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## Liquid Fuel Act

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RT I 2003, 21, 127

Entry into force in accordance with section 37

Amended by the following acts

Passed	Published	Entry into force
17.12.2003	RT I 2003, 88, 591	01.01.2004
10.03.2004	RT I 2004, 18, 131	15.04.2004
09.06.2004	RT I 2004, 53, 365	18.07.2004
17.02.2005	RT I 2005, 13, 66	09.03.2005
09.11.2005	RT I 2005, 64, 482	01.01.2006
27.09.2006	RT I 2006, 43, 325	01.12.2006
22.11.2007	RT I 2007, 66, 408	01.01.2008
06.11.2008	RT I 2008, 49, 272	01.01.2009
15.06.2009	RT I 2009, 39, 262	24.07.2009
26.11.2009	RT I 2009, 62, 405	01.01.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011 enters into force on the 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).
20.05.2010	RT I 2010, 31, 158	24.06.2010
22.02.2011	RT I, 15.03.2011, 11	01.04.2011
23.02.2011	RT I, 25.03.2011, 1	01.01.2014; date of entry into force amended to 01.07.2014 [RT I, 22.12.2013, 1]
31.01.2012	RT I, 07.02.2012, 9	31.01.2012 By judgment of the Constitutional Review Chamber of the Supreme Court s. 36(5) of the Liquid Fuel Act has been declared unconstitutional and invalid insofar as it applies to sellers of fuel released for consumption who were registered as sellers of fuel in the register of economic activities on 1 April 2011 and had operated on the fuel market for less than three years, and the phrase ‘and at least three years of experience in the area of handling fuel’ in section 4 <sup>2</sup> (5)(1) of the same Act has been declared unconstitutional and invalid.
08.03.2012	RT I, 27.03.2012, 7	01.01.2013, partially
07.06.2012	RT I, 27.06.2012, 6	01.04.2012 07.07.2012

07.11.2012	RT I, 15.11.2012, 3	01.01.2013
05.12.2013	RT I, 22.12.2013, 1	01.01.2014
19.02.2014	RT I, 13.03.2014, 4	01.07.2014, partially 23.03.2014
27.02.2014	RT I, 21.03.2014, 4	01.04.2014, partially 01.07.2014
05.06.2014	RT I, 29.06.2014, 1	01.07.2014
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, official titles of ministers replaced in accordance with s. 107 <sup>3</sup> (4) of the Government of the Republic Act

## Chapter 1 GENERAL PROVISIONS

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

(1) With a view to ensuring the payment of taxes and guaranteeing the quality of the more widely used motor fuels, this Act provides the bases and procedure for handling liquid fuel, the liability for violations of this Act and the arrangements for exercising state supervision.  
[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

(2) The provisions of this Act apply to the production of liquid fuel without prejudice to the special rules prescribed in the Act which provides for the imposition of excise duty on the fuel.

(3) This Act does not govern technical and safety requirements established for equipment, construction works and measuring instruments used in the course of handling liquid fuel.

(3<sup>1</sup>) The provisions of this Act do not extend to motor fuel which is brought to Estonia for non-commercial purposes by travellers from countries outside the European Community.  
[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

(4) 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

(1) For the purposes of this Act

1) 'liquid fuel' (hereinafter, 'fuel') means liquid flammable substance which can be used as the source of energy in heat engines and other energy conversion devices suitable for such purposes, or liquefied petroleum gas used in motor vehicles which is gaseous under standard conditions, that is, at the pressure of 0.1 MPa and the temperature of 15 °C;

2) [Repealed – RT I, 15.03.2011, 11 – entry into force 01.04.2011]

3) 'fuel handling' means the sale or offer for sale (hereinafter, 'sale') of fuel released for consumption, as well as the transport, storage or provision of storage services with respect to fuel released for consumption, and the import, export or production of fuel;

4) 'import of fuel' means the application of the customs procedure 'release of goods for free circulation' with respect to fuel as defined in Council Regulation 2913/92/EEC establishing the Community Customs Code (OJ L 302, 19.10.1992, pp. 1–50) (hereinafter, 'Community Customs Code');

5) 'export of fuel' means the application of the export customs procedure with respect to fuel within the meaning of the Community Customs Code;

6) 'provision of fuel storage services' means the possession and storage, by a person, of fuel belonging to other persons as a part of the economic activity of such a person, except the storage of the mobilisation stockpile within the meaning of the Peace-Time National Defence Act;

[RT I 2005, 64, 482 – entry into force 01.01.2006]

7) [Repealed – RT I 2004, 53, 365 – entry into force 18.07.2004]

8) 'additive' means a substance or mixture of substances which is added to fuel in order to enhance its properties or to improve the efficiency of the energy conversion device;

9) 'release for consumption of fuel' means the release for consumption of excise goods within the meaning of the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act.

