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Republic of Estonia Principles of Ownership Reform Act

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10.03.1993	RT 1993, 15, 254	24.03.1993
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17.06.1993	RT I 1993, 45, 639	24.07.1993
09.02.1994	RT I 1994, 13, 231	05.03.1994
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11.05.1994	RT I 1994, 40, 653	16.06.1994
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15.12.1994	RT I 1995, 2, 5	01.01.1995
27.06.1995	RT I 1995, 60, 1017	27.07.1995
29.01.1997	RT I 1997, 13, 210	02.03.1997
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08.10.1997	RT I 1997, 74, 1230	06.11.1997
14.01.1998	RT I 1998, 12, 153	16.02.1998
19.05.1998	RT I 1998, 51, 758	19.06.1998
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16.11.1998	RT I 1998, 103, 1697	10.12.1998
17.02.1999	RT I 1999, 23, 354	19.03.1999
17.03.1999	RT III 1999, 9, 90	17.03.1999
14.10.1999	RT I 1999, 82, 751	14.11.1999
15.12.1999	RT I 1999, 96, 847	01.01.2000
31.05.2000	RT I 2000, 47, 288	26.06.2000
14.06.2000	RT I 2000, 51, 324	10.07.2000
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14.11.2001	RT I 2001, 93, 565	01.02.2002
05.06.2002	RT I 2002, 53, 336	01.07.2002
28.10.2002	RT III 2002, 28, 308	28.10.2002
20.07.2004	RT I 2004, 85, 577	26.12.2004
02.12.2004	RT III 2004, 35, 362	02.12.2004
26.01.2006	RT I 2006, 7, 40	04.02.2006
12.04.2006	RT III 2006, 13, 123	12.04.2006
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10.06.2010
27.02.2013
10.12.2013

RT I 2010, 41, 242
RT I, 15.03.2013, 26
RT I, 27.12.2013, 6

01.09.2010
20.03.2013
01.01.2014

Part I

General Provisions

§ 1. Purposes of Act

The Principles of Ownership Reform Act determines the purpose, content, object and subjects of and the procedure for ownership reform, and is the basis for other legislation necessary for ownership reform.

§ 2. Purpose of ownership reform

(1) The purpose of ownership reform is to restructure ownership relations in order to ensure the inviolability of property and free enterprise, to undo the injustices caused by violation of the right of ownership and to create the preconditions for the transfer to a market economy.

(2) Return of property to or compensation of former owners or their legal successors for property in the course of ownership reform shall not prejudice the interests protected by law of other persons or cause new injustices.

§ 3. Content and object of ownership reform

(1) In the course of ownership reform, the following unlawfully expropriated property shall be returned or compensated for:

- 1) property which was nationalised pursuant to legislation which has been declared unlawful by the Republic of Estonia Supreme Council Resolution of 19 December 1990 Concerning Restoration of Continuity of Right of Ownership (denationalisation);
- 2) property which was communised during collectivisation (decollectivisation);
- 3) property which was expropriated through unlawful repression or by another method which violated the rights of the owner.

(2) In the course of ownership reform, the following changes are made in the form of ownership of property:

- 1) property in state ownership is transferred without charge into municipal ownership (municipalisation of property);
- 2) property in state ownership or property transferred into municipal ownership is transferred for a charge or without charge into private ownership (privatisation of property);
- 3) property which was formerly transferred by the state without charge to co-operative, state co-operative or non-profit organisations is returned to the Republic of Estonia (re-nationalisation of property).

(3) Property is returned, compensated for or transferred under the conditions and pursuant to the procedure provided for in this Act and other legislation of the Republic of Estonia.

§ 4. Entitled subjects of ownership reform

Entitled subjects of ownership reform are persons, including the state, who by law are entitled to claim return of or compensation for property or who are entitled to claim or apply for transfer of property for a charge or without charge.

§ 5. Obligated subjects of ownership reform

(1) Obligated subjects of ownership reform are the state and other persons who by law are required to return or compensate for property or to transfer property for a charge or without charge to entitled subjects of ownership reform.

(2) Ownership reform is ensured by the Government of the Republic, which shall appoint ministers responsible for different areas of ownership reform. In carrying out ownership reform, local governments perform acts prescribed by law and by the Government of the Republic pursuant to law.

Part II

Return of and Compensation for Unlawfully Expropriated Property

§ 6. Definition of unlawful expropriation of property

(1) Unlawful expropriation of property means the taking away of property from the owner against the owner's will or placement of the owner in a situation where, due to a real danger of repression, the person is forced to give up or abandon property if the legislation on the basis of which the property was expropriated is declared unlawful or if the property was expropriated on the basis of an unlawful decision or due to the arbitrary action of officials.

(2) In this Act, nationalisation, collectivisation and expropriation of property in the course of unlawful repression, including mass repression, and by other methods as set out in subsection (1) of this section during the period between 16 June 1940 and 1 June 1981 are deemed to be unlawful expropriation of property.

(3) For the purposes of this Act, unlawful repression means either judicial or extra-judicial repression (death penalty, imprisonment, exilement or deportation) pursuant to unlawful decisions or decisions which were later declared unlawful.

(4) For the purposes of this Act, a real danger of repression means a danger of either judicial or extra-judicial repression (death penalty, imprisonment, exilement or deportation).

(5) Unlawfully expropriated property is returned or compensated for on equal bases regardless of the method of unlawful expropriation provided for in subsection (2) of this section, except in the cases provided for in subsection 13 (3) and § 14 of this Act.

