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## Fertilisers Act

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RT I 2003, 51, 352

Entered into force in accordance with § 47

Amended by the following acts

Passed	Published	Entry into force
17.12.2003	RT I 2003, 88, 591	01.01.2004
22.04.2004	RT I 2004, 32, 228	01.05.2004
06.11.2008	RT I 2008, 49, 271	01.01.2009
06.11.2008	RT I 2008, 49, 271	01.06.2009
10.06.2009	RT I 2009, 34, 224	01.01.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011, shall enter into force on the date specified in the decision of the Council of the European Union concerning abrogation of the derogation established with regard to the Republic of Estonia on the basis of Article 140 (2) of the Treaty on the Functioning of the European Union, Decision No. 2010/146/EU of the Council of the European Union of 13 July 2010 (OJ L 196, 28.07.2010, pp 24-26).
20.05.2010	RT I 2010, 31, 158	01.10.2010
17.02.2011	RT I, 02.03.2011, 1	04.03.2011

## Chapter 1 GENERAL PROVISIONS

### § 1. Scope of application of Act

(1) This Act provides for the requirements for fertilisers and the handling thereof in order to ensure that fertilisers do not pose a threat to human and animal life and health or to property or the environment and that fertilisers have a favourable effect on plants and plant products.

(2) The following is excluded from the scope of this Act:

- 1) unprocessed organic fertilisers;
- 2) unprocessed natural fertilisers;
- 3) waste water sludge and compost made therefrom.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

(3) [Repealed – RT I 2004, 32, 228 – entry into force 01.05.2004]

(4) This Act does not apply to the export of fertilisers from Estonia to the countries or territories outside of the customs territory of the European Union (hereinafter *third country*) or to a Member State of the European Union, unless otherwise provided by an international agreement.

[RT I 2004, 32, 228 - entry into force 01.05.2004]

(5) The provisions of the Administrative Procedure Act apply to the administrative proceedings specified in this Act, taking account of the specifications provided for in this Act.

(6) This Act and Regulation (EC) No. 2003/2003 of the European Parliament and of the Council relating to fertilisers (OJ L 304, 21.11.2003, pp. 1–194) apply to fertilisers with ‘EC FERTILISER’ markings and the handling thereof.

[RT I 2004, 32, 228 - entry into force 01.05.2004]

## **§ 2. Fertilisers**

(1) A fertiliser is a substance or preparation the purpose of use of which is to provide plants with nutrients. For the purposes of this Act, lime the purpose of use of which is to deacidify soil is also a fertiliser.

[RT I 2004, 32, 228 - entry into force 01.05.2004]

(2) For the purposes of this Act, organic fertilisers that are processed according to this Act and that conform to the requirements established for fertilisers are also deemed to be fertilisers. Organic fertilisers are fertilisers that are mainly composed of organic substances of plant or animal origin.

(3) For the purposes of this Act, natural fertilisers that are processed according to this Act and that conform to the requirements established for fertilisers are also deemed to be fertilisers. Natural fertilisers are rock, mineral and other earth substances excavated from their natural deposits and used for fertilising purposes.

(4) For the purposes of this Act, soil inoculants are substances containing micro-organisms and bacteriological cultures that are suitable for certain species of plant and improve the nutrition of plants belonging to that species.

(5) A fertiliser lot is a quantity of fertilisers that is produced with the same name, composition and properties and under the same conditions and that must be identifiable and distinguishable from other fertiliser lots.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

(6) For the purposes of Article 27 of Regulation (EC) No. 2003/2003 of the European Parliament and of the Council, the competent authority is the Agricultural Board.

[RT I 2009, 34, 224 - entry into force 01.01.2010]

## **§ 3. Handling and handlers of fertilisers**

(1) For the purposes of this Act, the handling of fertilisers is the production, packaging, labelling and import of fertilisers into Estonia for marketing purposes, and the marketing of fertilisers.

(2) A legal person, self-employed person or a state agency or a local authority agency may be a handler of fertilisers.

[RT I 2004, 32, 228 - entry into force 01.05.2004]

## **§ 4. Production of fertilisers**

(1) For the purposes of this Act, the production of fertilisers is the manufacture or processing of fertilisers.

(2) It is permitted to use the animal by-products and derived products specified in Article 3(1) and (2) of Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No. 1774/2002 for the manufacturing of fertilisers only in accordance with the requirements provided for in the Regulation.

[RT I, 02.03.2011, 1 - entry into force 04.03.2011]

(3) For the purposes of this Act, the processing of fertilisers is the biological, physical or chemical processing of fertilisers with the aim of obtaining safe fertilisers with a stable composition.

## **§ 5. Marketing of fertilisers**

For the purposes of this Act, the marketing of fertilisers is the offer of fertilisers for sale, the sale of fertilisers and the transfer of fertilisers in any other manner, without charge or for a charge, to consumers or other handlers.