[RT I 2008, 49, 272 – entry into force 01.01.2009]

(2) [Repealed – RT I 2010, 31, 158 – entry into force 24.06.2010]

(3) The specific list of the fuels is established on the basis of CN commodity codes by a regulation of the minister responsible for the area.

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

## **Chapter 2**

# **FUEL HANDLING**

### **§ 3. Requirements for fuel handlers**

(1) Persons engaged in fuel handling (hereinafter, 'handlers') must have necessary technical equipment and staff to ensure compliance with the requirements arising from this Act.

(2) [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)]

(3) Fuel may only be sold by companies who have presented to the Tax and Customs Board a security described in section 4<sup>1</sup> of this Act and whose share capital amounts to at least 31,950 euros or who have entered into a liability insurance contract which stipulates an insurance coverage of at least 31,950 euros reserved for compensating eventual proprietary damage caused to third parties as a result of the activities of the fuel undertaking. The share capital or liability insurance requirement provided in this subsection does not extend to companies who sell only liquefied petroleum gas.  
[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

(4) Fuel, except for liquefied gas, may be imported by companies whose share capital is at least 639,115 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) Fuel storage services may be provided by companies who hold a valid liability insurance contract with an amount of insurance coverage which ensures compensation for proprietary damage caused to third parties by the company in the course of its activity as a provider of fuel storage services. The minimum amount of liability insurance coverage is 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<sup>1</sup>) [Repealed – RT, 15.03.2011, 11 – entry into force 01.04.2011]

(5<sup>2</sup>) Companies whose share capital is at least 639,115 euros may concurrently engage in the provision of fuel storage services and in the import of fuel [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<sup>3</sup>) [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)]

(5<sup>4</sup>) [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)]

(6) A company may sell fuel or provide fuel storage services only at its registered place of business. Storage services may not be provided at a filling station.

(7) A seller of fuel who owns ten or more filling stations and who operates at least in three counties, is provider of a vital service by virtue of section 34(2)(3) of the Emergency Preparedness Act.  
[RT I 2009, 39, 262 – entry into force 24.07.2009]

### **§ 4. Sale of fuel**

(1) A filling station must display in a visible place a notice that states the following:

- 1) name of the fuel;
- 2) price of the fuel;
- 3) the seller's business name, registration number in the commercial register or, if the seller does not hold such registration, the relevant identity marker of the country in which the seller is established, the address of the seller's seat and its telephone number, the registration number of the authorisation issued to the seller of fuel or the registration number and date of the decision exempting the seller from the obligation to hold the corresponding authorisation;  
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]
- 4) other essential information pertaining to the purpose of the use of the fuel.

(2) At the request of the purchaser, the seller must ensure provision of explanations concerning the fuel which it sells and its properties, including the biofuel content of petrol and diesel fuel and the recommended uses of various petrol mixtures. At places of business where service personnel is not present on site (automatic filling stations), information concerning the possibilities of obtaining such information together with a corresponding telephone number shall be displayed in a visible place.

[RT I, 15.11.2012, 3 – entry into force 01.01.2013]

(3) At the request of the law enforcement agency, the seller is required to present documents or provide relevant explanations concerning any additives in the fuel and the corresponding indications used when selling the fuel.  
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(4) Purchased fuel must be paid for by way of non-cash payment, unless the fuel is purchased from a filling station.

(5) The seller is required to ensure that the customer has access to the information specified in subsections 1–3 of this section even if the fuel is sold outside a filling station.

(6) At any one filling station, only one legal person may sell fuel and store the fuel required for maintaining a fuel selling operation.  
[RT I 2004, 53, 365 – entry into force 18.07.2004]

#### **§ 4<sup>1</sup>. Security**

A seller of fuel shall present to the Tax and Customs Board the security described in section 44<sup>2</sup>(2) of the Value-Added Tax Act following the procedure stipulated in the Taxation Act, without prejudice to the special rules set out in this Act. The security shall be deemed presented when the Tax and Customs Board has accepted it.