§ 7. Former owners of unlawfully expropriated property as entitled subjects of ownership reform

(1) The following persons are entitled to claim return of or compensation for unlawfully expropriated property:

1) natural persons whose property was nationalised or communised in the course of collectivisation and persons whose property was unlawfully expropriated in the course of unlawful repression and who have been rehabilitated if, on the date of entry into force of this Act, such natural persons reside permanently in the territory of the Republic of Estonia which at present is under the jurisdiction of the Republic of Estonia, or if they were citizens of the Republic of Estonia on 16 June 1940;

2) natural persons whose property was unlawfully expropriated pursuant to an unlawful decision or due to the arbitrary action of officials or who, due to a real danger of repression, were forced to give up or abandon their property if, on the date of entry into force of this Act, such natural persons reside permanently in the territory of the Republic of Estonia which at present is under the jurisdiction of the Republic of Estonia, or if they were citizens of the Republic of Estonia on 16 June 1940 and the existence of the unlawful decision or arbitrary action of officials or real danger of repression has been proved in court;

3) natural persons who within the meaning of and under the conditions provided for in § 8 of this Act are successors of the persons specified in clauses 1) and 2) of this subsection;

4) organisations within the meaning of and under the conditions provided for in § 9 of this Act;

5) a local government with regard to unlawfully expropriated municipal property which was in the ownership of the local government on 16 June 1940 and is located in the current administrative territory of the local government applying for return thereof; if the unlawfully expropriated property which was in the ownership of the local government is located in the administrative territory of another local government, the property shall be returned to the local government with the consent of the local government council of the location of the property;

6) the Republic of Estonia with regard to property which was in the ownership of the Republic of Estonia on 16 June 1940;

7) successors provided for in § 8 of persons who are citizens of Estonia or who reside permanently in the territory under the jurisdiction of the Republic of Estonia at the time of entry into force of this Act with regard to unlawfully expropriated property which was in the ownership of citizens of foreign states and stateless persons;

8) persons to whom the right of claim has been assigned or who have succeeded thereto pursuant to § 16¹ of this Act.

(2) [Repealed - RT I 2010, 41, 242 - entry into force 01.09.2010]

(3) [Repealed - RT III 2006, 13, 123 - entry into force 12.10.2006]

(4) A person who entered into a contract with an owner of property before 16 June 1940 to acquire the property and performed the obligations assumed by him or her under the contract for acquisition of the property and whose right of ownership was not formalised for reasons independent of the parties is entitled to claim return of the unlawfully expropriated property. Successors within the meaning of and under the conditions provided for in § 8 of this Act of such persons have the same right. The burden of proof of his or her rights rests with the

person or his or her successors. If another person applies for return of or compensation for the same property, the dispute is resolved by a court.

§ 8. Successors as entitled subjects of ownership reform

(1) If a former owner of unlawfully expropriated property is deceased and has made a will, testate successors are entitled subjects of ownership reform to the extent specified in the will.

(2) The will of a former owner must comply with the requirements of law at the time the will was made and must have been made before the unlawful expropriation of the property specified in the will or after the entry into force of this Act.

(3) If a former owner of unlawfully expropriated property is deceased and there is no will or it fails to comply with the requirements of subsection (2) of this section, or if the will does not include all of the unlawfully expropriated property, or if the testate successor (successors) is (are) deceased, the following persons are entitled subjects of ownership reform with regard to the unlawfully expropriated property in whole or to the extent of the property which is not specified in the will:

- 1) parents, spouse and children of the former owner in equal shares;
- 2) spouse of child of a former owner if the child of the former owner is deceased (regardless of the date of death) and grandchildren and other descendants of the former owner if their parent is dead (regardless of the date of death) in equal shares; however, they are only entitled to claim return of or compensation for the property to which their spouse or parent would have been entitled.

(4) Adoptive parents and adopted children have equal rights with persons specified in subsections (1) and (3) of this section upon return of or compensation for unlawfully expropriated property.

(5) Only persons specified in this section are deemed to be successors of unlawfully expropriated property. If a successor of a former owner is deceased, the right to claim his or her share of the estate shall not transfer to his or her successors except for the persons specified in clause (3) 2) of this section.

(6) If the filiation of a parent or grandparent of a person who applies for declaration as an entitled subject of ownership reform on the basis of subsection (3) or (4) of this section from the father who was the former owner of unlawfully expropriated property has not been ascertained earlier, such person may apply for the court to establish the filiation on the bases provided for in the Family Law Act.

[RT III 1999, 9, 90 - entry into force 17.03.1999]

§ 9. Organisations as entitled subjects of ownership reform

(1) Non-profit organisations and religious societies which operated in the Republic of Estonia until 16 June 1940 are entitled subjects of ownership reform if the activities specified in their articles of association did not discontinue.

(2) The right of an organisation specified in subsection (1) of this section to be an entitled subject of ownership reform shall be established by a court, and disputes between several organisations are resolved by a court.

(3) For the purposes of this Act, a non-profit organisation means an organisation whose activities were not aimed at distribution of revenue between members.

(4) Legal persons in public law may be declared entitled subjects by law only. Property is returned to such persons on the bases provided by this Act and pursuant to the procedure established by the Government of the Republic. They are not compensated for the property which is not returned.