# **Chapter 2 REQUIREMENTS FOR FERTILISERS**

## **§ 6. General requirements**

(1) A fertiliser must:

- 1) not pose a threat to human and animal life and health or to property or the environment, if used as required;
- 2) comply with the requirements established for the composition of fertilisers;
- 3) be labelled according to the requirements;
- 4) be registered in the register of fertilisers, except fertilisers with ‘EC FERTILISER’ markings.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

(2) The requirements for the composition of fertilisers by fertiliser type will be established by the Minister of Agriculture.

#### **§ 7. Attestation of conformity of fertilisers upon marketing**

(1) When fertilisers are marketed, it is mandatory for the conformity of the fertilisers to be attested.

(2) The following persons are responsible for attestation of the conformity of fertilisers:

1) in the event of import of fertilisers to Estonia – the person in whose name the fertiliser is registered in the register of fertilisers;

[RT I 2004, 32, 228 - entry into force 01.05.2004]

2) in the event of fertilisers packaged in Estonia – the packager;

3) in the event of loose fertilisers (hereinafter *bulk fertilisers*) – the distributor.

(3) The document attesting the conformity of the composition of a fertiliser is the test protocol that concerns the results of the analysis of a test sample of the fertiliser and that is issued by a laboratory accredited for application of the relevant analytical methods (hereinafter *accredited laboratory*) or a relevant document regarding the composition of the fertiliser, which is issued by the producer.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

(4) The distributor of a fertiliser must submit the document attesting the conformity of the composition of the fertiliser or a copy thereof to the buyer of the fertiliser, to the consignee of the fertiliser to whom the fertiliser is transferred in another manner or to a supervisory official at the first request made by the supervisory official.

(5) A handler specified in subsection (2) of this section will bear the costs of attesting the conformity of a fertiliser.

## **Chapter 3 HANDLING OF FERTILISERS**

#### **§ 8. Requirements for packaging and markings on packaging of fertilisers**

(1) The material and construction of the packaging of a fertiliser must ensure that the characteristics of the fertiliser as guaranteed by the producer are preserved and that it is safe to handle the fertiliser while it is being moved from the producer to the consumer. The packaging of fertilisers must conform to the requirements of the Packaging Act and this Act.

(2) Fertilisers must be marketed to consumers in sealed sales packaging that cannot be closed in the initial manner after it has been opened.

(3) The sales packaging of fertilisers must be marked with clearly visible, legible and indelible identification markings in Estonian which give an unambiguous description of the composition of the fertilisers and of the purpose and conditions for the use thereof.

(4) For bulk fertilisers and in events where the identification markings specified in subsection (3) of this section cannot be made directly on the packaging due to the shape or dimensions of the packaging, the requisite information will be provided in the information sheet accompanying the fertilisers.

(5) The requirements for the packaging of fertilisers and for the corresponding information sheets will be established by the Minister of Agriculture.

#### **§ 9. Self-checking**

(1) Producers and packagers check the conformity of fertilisers produced or packaged by them at least once every of six months. The measures to be implemented are described in a self-check plan.

(2) Producers and packagers are required to keep records of test samples taken for the purposes of conformity attestation in the course of self-checks, and such records set out the following information:

1) the name of the fertiliser;

2) the date on which the test sample was taken;

3) the name and signature of the person responsible for taking the test sample;

4) the name of the laboratory that carried out the analysis;

[RT I 2008, 49, 271 - entry into force 01.01.2009]

5) the results of the analysis of the test sample.

(3) Producers and packagers must preserve the records specified in subsection (2) of this section for seven years as of the date on which the test samples are taken.

#### **§ 10. Notification obligation**

(1) If it is established on the basis of analysis of test samples taken in the course of self-checks that the composition of a fertiliser does not conform to the requirements, the producer or packager must promptly:

1) inform the Agricultural Board (hereinafter *supervisory authority*) thereof in writing and send the test protocol issued by an accredited laboratory concerning the analysis of the test sample to the supervisory authority;

[RT I 2009, 34, 224 - entry into force 01.01.2010]

2) suspend the marketing of the non-conforming fertiliser.

(2) A supervisory official will make a decision on whether to permit or prohibit the further marketing of the fertiliser specified in clause 2) of subsection (1) of this section within ten working days as of receiving the relevant notice and test protocol.

(3) If a handler of a fertiliser intends to use raw materials or apply production technologies that differ from those currently used or applied in the production of the fertiliser or if facts become evident that may affect the conformity of the composition of the fertiliser, the handler of the fertiliser must promptly inform the supervisory authority thereof in writing. The head of the supervisory authority or an official authorised by them will make a decision on whether to permit or prohibit the use of raw material or the application of production technology that differs from the one currently used or applied within 30 days as of receiving the written notice from the handler. A copy of the relevant decision will be sent to the handler by post within five working days as of the date on which the decision is made.