[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

#### **§ 4<sup>2</sup>. Amount of security**

(1) In the case of releasing fuel for consumption and of termination of tax warehousing, the security of the seller of the fuel shall amount to 1,000,000 euros. This provision shall not apply to cases described in points 2–6 of subsection 3 of section 15 of the Value-Added Tax Act.

[RT I, 27.03.2012, 7 – entry into force 01.04.2012]

(2) The security of the seller of a fuel which has been released for consumption shall amount to 100,000 euros.

(3) A seller who only handles aviation fuels or liquefied petroleum gas is not subject to the provisions concerning securities.

(4) Relying on an assessment of risks, the Tax and Customs Board is entitled to require a seller of fuel to provide an increased security, as well as to reconsider the amount of a security which has already been determined, primarily in consideration of:

- 1) the seller's potential obligation to pay value-added tax;
- 2) the seller's business plan or any other activity plan;
- 3) the seller's solvency and timely payment of tax amounts which have fallen due;
- 4) the seller's experience in the area of handling fuel;
- 5) the business reputation of the seller and of the members of the seller's management or controlling body and of the seller's business partners, as well as the reliability and credibility of the information and documents described in this subsection which have been submitted by the seller;
- 6) any violations of tax legislation, the Liquid Fuel Act or customs rules committed by the seller or members of the seller's management or controlling body;
- 7) the information and documents submitted to prove compliance with the requirements specified in section 3(1) of this Act.

The Tax and Customs Board reserves the right to request further relevant information and documents in addition to the information and documents described in this subsection.

[RT I, 27.06.2012, 6 – entry into force 07.07.2012]

(5) The Tax and Customs Board may reduce the amount of the security at the request of the seller specified in subsection 2 of this section and, as of 1 January 2013, also at the request of the seller specified in subsection 1 of this section, provided all of the following requirements are met:

- 1) the seller and the members of the seller's management or controlling body and the seller's business partners have an excellent business reputation;
- 2) taken together, the seller and members of the seller's management or controlling body have not committed several violations of tax legislation, customs rules or this Act during the previous three years and no official investigation has been initiated with respect to the seller or any member of the seller's management or controlling body for a violation of tax legislation, customs rules or this Act;
- 3) the seller has no tax arrears or tax arrears to be paid by instalments.

[RT I, 27.06.2012, 6 – entry into force 07.07.2012](5<sup>1</sup>) In reducing the amount of the security, the Tax and Customs Board shall consider the provisions of subsection 4 of this section and:

- 1) the capability of a member of the seller's management or controlling body to operate in the area of handling fuel;
- 2) prior business experience of the member of the seller's management or controlling body;
- 3) the seller's investments for fuel handling.

[RT I, 27.06.2012, 6 – entry into force 07.07.2012]

(6) The Tax and Customs Board may reduce the amount of security at the request of the seller specified in subsection 1 of this section also before 1 January 2013, provided all of the requirements stipulated in subsection 5(1–3) of this section are met, in the following instances:

- 1) the seller's average monthly fuel turnover accounts for less than 30 per cent of the seller's turnover of chemistry products other than fuel;
- 2) the seller handles only shale oil;
- 3) the seller's average monthly shale oil turnover accounts for less than 20 per cent of the seller's turnover of fuels other than shale oil;

[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

### **§ 4<sup>3</sup>. Renewal of security**

A seller of fuel shall present to the Tax and Customs Board a new security at least ten working days before the expiration date of the previous security. The new security shall take effect on the day following the expiration date of the previous security.

[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

### **§ 4<sup>4</sup>. Replacement and reduction of security**

(1) The Tax and Customs Board shall make the decision regarding the replacement of security within ten working days after the day of receiving the application to this effect from the seller of fuel or at the first possible opportunity should any circumstances described in subsections 2–3 of section 125 of the Taxation Act arise.

(2) If the presented security is disproportionately large to secure a potential obligation to pay value-added tax, the seller of fuel shall be entitled to request reduction of the security from the Tax and Customs Board. The seller of fuel described in section 4<sup>2</sup>(2) of this Act may until 1 January 2013 request the reduction of security to 1,000,000 euros, except in the case provided in section 4<sup>2</sup>(6) of this Act.