§ 10. Procedure for declaration of organisation as entitled subject of ownership reform

(1) After receipt of the application of an organisation specified in subsection 9 (1) of this Act for declaration of the organisation as an entitled subject of ownership reform, a court publishes a corresponding announcement in a national newspaper within ten days.

(2) All persons who have objections to the submitted application shall notify the court thereof within three months after the date of publication of the announcement.

(3) The court shall summon all persons specified in subsections (1) and (2) of this section to the hearing of the matter.

(4) An application specified in subsection (1) of this section shall be submitted to a court according to the location of the organisation on 16 June 1940.

§ 11. Unlawfully expropriated property as object of ownership reform

(1) Objects of ownership reform are unlawfully expropriated land with inseparably attached natural objects, construction works, ships entered in the register of ships, agricultural inventory, machinery in production buildings, stocks and share certificates, without considering incumbent loans.

(2) The bases for determination of the value of property which is an object of ownership reform shall be established by law.

(3) Stocks and share certificates are objects of ownership reform if such stocks and share certificates were registered pursuant to §§ 6 and 7 of the Securities Circulation Regulation Act of 18 July 1940 (RT 1940, 69, 678) or were submitted and entered in an appropriate list pursuant to § 12 of the Organisation of Nationalisation Act of 1 August 1940 (RT 1940, 89, 870).

(4) For the purposes of this Act, agricultural inventory means machines, equipment, tools and animals used for agricultural purposes.

(5) For the purposes of this Act, machinery in production buildings means machines, equipment and tools used for production.

§ 12. Return of unlawfully expropriated property

(1) Persons who own unlawfully expropriated property which is an object of ownership reform are required to return it to the entitled subjects unless otherwise provided by this Act. Legal persons in private law, except for state companies, public limited companies all the stocks of which are held by a local government, private limited companies the only share of which is held by a local government, and obligated subjects of agricultural reform and re-nationalisation who by law acquired property subject to return on the basis of a contract of purchase and sale shall be compensated by the state for the sum paid to purchase the property. The compensation procedure shall be established by the Government of the Republic. Based on the provisions provided for in subsection (10) of this section, legal persons in private law who are compensated by the state for the sum paid to purchase the property are entitled, pursuant to §§ 27 and 28 of the Law of Property Act (RT I 1993, 39, 590; 1995, 26–28, 355; 57, 976; 1996, 45, 848; 51, 967), to claim compensation for expenses made on the property from entitled subjects to whom the property was returned.

(2) If several persons are entitled to claim property subject to return, the property is returned in whole if it is claimed by at least one person, in which case the person to whom the property is returned shall compensate other persons for their share pursuant to the procedure provided by law. If several entitled subjects claim return of property, the property is returned into their common ownership according to their shares. If property to be returned was in common ownership, the property corresponding to shares in common ownership is returned into common ownership of the entitled subjects according to their shares. Upon partial return of property, it is returned as a legal share.

(3) Unlawfully expropriated property as an object of ownership reform is not subject to return if:

- 1) entitled subjects of ownership reform do not claim return of the property but wish to be compensated therefor;
- 2) the property is not preserved in its former distinct condition as provided for in subsection (8) of this section;
- 3) the property is in the ownership of a natural person in good faith; above all, an acquirer in good faith shall not be a person who participated in extra-judicial repression of the owner of the property or unlawful expropriation of the property of the person;
- 4) the property is a construction work in the ownership of the state, legal persons or municipalities which is in the possession of natural persons or legal persons pursuant to a commercial lease contract or residential lease contract, and the entitled subject does not agree to take over the rights and obligations arising from the contract;
- 5) on the proposal of a government authority or a local government council, the Government of the Republic decides to refuse to return military objects, law enforcement sites, cultural objects, social assets or objects under state protection, and administrative buildings in the possession of the state or local government;
- 6) [repealed - RT I 1994, 51, 859 - entry into force 25.07.1994]
- 7) on the proposal of a local government, the county governor decides that separation of the unlawfully expropriated property renders the purposeful use of the remaining property technologically impossible or that in the case of return of an economically affiliated outbuilding, the normal use of the building would be impeded;
- 8) the property is located on land which is not returned pursuant to clause 31 (1) 2) of the Republic of Estonia Land Reform Act (RT 1991, 34, 426; RT I 1996, 41, 796).

(4) [Repealed - RT I 1997, 13, 210 - entry into force 02.03.1997]

(5) Return of property is decided and organised by rural municipality governments or city governments unless otherwise provided by law.

(6) Prior to the return of property, the Government of the Republic or a local government council may, by a resolution, require that the entitled subject enter into a contract with the current possessor of the property or the state authority or local government authority for the use of the property for the current designated purpose with a term of five years as a prerequisite for return of the property. The person to whom property is returned is required to perform the protection regime established for the property. Unless the protection regime arises from law or a protection obligation notice, the performance of such obligation is ensured by a contract entered into by the competent state authority or local government authority and the entitled subject. Property is not returned if

an entitled subject refuses to enter into a contract for designated use or a contract to ensure performance of the protection regime.

