### **§ 14. Rights and obligations of network operators**

(1) A network operator is required to ensure that customers who have a network connection are supplied with heat in accordance with this Act, the conditions of the authorisation or a decision of the council of the local authority, and any relevant contracts.

(2) A network operator is responsible for the functioning and maintenance of the network which it owns or possesses.

(3) A network operator is required to develop the network in a manner which ensures that all consumer installations located within the network area of the network operator can be connected to the network.

(4) A network operator shall organise the metering of heat consumed from the network and maintain corresponding records, unless agreed otherwise.

(5) A network operator is required to provide other network operators within its licensed territory with the information necessary to ensure the distribution and sale of heat in a manner which enables the network to be used in a stable and effective manner.

(6) A network operator may terminate its activities only if it transfers the obligations incumbent on it by virtue of this section to another undertaking.

(7) A network operator shall give the Competition Authority at least twelve months' written notice regarding termination of its activities, specifying the date and schedule for termination, and provide a sufficiently detailed overview of the measures which guarantee that the requirements provided in this section are met.

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

#### **§ 14<sup>1</sup>. Arrangements for purchase of heat**

(1) A producer of heat shall make investments in the production of heat, and a network operator, in order to ensure the security of investments, shall, where this is needful, enter into contracts, for a term of up to 12 years starting from the time of commencement of production by means of a generating installation, having regard to the principles set out in section 1(2) of this Act. If possible, preference shall be given to heat produced from predominantly renewable energy sources or heat produced predominantly in an efficient cogeneration regime from renewable energy sources, from waste within the meaning of the Waste Act, from peat or from carbonisation gas obtained as a result of the processing of oil shale, and to the best clean technologies currently available.

(2) If the need arises for new production capacities and/or several undertakings have expressed in writing their wish to enter into contracts, the network operator shall organise a tender for the award of the contract.

(3) If the network operator and the producer of heat are one and the same legal person, the provisions applicable to the contract shall be applied to any investments made by the network operator in the production of heat.

(4) The network operator shall, in advance, obtain the approval of the Competition Authority regarding any contracts for the purchase of heat or any investments in new production capacities, and regarding any terms and conditions of tenders for the award of contracts, having regard to the conditions provided in subsections 1 and 2 of this section.

(5) The minister responsible for the area shall, by means of a regulation, establish the procedure for organising tenders for awards of contracts, and establish methods for the evaluation of bids in order to assess the compliance with the requirements established in the law of the entry into the contracts and of the making of the investments described in subsections 1 and 2 of this section.

(6) The Competition Authority shall consider approval requests described in subsection 4 of this section in a manner analogous to the procedure defined in section 9(5) of this Act. The Competition Authority shall refuse to grant approval if the principles set out in section 1(2) of this Act, the requirements established in this section or any other requirements emanating from this Act are not complied with.

(7) If the Competition Authority has reasonable cause to doubt whether the production of heat in a network area is economically efficient or whether, pursuant to a contract which was entered into before the entry into force of this section, compliance with the requirements set out in subsection 1 of this section is ensured, the Competition

Authority is entitled to issue an enforcement order to the network operator directing the operator to hold a tender in accordance with the principles set out in this section.

(8) Contracts for the production of heat between a producer of heat and a network operator, entered into before 1 November 2010 shall be regarded as valid until their term expires, but not longer than for 12 years as of the moment that a generating installation started production, provided that the heat is produced pursuant to the principles set out in subsection 1 of this section and section 1(2) of this Act. Upon expiration of the term referred to above, the network operator may hold a tender in respect of any vacant capacities pursuant to the procedure specified in this section.

(9) The network operator shall submit a list of contracts which it has made with the producer of heat before 1 November 2010 and which continue to be valid, to the Competition Authority by 31 December 2010 at the latest.

(10) The provisions of this section shall not release the heating undertaking from the obligation to obtain the approval of the Competition Authority for any maximum price of heat pursuant to the procedure set out in section 9 of this Act.

[RT I 2010, 56, 363 – entry into force 01.11.2010]

## **§ 15. Metering and installation of metering systems**

(1) A network operator shall ensure that all quantities of heat which enter or leave its network are metered and that meter readings are collected and processed.

(2) Unless otherwise stipulated in the contract, in a network which is in the possession of a network operator, the network operator shall install, at its own expense, metering systems as designed together with the necessary auxiliary equipment.

(3) If the existing metering system of a customer does not comply with the established technical requirements, the network operator shall replace the metering system at its own expense, unless otherwise stipulated in the contract.

(4) If the customer wishes to change the capacity of the consumer installation, the network operator shall replace or reset the heat metering system and any equipment which limits usage capacity. The customer shall cover the expenses of resetting.