[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

(3) The Tax and Customs Board shall make a decision regarding the reduction of security within thirty calendar days after the day of receiving the application. If the application does not meet the requirements or if the Tax and Customs Board needs further information from the applicant to assess the grounds of the application, the term for considering the application shall commence on the day an application meeting the requirements is submitted or from the day that such further information is received.

[RT I, 27.06.2012, 6 – entry into force 07.07.2012]

### **§ 5. Exceptions in the cases of release for consumption and export of fuel**

[Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

### **§ 6. Shipment document**

[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

(1) The seller of fuel or the person who dispatches fuel or transfers fuel to the depositary or depositor, shall, when selling, transporting or transferring fuel to the depositary or depositor, draw up a fuel shipment document which identifies the fuel and its quantity. The drawing up of a shipment document is not required if the fuel is purchased from a filling station.

[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

(2) Pursuant to the Accounting Act, in addition to the information submitted in the source document a shipment document must set out the following information:

[RT I 2004, 53, 365 – entry into force 18.07.2004]

1) the name of the fuel;

[RT I 2004, 53, 365 – entry into force 18.07.2004]

2) in the case of petrol, the octane number;

[RT I 2004, 53, 365 – entry into force 18.07.2004]

3) in the case of diesel fuel, a note indicating whether it is winter or summer diesel;

[RT I 2004, 53, 365 – entry into force 18.07.2004]

4) in the case of diesel fuel marked with a fiscal marker, a note concerning the marking with a fiscal marker;

[RT I 2004, 53, 365 – entry into force 18.07.2004]

5) the number, the name of the issuer and date of issue of the certificate of conformity or declaration of conformity of the fuel;

[RT I 2010, 31, 158 – entry into force 24.06.2010]

6) the registration number of the authorisation issued to the seller of fuel or the provider of fuel storage services or the registration number and date of the decision exempting that seller or provider from the obligation to hold the corresponding authorisation;

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

7) the particulars of the fuel transporter (business name and registration number in the commercial register, the first name and surname of the driver of the motor vehicle, registration number of the motor vehicle) and the address of the place of the loading and offloading of the fuel.

[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

(3) A seller of fuel may dispatch fuel to places of business of the undertaking with an internal shipment document which conforms to the requirements provided in subsection 2 of this section and which contains a reference to the original shipment document.

[RT I 2004, 53, 365 – entry into force 18.07.2004]

(4) The shipping document must accompany the fuel whenever it is transported. The seller of fuel must keep the shipping document of fuel at every place of business where the fuel is sold and must submit the shipping document immediately to an official who conducts a supervision inspection if the official so requests.

[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

(5) Shipping documents must be preserved in accordance with the requirements provided for the preservation of accounting source documents on the basis of the Accounting Act.

[RT I 2004, 53, 365 – entry into force 18.07.2004]

(6) The drawing up of a separate shipping document is not required in the case that the fuel which is transferred to the depositor is at that time offered for sale by the depositor. In such a case, a certificate of the representative of the provider of fuel storage services concerning transfer of the fuel shall be annexed to the shipping document drawn up in relation to the sale.

[RT I 2004, 53, 365 – entry into force 18.07.2004]

(7) The requirements arising from the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act apply to shipping documents upon dispatch of fuel from excise warehouses.

[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

(8) The recipient of fuel named in the shipping document must check the conformity of the shipping document to the requirements set out in this section.

[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

#### **§ 7. Report on fuel handling**

[RT I 2004, 53, 365 – entry into force 18.07.2004]

(1) By the fifteenth day of each month, a seller of fuel shall submit to the Tax and Customs Board a report which sets out information concerning the fuels handled by the seller during the preceding calendar month and any remaining quantities of fuel.

[RT I 2004, 53, 365 – entry into force 18.07.2004]

(2) A keeper of an excise warehouse shall submit a report on fuel handling pursuant to the procedure established in the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act and shall not submit the report specified in subsection 1 of this section.

[RT I 2008, 49, 272 – entry into force 01.01.2009]

(3) The form of a report on fuel handling and the procedure for completion and submission thereof shall be established by a regulation of the Minister of Finance.

[RT I 2004, 53, 365 – entry into force 18.07.2004]

#### **§ 7<sup>1</sup>. Notifying the European Commission**

(1) The Ministry of Economic Affairs and Communications shall notify the European Commission periodically of fuel prices.

(2) Sellers of fuel are required to provide information necessary for the notification of European Commission specified in subsection 1 of this section at the request of the Ministry of Economic Affairs and Communications.