(7) During a proceeding for the return of property, an entitled subject is required to perform acts necessary for the proceeding within the term and pursuant to the procedure established by the Government of the Republic. If an entitled subject fails, without good reason, to perform the necessary acts within the term notified to the entitled subject in writing, the person is deemed to have renounced the claim and the return proceeding is terminated. If after a decision on return of property is made, the entitled subject fails, without good reason, to accept the property within the term notified to the entitled subject in writing, the return proceeding is terminated and the return decision is annulled. In such cases, property compensation proceedings are not commenced. [RT I, 15.03.2013, 26 - entry into force 20.03.2013]

(7¹) A local government may extend the term for acts to be performed by entitled subjects for the return of land in the proceeding for the return of land, taking into account that the due date for completion of the acts is 30 June 2016 at the latest. If the acts necessary for the return of property cannot be performed within the specified term due to a court action or problems arisen upon succession of a right of claim, the entitled subject must perform the acts necessary for deciding on the return of property within one year after the day of acceptance of the succession or entry into force of the judgement. [RT I, 15.02.2013, 26 - entry into force 20.03.2013]

(8) Property is deemed to have retained its former distinct condition if the form, value and size of the property has not changed significantly taking into account that:

- 1) a construction work is deemed to have retained its former distinct condition if, due to major repairs, alterations or additions, the value of the construction work has not increased by more than one-quarter of the total value of the construction work;
- 2) a construction work is deemed not to have retained its former distinct condition if, due to major repairs, alterations or additions, the value of the construction work has increased by at least three-quarters of its total value;
- 3) a ship is deemed to have retained its former distinct condition even if, during major repairs or alterations, the purpose of the ship has been changed and power installations, navigation equipment, electrical equipment and communications equipment have been exchanged or new ones have been installed;
- 4) agricultural inventory and machinery in production buildings are deemed to have retained their former distinct condition even if they are not in good technical condition or are used for other purposes;
- 5) a residential building is deemed not to have retained its former distinct condition if the executive body of a local government establishes that the residential building became restricted in habitability or came into danger of collapse after unlawful expropriation and that it was lawfully made habitable again by a natural person at his or her own expense who themselves or whose spouse, ascendants or descendants live in it on the basis of a residential lease contract at the time a decision on the return of the property is made and who have filed an application for privatisation of the residential building.

(9) If the value of a construction work has increased significantly due to major repairs, alterations or additions and the basis provided for in clauses (8) 1) and 2) of this section for return or refusal to return the construction work as a whole does not exist, the legal share corresponding to the retained value of the construction work is returned. If dwellings have been added to a construction work, a share corresponding to the retained value of the construction work is returned in the case provided for in clause (8) 1) of this section. Such restriction does not apply to dwellings which were converted from non-residential premises.

(10) In assessment of objects specified in subsection (8) of this section, repairs and renovations made after the entry into force of the Republic of Estonia Principles of Ownership Reform Act are not taken into account. Assessment of the value of a construction work is based on the value at the time of the assessment, taking into account wear and tear. Upon assessment of the value of a construction work, the value of new parts of the construction work are not assessed if these are subject to be demolished due to non-conformity to the requirements of § 3 of the Building Act. If, upon refusal to return a construction work on the bases provided for in subsection (8) of this section, outbuildings would not be returned as well, the assessment of the preservation of the former distinct condition of the construction work shall be based on the condition of the construction work and its outbuildings in the aggregate.

(11) The procedure and methods for assessment of the preservation of the former distinct condition of construction works shall be established by the Government of the Republic. [RT I 2006, 7, 40 - entry into force 04.02.2006]

§ 12¹. Validity of residential lease contracts in returned residential buildings

(1) A residential lease contract in force at the time of return of a residential building is deemed to be valid for three years after the transfer of the right of ownership in the residential building to the entitled subject unless the tenant and the owner agree otherwise upon return of the residential building. If a residential lease contract with the tenant has not been entered into in writing, the obligated subject of ownership reform shall enter into such contract with the tenant before the transfer of the residential building to be returned.

(2) [Repealed - RT I 2002, 53, 336 - entry into force 01.07.2002]

(3) Upon expiry of the term of a residential lease contract specified in subsection (1) of this section, the contract is extended for five years. A lessor may contest the extension of a residential lease contract only in the cases provided for in this section. In the case of a dispute, such extension is decided by a court. If a tenant is granted another dwelling pursuant to § 45 of the Republic of Estonia Dwelling Act, the residential lease contract extends to the dwelling.

(4) A lessor may contest the extension of a residential lease contract only if:

- 1) the tenant has repeatedly failed to perform his or her contractual obligations or has repeatedly violated other terms and conditions of the contract and the lessor has performed the lessor's principal obligations;
- 2) the leased dwelling is needed for the lessor or his or her family members to live in on the condition that the lessor or his or her family members have not been granted the use of an equivalent dwelling in the territory of the local government or they have not transferred it after return of the residential building or they have not exchanged the right of use of the dwelling with the tenant before return of the residential building;
- 3) the leased dwelling came into danger of collapse before the return or for reasons independent of the lessor;
- 4) the leased dwelling is excluded from the category of dwellings because of natural wear and tear.

(5) Upon eviction of a tenant on the bases provided for in clause (4) 2), 3) or 4) of this section, the local government shall grant the tenant the use of a dwelling which is located in the same settlement, is not in worse state of repair than the dwelling used earlier and the area of the residential space and number of rooms of which are in accordance with socially justified standards. In such case, local governments use the options provided for in the Privatisation of Dwellings Act (RT I 1993, 23, 411; 1995, 44, 671; 57, 979; 1996, 2, 28) and the Use of Privatisation Proceeds Act (RT I 1996, 26, 529).