## **§ 16. Illegal use**

[RT I 2007, 17, 80 – entry into force 09.03.2007]

(1) The following constitutes illegal use of heat:

[RT I 2007, 17, 80 – entry into force 09.03.2007]

- 1) concealing or reducing of the actual amount consumed by way of damaging the meters, tampering with readings, or damaging the metering systems, parts thereof or stop valves;
- 2) unmetered consumption from a connection without the permission of the network operator;
- 3) consumption without a valid written contract.

(2) The network operator is entitled to demand compensation for illegally used heat in the amount which equals three times the cost of the quantity of heat consumed.

[RT I 2007, 17, 80 – entry into force 09.03.2007]

(3) The procedure for determining the amount of heat used illegally and the cost thereof shall be established by the minister responsible for the area.

[RT I 2007, 17, 80 – entry into force 09.03.2007]

## **§ 17. Interruption and resumption of heat supply**

(1) In the case of danger to the life, health or property of persons or to the environment, a network operator is entitled to interrupt a network connection to the customer or another network operator without giving advance notice thereof.

(2) A network operator is entitled to interrupt a network connection forthwith when it is established that illegal use of heat is taking place.

[RT I 2007, 17, 80 – entry into force 09.03.2007]

(3) After giving at least seven days' notice, a network operator is entitled to interrupt the supply of heat in the following cases:

- 1) the customer has transgressed the rights granted to him or her in the conditions of connection or has failed to perform his or her obligations under those conditions;
- 2) the network operator encounters an obstacle in accessing, for the purpose of inspecting or replacing any metering systems located on, or performing any other work on, the premises owned or occupied by the customer or another heating undertaking;



3) the customer's or heating undertaking's payments for heat are in arrears.

(4) Before the supply of heat is interrupted in the cases provided in subsection 3 of this section, the network operator shall give the customer or another heating undertaking reasonable time to cure the defects and shall caution the customer or another heating undertaking in writing of the possibility of interruption if the defects are not cured. The notice shall set out:

- 1) the reason for interruption of the supply of heat;
- 2) the time-limit for curing the defects.

(4<sup>1</sup>) If a customer has failed to pay the amount due according to the contract entered into with the network operator, the supply of heat required for heating a dwelling may be interrupted during the period from 1 October to 30 April only when 90 days have passed since receipt of the notice specified in subsection 4 of this section and the customer has failed, during this period, to cure the defect which constitutes the basis for interruption of the supply of heat.

[RT I 2010, 35, 192 – entry into force 08.07.2010]

(5) A network connection and heat supply interrupted for the reasons provided in subsection 3 of this section shall be restored, provided the contract has not been terminated, after the reason for the interruption has been eliminated and the customer or another heating undertaking has paid the justified costs of interruption and reconnection.

## **Chapter 4**

### **OPERATION ON THE BASIS OF AUTHORISATION**

#### **§ 18. Authorisation obligation**

(1) An authorisation is required in the following areas of activity:

- 1) production of heat;
- 2) distribution of heat;
- 3) sale of heat.

(2) The obligation to hold an authorisation specified in subsection 1 of this section does not apply in the following cases:

- 1) the production of heat if the estimated annual production volume remains below 50,000 MWh per undertaking or if the undertaking does not produce heat in the process of combined generation of heat and power;
- 2) the distribution of heat if the estimated annual distribution volume remains below 50,000 MWh per undertaking;
- 3) the sale of heat if the estimated annual volume of sales remains below 50,000 MWh per undertaking;
- 4) the sale of heat if the heating undertaking is part of a group and the combined annual heat sales of the group in Estonia to persons who are not part of the group remains below 50,000 MWh;
- 5) the sale of heat if the heating undertaking does not produce heat in the process of combined generation of heat and power;
- 6) where a person sells heat solely to its members, commercial lessees or tenants provided that the sale of heat is not the principal activity of the person and provided that heat is sold within a single immovable, or within a construction work that is a movable, together with the land necessary for servicing that construction work.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

#### **§ 19. Application for authorisation**

(1) Applications for authorisation are processed by the Competition Authority.

(2) In addition to the information required under the General Part of the Economic Activities Code Act, the application for authorisation must set out the licensed territory applied for and include the layout plans and description of the networks located within the licensed territory.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

#### **§ 20. Subject of scrutiny of the authorisation**

(1) The undertaking is granted the authorisation provided that:

- 1) it is a public or private limited company that is entered in the commercial register or that is in process of being founded and possesses the technical capability and employs personnel with the requisite skills for engaging in the area of activity stated in the application;
- 2) the share capital of a heating undertaking that sells annually over 50,000 MWh of heat amounts at least to 31,950 euros.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

(5) A state fee for the licence and for any amendment of the licence at the initiative of the holder of the licence, except for an amendment of particulars referred to in points 1, 2 and 6 of subsection 1 of section 20 of this Act, shall be paid following the procedure and according to the rate provided in the State Fees Act.  
[RT I 2006, 58, 439 – entry into force 01.01.2007]