[RT I 2004, 53, 365 – entry into force 18.07.2004]

## **Chapter 3 REQUIREMENTS FOR FUEL AND ATTESTATION OF THE CONFORMITY OF FUEL**

#### **§ 8. Requirements for fuel**

(1) The requirements for motor vehicle petrol, diesel fuel, light fuel oil and heavy fuel oil, except for shale-derived fuel oil, shall be established by a regulation of the minister responsible for the area. The requirements are established in line with the purpose of use of the fuels and with environmental requirements.

(2) Unless otherwise provided in this Act, it is prohibited to handle fuel specified in subsection 1 of this section if the fuel does not conform to the requirements. The person who handles a fuel shall be responsible for the conformity of that fuel.

(3) Of the types of motor vehicle petrol, only unleaded petrol may be released for consumption or sold. For the purposes of this Act, unleaded petrol means petrol with a lead content not exceeding 0.013 g/l.

(4) At the request of a corresponding sports federation, the Minister of Economic Affairs and Communications is entitled to give permission for the release for consumption of non-conforming fuels with specific characteristics which are intended for use in sports vehicles.

(5) An application for the permission specified in subsection 4 of this section shall set out the following information:

- 1) the name, registration number in the commercial register, address and other particulars of the sports federation;
  - 2) the name, CN subheading and quantity of the fuel;
  - 3) the name of the company which releases the fuel for consumption;
  - 4) an explanation of or grounds for the need for the application.
- [RT I 2004, 53, 365 – entry into force 18.07.2004]

### **§ 9. Conformity attestation**

(1) The conformity to requirements established for a fuel specified in section 8(1) of this Act and released for consumption is attested by a certificate of conformity issued by a conformity assessment body or by a declaration of conformity issued by a manufacturer located in the European Union.

(2) The certificate of conformity shall be issued by a conformity assessment body accredited by an accreditation body which meets the requirements set out in Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, pp. 30–47)

(3) The conformity of fuel to established requirements must be shown:

- 1) when importing the fuel unless the fuel is dispatched to an excise warehouse;
- 2) when releasing the fuel for consumption from an excise warehouse, except where the fuel dispatched from a Member State of the European Union is stored in a separate container in the excise warehouse.

(4) When brought into Estonia, fuel whose conformity to established requirements has to be attested in the cases specified in subsection 3 of this section shall be placed in a customs warehouse, customs terminal or excise warehouse.

(5) A certificate or declaration of conformity:

- 1) shall be submitted to the customs authorities together with the declaration for release for free circulation, or;
- 2) shall be kept with the person who dispatched the fuel from the excise warehouse.

(5<sup>1</sup>) The certificate or declaration of conformity is not required:

- 1) when releasing for consumption any fuel not subject to excise duty as identified in the Alcohol, Tobacco, Fuel and Electricity Excise Duties Act;
- 2) when releasing for consumption and exporting any fuel consumed by a water craft or aircraft used outside Estonian territory.

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

(6) The conformity of fuel must be re-attested if more than six months have passed since the issue of the certificate or declaration of conformity of the fuel.

(7) Certificates or declarations of conformity or their copies shall be preserved in accordance with the requirements provided in the Accounting Act in respect of the preservation of accounting source documents.  
[RT I 2010, 31, 158 – entry into force 24.06.2010]

**§ 10.–§ 12.**[Repealed – RT I 2010, 31, 158 – entry into force 24.06.2010]

## **Chapter 4**

# **OBLIGATION TO HOLD RELEVANT AUTHORISATION**

### **§ 13. Obligation to hold relevant authorisation**

(1) Authorisation is required in order to engage in one or several of the following areas of activity:

- 1) import of fuel;
- 2) export of fuel;
- 3) sale of fuel;
- 4) provision of fuel storage services.

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

(2) Authorisation is not required:

- 1) when selling fuel in an excise warehouse, except for the sale of fuel released for consumption, or in a tax warehouse or customs warehouse or in a free zone;
- 2) where the entry into a motor vehicle sale agreement is accompanied by the sale of fuel under the agreement;
- 3) for the import of fuel, provided the fuel is taken into an excise warehouse or tax warehouse;
- 4) when releasing for consumption any fuel that is not subject to an excise duty under the Alcohol, Tobacco, Fuel and Electricity Excise Duties Act;
- 2) when releasing for consumption and exporting any fuel consumed by a water craft or aircraft used outside Estonian territory;
- 6) when selling fuel as part of enforcement proceedings.