(6) [Repealed - RT I 2002, 53, 336 - entry into force 01.07.2002]

(7) Tenants and persons living with tenants are required to vacate a dwelling which is in their use upon receipt of a new dwelling pursuant to [subsection] (5) of this section.

(8) If a tenant has lawfully done major repairs or made alterations to the dwelling, the owner of the dwelling shall compensate the tenant upon refusal to extend the residential lease contract for necessary expenses as defined in the Law of Property Act made during major repairs or alterations. Tenants may remove improvements without causing damage if the lessor of the dwelling does not agree to compensate for the improvements.

(9) Tenants living in a returned residential building are entitled to receive a new dwelling pursuant to the procedure provided by the Privatisation of Dwellings Act or are entitled to apply for a loan or grant from the state or local government for resettlement or for purchase of a dwelling pursuant to the Use of Privatisation Proceeds Act.

(10) Tenants have a joint right of pre-emption in the transfer of a returned residential building and of a corresponding registered immovable or a part thereof. Upon transfer of a physical share which is not subject to commercial restrictions, a tenant of the physical share has the right of pre-emption. The right of pre-emption does not apply upon transfer to a spouse, descendants, parents, sisters and brothers and their descendants. Otherwise, the provisions of the Law of Property Act apply to the right of pre-emption.

(11) The provisions of this section extend to lease relations concerning a dwelling in which a tenant who is party to such relations resides on the date on which the residential building is returned. Upon expiry of the term of a residential lease contract which was extended pursuant to this section, the residential lease contract may be extended pursuant to §§ 32 and 33 of the Republic of Estonia Dwelling Act. In the case specified in this section, the provisions of the Law of Obligations Act concerning residential lease contracts do not apply to the extension of the residential lease contract.

(12) Local governments are required to notify tenants of decisions to return property to entitled subjects prior to the return of residential buildings.

(13) The raising of rent due to annulment of the limits on the amounts of rent in the case of lease relations specified in this section and the contestation thereof are conducted pursuant to the terms and procedure provided in the Law of Obligations Act.

[RT I 2004, 85, 577 - entry into force 26.12.2004]

§ 13. Compensation for unlawfully expropriated property

(1) If unlawfully expropriated property as an object of ownership reform has been destroyed, is not returned pursuant to § 12 of this Act or if such property comprises shares or share certificates, the state compensates for the property to the extent and pursuant to the procedure provided by law. Natural persons, legal persons and local governments who own unlawfully expropriated property which is not returned in the cases provided for in § 12 of this Act or in whose ownership the property was destroyed or from whose ownership the property was removed by any other method are not required to pay compensation except for the cases provided for in § 14 of this Act.

(2) Persons specified in clauses 7 (1) 1–4) of this Act are compensated for the value of property unless otherwise provided by this Act.

(3) Unlawfully repressed and rehabilitated persons are compensated to the extent determined by law for unlawfully expropriated property which is not an object of ownership reform pursuant to subsection 11 (1) of this Act.

(4) Loss of income is not compensated for. The state does not compensate for unlawfully expropriated property which is destroyed unless otherwise provided by law.

(5) [Repealed - RT I 1993, 35, 545 - entry into force 21.06.1993]

(6) [Repealed - RT I 1993, 35, 545 - entry into force 21.06.1993]

(7) During a property compensation proceeding, an entitled subject is required to perform acts necessary for the proceeding within the term and pursuant to the procedure established by the Government of the Republic. If an entitled subject fails, without good reason, to perform the necessary acts within the term notified to the entitled subject in writing, the person is deemed to have renounced the claim and the compensation proceeding is terminated. If an entitled subject fails, without good reason, to submit an application to the Minister of Finance for transfer of the compensation to the account indicated thereby within three months after receipt of the compensation decision, the Minister of Finance terminates the compensation proceeding and annuls the compensation decision.

[RT I, 27.12.2013, 6 - entry into force 01.01.2014]

(8) A local government shall make a decision on compensation for property no later than on 31 December 2016. If a decision on compensation for property cannot be made due to a court action or problems arisen upon succession of a right of claim for return of property, compensation for property shall be decided within six months after entry into force of the court decision or after the establishment of the successor.

[RT I, 15.03.2013, 26 - entry into force 20.03.2013]

§ 14. Return of or compensation for communised property

(1) Property which was communised in the establishment of collective farms is returned or compensated for on equal bases with other unlawfully expropriated property unless otherwise provided by this Act or other Acts of the Republic of Estonia.

(2) [Repealed - RT I 1993, 35, 545 - entry into force 21.06.1993]

(3) If communised property is not returned pursuant to this Act or is destroyed, it is compensated for pursuant to the procedure provided by law:

1) by the collective farm during the foundation of which the property was communised; in the case of reorganisation of a collective farm, by the collective farm into whose ownership the communised property was transferred;

2) by another legal person which was founded upon reorganisation or liquidation of a collective farm if the legal person is the legal successor of the collective farm or has been transferred all or part of the property of the collective farm;

3) by the state if the collective farm founded upon communisation of property has been reorganised into an enterprise based on state ownership; if a legal successor to the collective farm does not exist or cannot be determined, or if the collective farm or its legal successor does not have necessary assets for the compensation.

(4) Communised property which has been returned or compensated for by a collective farm by the time of entry into force of this Act shall be set off against compensation specified in subsection (3) of this section.

(5) If an entitled subject is a farmer, the entitled subject has the preferential right with respect to other persons to receive compensation in kind.