#### **§ 21. Decision on issuing the authorisation**

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

#### **§ 22. Refusal to issue the authorisation**

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

#### **§ 23. Ancillary conditions of the authorisation**

The following ancillary conditions may be included in the authorisation:

- 1) a development obligation in accordance with subsection 3 of section 14 of this Act;
- 2) other ancillary conditions, provided they are necessary in order to ensure security of supply or the performance of obligations arising from, or the achievement of the objectives of, this Act or the legislation enacted under it or in order to take into consideration the particular character of a specific activity.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

#### **§ 24. Amending the conditions of the authorisation and the particulars stated in the authorisation**

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

#### **§ 25. Validity of the authorisation**

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

#### **§ 26. Revocation of the authorisation**

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

#### **§ 27. Obligation to continue activity**

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

## **Chapter 5 SUPERVISION**

#### **§ 28. State supervision**

(1) State supervision over compliance with the requirements provided in this Act and the legislation enacted under it shall be exercised by the Competition Authority.

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

#### **§ 29. Special state supervision measures**

The Competition Authority may, in order to exercise state supervision as provided in this Act, implement the special state supervision measures provided in sections 30, 31, 32, 50 and 51 of the Law Enforcement Act on the grounds and following the procedure provided in that Act.

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

#### **§ 29<sup>1</sup>. Special rules regarding state supervision**

(1) The measure provided in section 50 of the Law Enforcement Act may be implemented only when entering the premises, rooms or civil engineering works of the heating undertaking in the presence of the representative of the undertaking under scrutiny.

(2) In the event of repeated failure to comply with the enforcement order, the Competition Authority is authorised to issue a decision which documents the repeated failure to comply with the enforcement order and which constitutes the basis for revocation of the authorisation issued to the undertaking.

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

## **§ 29<sup>2</sup>. Limit rate of non-compliance levies**

In the case of failure to comply with an enforcement order, the Competition Authority may impose, before making the decision to revoke the authorisation specified in section 30 of this Act, a coercive measure in accordance with the Substitutional Performance and Non-Compliance Levies Act. The upper limit of a non-compliance levy to enforce an obligation is 1,300 euros.

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

## **§ 30. Enforcement orders and decisions**

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

## **§ 31. Expropriation**

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

## **§ 32. Resolution of disputes**

(1) In the event of a dispute arising on the basis of section 5 of this Act, the Competition Authority shall be required to present its reasoned opinion in the matter if the heating undertaking or municipal or city administration so requests.

[RT I 2010, 56, 363 – entry into force 01.11.2010]

(2) The opinion specified in subsection 1 of this section shall be presented in writing within thirty days. If the matter is particularly complex, the Competition Authority may extend the term for presenting the opinion to a maximum of ninety days and shall inform the applicant thereof in writing.

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

(3) The term stated in subsection 2 of this section is suspended by operation of law until such time as the information which was required by the Competition Authority and which is necessary for presentation of a reasoned opinion has been submitted to the Competition Authority.

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

(4) When it decides on the application mentioned in subsection 1 of this section, the Competition Authority may make a proposal to the municipal or city administration to amend the decision referred to in subsection 6 of section 5 of this Act.

[RT I 2010, 56, 363 – entry into force 01.11.2010]

# **Chapter 6 LIABILITY**

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

**§ 33.–§ 38.** [Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

# **Chapter 7 IMPLEMENTING PROVISIONS**

## **§ 39. Term of agreement entered into with the government on the basis of the Energy Act**

An agreement entered into between an undertaking and the government pursuant to the Energy Act remains in force until the date stated in the market licence.

## **§ 40. Validity of market licence**

(1) A market licence issued pursuant to the Energy Act is valid until the date stated in the market licence.

(2) Within one year as of the entry into force of this Act, the Competition Authority shall enter valid market licences issued before the entry into force of this Act in the national register of undertakings operating in areas of activity subject to special requirements.

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

**§ 41. Bringing the activity of an undertaking into compliance with requirements provided in this Act**

(1) Heating undertakings which operated on the basis of the Energy Act prior to the entry into force of this Act shall bring their activity into compliance with the requirements provided in this Act within one year after the entry into force of this Act.

(2) Upon the entry into force of this Act, the maximum price for heat for which a heating undertaking has obtained approval on the basis of the Energy Act shall be deemed to be the maximum price for which heat is to be sold by that heating undertaking.

**§ 41<sup>1</sup>. Use of reserve fuel for production of heat**

A heating undertaking specified in section 7(3) of this Act shall, by 1 July 2008, provide for the possibility of using reserve fuel for the production of heat.  
[RT I 2007, 17, 80 – entry into force 09.03.2007]

**§ 42. [Omitted from this version.]**

**§ 43. Entry into force of this Act**

This Act enters into force on 1 July 2003.