(3) The seller of fuel mentioned in subsection 1 of section 4<sup>2</sup> of this Act must have, in the register of economic activities, a separate note regarding the release of fuel for consumption or the termination of tax warehousing.

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

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

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

Authorisation is granted to the undertaking if:

- 1) it meets the requirements set out in section 3 of this Act;
- 2) it has the security that fulfils the conditions set out in sections 4<sup>1</sup> and 4<sup>2</sup> of this Act;
- 3) the applicant for the authorisation has not been convicted of operating without authorisation in a field that was subject to an authorisation requirement and the term provided in subsection 1 of section 24 of the Punishment Register Act has not expired.

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

### **§ 15. Applying for authorisation**

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

In addition to those provided in the General Part of the Code of Economic Activities Act, the application for authorisation sets out the following particulars:

- 1) specific information concerning the area of activity in accordance with the list provided in subsection 1 of section 13 of this Act;
- 2) in the case of the area of activity ‘the sale of fuel’, whether the applicant falls under subsection 1 or 2 of section 42 of this Act;
- 3) where the authorisation to provide fuel storage services is applied for, information concerning the volume of the tanks used;
- 4) where the authorisation for the sale of fuel is applied for, the business plan or other activity plan that sets out the applicant’s estimated maximum monthly turnover from the sale of fuel;
- 5) where the authorisation for the sale of fuel is applied for, the addresses of the places of sale that represent places of business.

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

### **§ 15<sup>1</sup>. Notification of intention to exceed the estimated maximum turnover from the sale of fuel**

The seller of fuel must give the Tax and Customs Board at least five days’ advance notice of intention to exceed the estimated monthly turnover from the sale of fuel as stated in the plan referred to under point 4 of section 15 of this Act.

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

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

### **§ 19. Deciding on applications for authorisation**

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

(1) Applications for authorisation are decided on by the Tax and Customs Board.



(2) The Tax and Customs Board determines the security for the applicant within 10 business days starting from the day on which it received the application together with the documents and data annexed to it. If the seller of fuel has applied for a reduction of the security, the Tax and Customs Board determines the security for the applicant within the time-limit provided in subsection 3 of section 4<sup>4</sup> of this Act.

(3) Where the applicant makes an application referred to in section 4<sup>4</sup> of this Act, the time-limit for deciding on the application for authorisation is suspended until the decision is taken concerning the application made under section 4<sup>4</sup>.

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

### **§ 19<sup>1</sup>. Prohibition of purchasing fuel from unauthorised sellers**

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

(1) It is prohibited to purchase fuel from a seller who has not been authorised as a seller of fuel.

(2) When purchasing fuel, the purchaser must verify in the Register of Economic Activities whether or not the seller holds the corresponding authorisation. Such verification is not required in the case of purchasing fuel from a filling station.

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

### **§ 19<sup>2</sup>. Obligations of excise and tax warehouse keepers in relation to the authorisation**

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

(1) In the case of release of fuel for consumption the excise warehouse keeper and in the case of termination of tax warehousing, the tax warehouse keeper, must verify in the Register of Economic Activities whether the person who requests the release of fuel for consumption or the termination of tax warehousing holds the authorisation for the sale of fuel, including the note referred to in subsection 2 of section 13 of this Act. The release of fuel for consumption and the termination of tax warehousing is prohibited if the note referred to in this subsection is not entered in the register in respect of the owner of the fuel. This provision does not apply to the termination of tax warehousing in the cases listed at points 2–6 of subsection 3 of section 15 of the Value-Added Tax Act.

(2) The Tax and Customs Board may suspend the authorisation to operate an excise warehouse or a tax warehouse for up to six months if:

- 1) the owner of the fuel released for consumption from the excise warehouse does not hold the note referred to in subsection 1 of this section or
- 2) at the time when the tax warehousing was terminated, the owner of the fuel did not hold the note referred to in subsection 1 of this section.

(3) When the authorisation to operate an excise warehouse is suspended under subsection 2 of this section, points 1–2 and 5 of subsection 1 of section 43 of the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act do not apply.

(4) The Tax and Customs Board may refuse to revoke the authorisation to operate an excise warehouse or a tax warehouse if this is requested by the holder of the authorisation during the time when the validity of the authorisation is suspended on the grounds set out in subsection 2 of this section.