(6) Pursuant to a corresponding Act of the Republic of Estonia, communised property may be returned earlier than provided for in subsection 17 (2) of this Act.

§ 15. Exceptions for return of and compensation for nationalised land

This Act applies upon return of and compensation for nationalised land and natural objects inseparably attached thereto, unless otherwise provided by the Republic of Estonia Land Reform Act (RT 1991, 34, 426; 1992, 10, 145; I 1993, 20, 354).

§ 16. Submission and registration of applications for return of or compensation for unlawfully expropriated property

(1) Entitled subjects of ownership reform are entitled to submit applications for return of or compensation for unlawfully expropriated property until 17 January 1992. Documents that the applicants have concerning the ownership, composition and value of property are appended to such applications.

(2) The procedure for submission and review of applications and the procedure for submission and assessment of evidence shall be established by the Government of the Republic. County committees for return of and compensation for unlawfully expropriated property formed by county governors decide on declaring applicants entitled subjects.

[RT I 2010, 41, 242 - entry into force 01.09.2010]

(21) Any return or compensation files of property which are being processed in city committees for return of and compensation for unlawfully expropriated property are transferred by 31 December 2010 to county committees of the location. A city committee terminates its activities after transfer of all files. City government is the person responsible in the case of contestation of a decision of a city committee in the court. If it arises from a court judgement that a decision of a city committee is subject to be reviewed, the return or compensation file of property is transferred to the county committee.

[RT I 2010, 41, 242 - entry into force 01.09.2010]

(3) [Repealed - RT I, 27.12.2013, 6 - entry into force 01.01.2014]

(3¹) After 31 December 2013 any information concerning the decisions on return of or compensation for property shall be submitted to the Ministry of Finance in the format, pursuant to the procedure and within the terms established by a regulation of the Minister of Finance.

[RT I, 27.12.2013, 6 - entry into force 01.01.2014]

(4) Entitled subjects have the right to change the claim indicated in their application within one month after receipt of the decision to declare the person an entitled subject. If the property subject to return is a residential building and the land adjacent thereto or the land used by the owner of a construction work, which upon privatisation of land with the right of pre-emption is not deemed to be included in the land necessary for servicing the construction work, the entitled subject has the right to change an application for return into an application for compensation until a decision concerning the return is made.

(5) If by 31 December 1997 applicants have not submitted evidence concerning the circumstances which they are required to prove pursuant to the procedure established by the Government of the Republic, they shall submit evidence within the term and pursuant to the procedure established by the Government of the Republic. If an applicant fails, without good reason, to submit evidence within the term notified to the entitled person in writing, the county committee terminates the processing of the application.

[RT I 2010, 41, 242 - entry into force 01.09.2010]

(6) Received documents are assessed in the aggregate. If circumstances which are subject to proof cannot be substantiated by evidence submitted and collected, and the local committee finds that it is not possible to obtain additional evidence, the county committee denies the application.

[RT I 2010, 41, 242 - entry into force 01.09.2010]

(7) Until the entry into force of a court order in a matter regarding a decision to declare a person an entitled subject, the processing of the application shall not be terminated and the application shall not be denied.

§ 16¹. Succession of right of claim and assignment of right of claim for return of property

(1) Upon the death of an entitled subject, the right of claim shall transfer to a successor.

[RT I 2010, 41, 242 - entry into force 01.09.2010]

(11) If necessary, the obligated subject submits an application to a notary for commencement of succession proceedings. If a successor does not become evident within six months after the death of an entitled subject and there is no other person entitled to administer the estate, the obligated subject submits an application to the court for application of estate management measures. The obligated subject may also submit the application before the expiry of six months if good reasons exist.

[RT I 2010, 41, 242 - entry into force 01.09.2010]

(2) Until a decision on return of property is made, an entitled subject may assign the right of claim for return of property to his or her spouse, descendants, sisters and brothers and their descendants or to other entitled subjects with regard to the same property or land under the construction work. The provisions of civil laws apply to assignment of the right of claim unless otherwise provided by this Act. Assignment of the right of claim is binding on the organiser of the return of property if the agreement concerning assignment of the right of claim or a notarised transcript thereof is submitted to the organiser.

[RT I, 15.03.2013, 26 - entry into force 20.03.2013]

(3) A person may assign the right of claim for an object in full only. If the right of claim belongs to several entitled subjects, each person may assign their share of the right of claim in full. An agreement concerning assignment of the right of claim shall be notarised.

§ 17. Procedure for return of and compensation for unlawfully expropriated property

(1) In order to compensate for unlawfully expropriated property, compensation vouchers are issued to entitled subjects of ownership reform. After the end of issue of compensation vouchers, property is compensated for by another method provided by law. Such vouchers shall not be issued upon compensation for communalised property by collective farms or other legal persons in the cases provided for in clauses 14 (3) 1) and 2) of this Act.

(2) Unlawfully expropriated property is returned pursuant to the procedure established by the Government of the Republic. The value of property is not determined upon return of property unless otherwise provided by law.

(21) Unlawfully expropriated property is returned after 1 March 2006 pursuant to the procedure currently in force. Performance of the activities for return of property in respect of a construction work or a part thereof as a movable after 1 March 2006 does not grant a person to whom the property was returned an additional right to transfer the dwelling as a movable.

(3) Unlawfully expropriated property is compensated for by exchange of the vouchers specified in subsection (1) of this section for stocks or other property subject to privatisation, or by another method.