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

## **Chapter 5 STATE SUPERVISION**

### **§ 20. State supervision**

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

(1) State supervision over compliance with the requirements provided in this Act is exercised, within the limits of their competence, by:

- 1) the Competition Authority;
- 2) the Tax and Customs Board;
- 3) the Consumer Protection Board.

(2) The competence of the Competition Authority extends to:

- 1) verification of register information;

- 2) verification of compliance with the requirements concerning fuel and the handling of fuel;
- 3) the granting of approval for operations involving non-conforming fuel.

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

(3) The competence of the Tax and Customs Board extends to:

- 1) verification of the presence of the authorisation for the handling of fuel;
- 2) verification, in relation to the handling of fuel, of compliance with the requirements concerning fuel and of the documents certifying conformity of the fuel;
- 3) the processing of reports concerning the handling of fuel;
- 4) the granting of approval for operations involving non-conforming fuel.

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

(4) The competence of the Consumer Protection Board extends to:

- 1) verification of the presence of relevant registrations;
- 2) verification of compliance with the requirements concerning fuel and the handling of fuel;
- 3) the granting of approval for operations involving non-conforming fuel.

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

## **§ 21. Competition Authority**

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

## **§ 22. Tax and Customs Board**

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

## **§ 23. Consumer Protection Board**

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

## **§ 24. Special measures of state supervision**

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

When exercising the state supervision duties described in this Act, a law enforcement body may, in accordance with the grounds and procedure provided in the Law Enforcement Act, apply the special measures of state supervision set out in sections 30, 31, 32, 49 and 50 of that Act.

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

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

(1) A law enforcement body may apply the measure described in section 50 of the Law Enforcement Act only in the presence of the person handling the fuel or of a representative of that person.

(2) A law enforcement body is authorised to prohibit the handling of non-conforming fuel.

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

### **§ 24<sup>2</sup>. Special rules regarding the exercise of state supervision by the Tax and Customs Board**

(1) The Tax and Customs Board is authorised to impound, until the relevant circumstances are clarified or until the security mentioned in subsection 1<sup>6</sup> of section 31 of the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act has been paid, any fuel, including any liquid combustible substance mentioned in the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act, in relation to which there is reason to believe that it does not conform to the requirements or to the documents that have been submitted in relation to that fuel, or which is suspected of being handled outside the handling system that is subject to state supervision, or whose use for non-approved purposes results in the accrual or increase of excise duty liability.

(2) Any impounded fuel on which the security mentioned under subsection 1<sup>6</sup> of section 31 of the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act has not been paid within 30 days starting from the day following the decision of the Tax and Customs Board concerning the amount of the security may be occupied and sold by the Tax and Customs Board in a customs auction in accordance with the procedure provided in the Customs Act.

[RT I, 21.03.2014, 4 – entry into force 01.07.2014]

## **§ 25. Rate of coercive payments**

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

Where the enforcement order is not complied with, the maximum amount of the coercive payment applicable in accordance with the procedure provided in the Substitutive Enforcement and Coercive Payment Act is 640 euros.

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

## **§ 26. Contestation of enforcement orders and other measures**

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

## **§ 27. Checking conformity with established requirements**

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

## **§ 28. Operations involving non-conforming fuel**

(1) Operations involving non-conforming fuel shall be arranged according to the proposal of the possessor or owner of the fuel, having regard to the provisions of this section.

(2) Non-conforming fuel may be subject to the following operations provided that these do not harm human health, property or the environment:

- 1) export;
- 2) reprocessing at an excise warehouse;
- 3) destruction in accordance with the requirements of the Waste Act;
- 4) sale to the chemical industry as raw material;
- 5) any other operations approved by a law enforcement agency.

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

(3) To perform the operations listed in subsection 2 of this section the approval of the law enforcement agency that issued the corresponding enforcement order must be applied for. The person who handles non-conforming fuel must inform the law enforcement agency of the results of the operation in writing within a reasonable time.

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

(4) [Repealed – RT I 2004, 53, 365 – entry into force 18.07.2004]

(5) Non-conforming fuel shall be stored at a place approved by the agency specified in subsection 3 of this section until approval is obtained for operations involving such a fuel.

(6) The law enforcement agency grants approval for operations involving non-conforming fuel within five working days following the submission of the corresponding application.

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

# **Chapter 6 LIABILITY**

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

## **§ 30. Failure to register a place of business**

(1) The handling of fuel at a place of business that is not listed in the relevant authorisation is punishable by a fine of up to 300 fine units.

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

(2) The same act, when committed by a legal person, is punishable by a fine of up to 3200 euros.

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

## **§ 31. Absence of shipping document, certificate of conformity and declaration of conformity**

[RT I 2010, 31, 158 – entry into force 24.06.2010]

(1) The handling of liquid fuel without a shipping document which meets the established requirements, a failure to present a shipping document meeting the established requirements or absence of a certificate or declaration of conformity meeting the established requirements is punishable by a fine of up to 300 fine units.

[RT I 2010, 31, 158 – entry into force 24.06.2010]

(2) The same act, when committed by a legal person, is punishable by a fine of up to 3200 euros.

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

### **§ 32. Illegal handling of non-conforming fuel and carrying out unapproved operations involving non-conforming fuel**

(1) Illegal handling of non-conforming fuel, or carrying out unapproved operations involving such a fuel if approval is 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 3200 euros.  
[RT I 2010, 22, 108 – entry into force 01.01.2011]

### **§ 32<sup>1</sup>. Purchasing of fuel from an unregistered seller**

(1) The purchasing of fuel from an unregistered seller, except if the fuel is purchased from a filling station, is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I, 15.03.2011, 11 – entry into force 01.04.2011]

### **§ 33. Failure to comply with reporting obligation and submission of false information in reports**

Failure by a legal person to submit a report for the second time during a current year or submission of false information in a report is punishable by a fine of up to 3200 euros.  
[RT I 2010, 22, 108 – entry into force 01.01.2011]

### **§ 34. [Repealed – RT I 2010, 31, 158 – entry into force 24.06.2010]**

### **§ 35. Proceedings**

Extra-judicial proceedings concerning the misdemeanours provided in this Chapter shall be conducted, within the limits of their competence, by:

- 1) the Competition Authority;
- 2) the Tax and Customs Board;
- 3) the Consumer Protection Board;
- 4) the Police and Border Guard Board.

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

## **Chapter 7 IMPLEMENTING PROVISIONS**

### **§ 36. Transitional provision**

(1) A market licence issued to an undertaking on the basis of the Energy Act prior to the entry into force of this Act remains valid until its holder is entered in the national register of undertakings operating in areas of activity subject to special requirements, or until the date specified in the operating licence, but not longer than until 31 December 2003.

(2) An undertaking who, prior to the entry into force of this Act, operates in the area of fuel export or provision of fuel storage services and who wishes to continue operation in such an area of activity, must be entered in the register not later than by 31 December 2003.

(3) A market licence which expires during the period which begins on the date of publication of this Act in the *Riigi Teataja* and ends on the date of entry into force of this Act is deemed to be valid until its holder is entered in the register, but not longer than until 31 December 2003.

(4) In relation to repealing ss. 10 and 11 of this Act, the powers which authorised bodies derived from these provisions shall also cease. The entries regarding the powers of authorised bodies shall be removed from the register of economic activities.

[RT I 2010, 31, 158 – entry into force 24.06.2010]

(5) Registrations in respect of sale of fuel as an area of activity made in the register of economic activities before 1 April 2011 shall remain valid until 31 May 2011. Any persons entered in the register of economic activities who wish to continue to be engaged in the selling of fuel must submit to the Tax and Customs Board a registration application together with the documents and information specified in subsections 1 and 2 of section 14 of this Act. The Tax and Customs Board shall determine a security for the applicant within 30 calendar days following receipt of the registration application and of annexed documents and information. The Tax and Customs Board shall make a decision concerning acceptance of the security within five working days from the day the security is presented to it. The persons who have presented the security specified in section 4<sup>1</sup> of this Act by 31 May 2011 at the latest shall be entered in the register of economic activities.

[RT I, 07.02.2012, 9 – entry into force 31.01.2012 By judgment of the Constitutional Review Chamber of the Supreme Court s. 36(5) of the Liquid Fuel Act has been declared unconstitutional and invalid insofar as it

applies to the sellers of fuel released for consumption who were registered as sellers of fuel in the register of economic activities on 1 April 2011 and had operated on the fuel market for less than three years.]

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

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

(2) Subsections 4 and 5 of section 8, section 9(7) and section 36(3) of this Act enter into force on the day following their publication in the *Riigi Teataja*.