(4) [Repealed - RT I 1993, 35, 545 - entry into force 21.06.1993]

(5) A person who is an entitled subject of ownership reform is not entitled to claim return of unlawfully expropriated property or claim compensation for the portion of property which has already been returned or compensated for, unless it is established that the property has been returned to an unauthorised person or unauthorised person has been compensated for the property without legal basis.

(6) Unlawfully expropriated property which is an object of ownership reform is returned to persons whose property was expropriated due to repression or who were forced to give up or abandon property due to a real danger of repression, arbitrary action or pursuant to the unlawful decisions of officials or such persons are compensated therefor after submitting a rehabilitation certificate or a court order certifying the unlawfulness of the expropriation. In order to receive a court order or a rehabilitation certificate, such persons shall take recourse to a court or the corresponding state authority within one month after the executive body of the local government has presented the person with a requirement arising from law to prove the method of expropriation of property specified in this section.

(7) A simplified procedure for rehabilitation and for proving the unlawfulness of expropriation of property may be established by law.

(8) A local government shall make a decision on compensation for property no later than on 31 December 2016. If a decision on compensation for property cannot be made due to a court action or problems arisen upon succession of a right of claim for return of property, compensation for property shall be decided within six months after entry into force of the court decision or establishment of the successor.
[RT I, 15.03.2013, 26 - entry into force 20.03.2013]

(9) Supervision over the return of and compensation for property is exercised pursuant to the procedure established by the Government of the Republic by county governors, who have the right to apply the measures provided for in the Government of the Republic Act with the specifications provided for in subsection (10) of this section. The Minister of Finance has the right to request that county governors commence supervision proceedings.
[RT I, 27.12.2013, 6 - entry into force 01.01.2014]

(10) If a county governor finds that an administrative act of a local government or failure to issue thereof is unlawful and violates the public interest, the county governor makes a written proposal, within 90 days as of becoming aware of the issue of the administrative act or refusal to issue it, to repeal the administrative act, bring it into conformity with the legislation or issue the required administrative act.
[RT I, 27.12.2013, 6 - entry into force 01.01.2014]

§ 18. Transactions with unlawfully expropriated property and liability for ensuring preservation thereof

(1) Until a decision is made on return of unlawfully expropriated property which is an object of ownership reform (including resolution of an extra-judicial dispute or dispute in court), state authorities, local government authorities, other legal persons and natural persons who own or possess the property are prohibited from transferring such property or encumbering it with a real right unless otherwise provided by this Act. Transactions in violation of this prohibition are void. Such property may be transferred to the state or local governments, or to other persons with the notarised consent of the entitled subjects. Until a decision on return of unlawfully expropriated property is made, the current possessors of the property have the right to subject it to a commercial lease or grant possession of the property by any other method only without specifying the term, unless the entitled subject agrees to a relationship with a specified term. The provisions of § 12¹ of this Act do not apply to residential lease contracts without a term. Termination of contracts without a term is subject to an advance notice of three months.

(2) The owners and possessors of property specified in subsection (1) of this section are required to ensure preservation of the property. If this requirement is not complied with, they are required to compensate for damage.

(3) Until a decision is made on return of land, regeneration cutting on unlawfully expropriated land is prohibited. Entitled subjects for the return of land have the right to carry out improvement cutting and cut boundary lines without charge; entitled subjects for privatisation of land are entitled to cut boundary lines without charge and, after the issue by the local government of an order on privatisation of land with the right of pre-emption, to carry out improvement cutting pursuant to the procedure established by the Government of the Republic. Upon waiving the return or privatisation of land, entitled subjects are required to pay for cutting pursuant to the usual value of standing crop. Compensation collected for damage caused by illegal cutting on unlawfully expropriated land and money received from the sale of illegally cut timber sold by a state authority, from which expenses related to the sale of the timber are deducted, is deposited and, after the land is entered in the land register, paid pursuant to the procedure established by the Government of the Republic to the person to whom the land is returned or to an heir thereof. If illegal cutting is carried out with the participation or consent of such persons, they do not have the right to the aforementioned amounts and such amounts are not deposited.

(4) Until a decision is made on return of unlawfully expropriated property, construction works to be returned may be demolished or altered only at the request of a county governor with the permission of the Government of the Republic, or with the notarised consent of the entitled subjects. Demolished construction works are compensated for.

§ 19. Resolution of disputes concerning return of or compensation for unlawfully expropriated property

(1) Disputes arising from return of or compensation for unlawfully expropriated property are resolved extra-judicially or by a court proceeding. The term for recourse to an administrative court concerning a decision made in the course of return of or compensation for unlawfully expropriated property is two months as of the date on which the person became aware of a decision which violates his or her rights. Limitation periods established by other acts apply to civil disputes.

(2) Extra-judicially, county committees resolve appeals against decisions made in the property return or compensation proceeding. A county committee may also act as a conciliation committee.

(3) If a party files an appeal with a court and concurrently one of the parties takes recourse to the county committee for resolution thereof, the court shall refuse to accept the appeal or hear it. The period for recourse to the county committee is one month after the date on which the person became or should have become aware of the violation of his or her rights. Recourse to county committees is exempt from state fees. If an appeal is filed, county committees may discontinue the processing of the application for return of or compensation for property.

(4) An appeal filed in writing with a county committee is heard within two months after receipt of the appeal. At the request of an applicant or a county committee, the appeal is heard in the presence of the persons concerned or their representatives. The members of a county committee are subject to removal if there is reason to believe that they are personally interested in the ultimate determination of the matter or if other circumstances cast suspicion upon their impartiality. A county committee has the right to demand delivery of all documents relevant to a matter.

(5) In a meeting of a county committee, the explanations of the persons concerned are heard, and documents and other evidence are examined and assessed. Minutes are taken of meetings of a county committee. A county committee makes its decision on the day on which the matter is heard. The decision of a county committee is made by majority vote. Upon an equal division of votes, the chairman of the county committee has the casting vote. The decision is signed by the chairman and secretary of the county committee. Transcripts of a decision are personally delivered or delivered to the persons concerned by post within five working days after the decision is made.

(6) If the persons concerned do not agree with a decision of a county committee, the persons concerned may take recourse to a court within two months after the date of receipt of a transcript of the decision of the county committee. A decision of a county committee enters into force after expiry of the period for recourse to a court if no person concerned files an appeal with a court. A decision which has entered into force is binding on the persons concerned.

(61) [Repealed - RT I 1999, 96, 847 - entry into force 01.01.2000]

(7) A more specific procedure for extra-judicial resolution of appeals shall be established by the Government of the Republic.

Part III

Municipalisation

§ 20–24. [Repealed -RT I 2009, 57, 381 - entry into force 01.01.2010]

§ 25–26. [Repealed -RT I 1994, 33, 507 - entry into force 15.05.1994]

§ 27–28. [Repealed -RT I 2009, 57, 381 - entry into force 01.01.2010]

§ 29–30. [Repealed -RT I 1997, 13, 210 - entry into force 02.03.1997]

§ 31. [Repealed -RT I 2009, 57, 381 - entry into force 01.01.2010]

Part IV Privatisation

§ 32. Definition of privatisation

Privatisation means transfer of property in state or municipal ownership in the course of ownership reform for a charge or without charge into the ownership of other persons as a result of which the owner of the property changes.

§ 33. Object of privatisation

(1) Objects of privatisation are property in the ownership of the state, a state company or local government which is subject to privatisation pursuant to law.

[RT I 2009, 57, 381 - entry into force 01.01.2010]

(2) [Repealed - RT I 1993, 45, 639 - entry into force 24.07.1993]

(3) [Repealed - RT I 2009, 57, 381 - entry into force 01.01.2010]

(4) [Repealed - RT I 2009, 57, 381 - entry into force 01.01.2010]

§ 34. Subjects of privatisation

(1) Entitled subjects of privatisation in the case of various classes of state and municipal property shall be provided by law.

(2) [Repealed - RT I 1993, 45, 639 - entry into force 24.07.1993]

(3) The group of entitled subjects in the case of various classes of property being privatised may be restricted or supplementary conditions may be imposed thereon by an Act of the Republic of Estonia.

(4) Obligated subjects of privatisation are the state and local governments which are required to privatise property in state and municipal ownership under the conditions and pursuant to the procedure prescribed by law, and legal persons who are required to privatise property pursuant to law.

§ 35. Organisation of privatisation

(1) The Government of the Republic of Estonia organises privatisation of property in state ownership and determines the objects to be privatised unless otherwise prescribed by an Act of the Republic of Estonia.

(2) Privatisation of property in municipal ownership is organised by local governments unless otherwise provided by law.

(3) Property is privatised in stages under the conditions and pursuant to the procedure provided by law taking into account the specific characteristics of objects.

§ 36. Methods of privatisation

(1) The primary method of privatisation is the sale of property for money, and for compensation vouchers and public capital bonds issued in compensation for unlawfully expropriated property.

(2) [Repealed - RT I 1993, 45, 639 - entry into force 24.07.1993]

(3) Privatisation methods other than sale may also be prescribed by an Act of the Republic of Estonia.

§ 37. Public capital bonds

(1) Persons permanently residing in Estonia are issued public capital bonds; the conditions for issue and the bases for determination of the value of public capital bonds shall be provided by law.

(2) Public capital bonds are registered and inheritable. The use of these in the privatisation of state and municipal property and in other areas of ownership reform shall be provided by law.

§ 38.–§ 39.[Repealed - RT I 1993, 45, 639 - entry into force 24.07.1993]

§ 40. Privatisation of property of co-operative and non-profit organisations

(1) On the basis of law, co-operative, state co-operative and non-profit organisations may be required to privatise property in their ownership pursuant to the procedure provided for in this Act or another Act of the Republic of Estonia.

(2) Property of collective farms is transferred into private ownership for a charge or without charge pursuant to the procedure provided for in this Act and legislation issued on the basis thereof only.

§ 41. Resolution of disputes concerning privatisation

(1) Disputes concerning privatisation of property in state or municipal ownership are resolved pursuant to the procedure determined by the Government of the Republic or the local government council, respectively, unless otherwise prescribed by an Act of the Republic of Estonia.

(2) Upon disagreement with a decision made according to subsection (1) of this section, recourse may be taken to a court.

Part V Re-nationalisation

§ 42. Re-nationalisation of property

(1) For the purposes of this Act, re-nationalisation of property means return of state property into the ownership of the Republic of Estonia from the ownership of co-operative, state co-operative or non-profit organisations into which the property was transferred without charge.

(2) Property is re-nationalised pursuant to the procedure determined by law, and disputes concerning claims for return of property are subject to resolution by a court on the basis of an action brought by one party.