(4) A handler will notify the supervisory authority of commencement of the handling of fertilisers with 'EC FERTILISER' markings in writing within five working days after the commencement of handling.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

#### **§ 11. Import of fertilisers to Estonia**

(1) For the purposes of this Act, the import of fertilisers to Estonia means the application of the customs procedure of release for free circulation to fertilisers and import of the fertilisers from a Member State of the European Union to Estonia.

(2) The list of fertilisers will be established by the Minister of Agriculture.

(3) Fertilisers may be imported to Estonia if they bear 'EC FERTILISER' markings and are registered in the register of fertilisers.

(4) Upon import of fertilisers from third countries to Estonia, a declarant submits a relevant document issued by the producer regarding the composition of the fertiliser to the customs authorities together with the customs declaration.

(5) Upon import of processed organic fertilisers of animal origin from third countries to Estonia, a declarant submits a permit issued by the Veterinary and Food Board to the customs authorities together with the customs declaration.

(6) The requirements provided for in this section do not apply if the quantity of fertilisers imported to Estonia is up to 50 kilograms or 10 litres and, in the event of micro fertilisers, up to 0.5 kilograms or 0.5 litres and, in the event of soil inoculants, up to 0.05 kilograms.

(7) The provisions of subsection (6) of this Act do not apply in the event of ammonium nitrate fertilisers of high nitrogen content.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

#### **§ 12. Requirements for import to Estonia of fertilisers used for research or presentation purposes**

[RT I 2004, 32, 228 - entry into force 01.05.2004]

(1) Fertilisers used for research purposes that are not specified in subsection 11 (3) of this Act may be imported with the written permission of the supervisory authority.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

(2) The supervisory authority may refuse to give permission if the composition of a fertiliser does not comply with the requirements of this Act or legislation established on the basis thereof.

(3) The head of the supervisory authority or an official authorised by them will make a decision on whether to permit or prohibit the import of a fertiliser to Estonia within 15 working days as of receiving an application and other documents necessary to make the decision. A copy of the decision will be sent to the applicant by post within five working days as of the date on which the decision is made.

[RT I 2004, 32, 228 - entry into force 01.05.2004]

(4) The standard form of applications for permission to import to Estonia fertilisers to be used for research purposes, the list of documents to be submitted and the procedure for processing the applications will be established by the Minister of Agriculture.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

(5) In the event of the import of fertilisers to Estonia for presentation purposes, the temporary importation procedure is applied. The import of bulk fertilisers for presentation purposes is prohibited.

[RT I 2004, 32, 228 - entry into force 01.05.2004]

### **§ 13. Requirements for handling of ammonium nitrate fertilisers of high nitrogen content**

[RT I 2004, 32, 228 - entry into force 01.05.2004]

(1) Ammonium nitrate fertilisers of high nitrogen content are handled in compliance with the requirements provided in this Act and the Chemicals Act.

[RT I 2004, 32, 228 - entry into force 01.05.2004]

(2) For the purposes of this Act, an ammonium nitrate fertiliser of high nitrogen content means ammonium nitrate, or a fertiliser containing ammonium nitrate where more than 28 percent of its dry residue is nitrogen and which may contain inorganic impurities or inert substances that do not contribute to the flammability or detonability of the fertiliser.

[RT I 2004, 32, 228 - entry into force 01.05.2004]

(3) The production lot of an ammonium nitrate fertiliser of high nitrogen content must have undergone a test of resistance to detonation described in Annex III to Regulation (EC) No. 2003/2003 of the European Parliament and of the Council.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

(4) The test specified in subsection (3) of this will be carried out by an approved laboratory included in the list specified in Article 30 of Regulation (EC) No. 2003/2003 of the European Parliament and of the Council.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

(5) The handler of fertilisers will submit to the supervisory authority a document certifying the detonation stability of a fertiliser lot at least five working days before the expected import to Estonia of the ammonium nitrate fertilisers of high nitrogen content.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

### **§ 14. Requirements for handling of fertilisers containing genetically modified organisms**

Fertilisers that contain genetically modified organisms are handled in compliance with the requirements of this Act, taking into consideration the provisions of the Release into Environment of Genetically Modified Organisms Act.

### **§ 15. Requirements for storage of fertilisers**

(1) Fertilisers must be stored in conditions that ensure the fertilisers do not pose a threat to human and animal life and health.

(2) Fertilisers are stored in compliance with the requirements established for the protection of groundwater and surface water in the Water Act.

### **§ 16. Requirements for marketing fertilisers and ensuring traceability**

(1) Fertilisers that comply with the requirements of the relevant EU legislation, this Act and legislation established on the basis of this Act may be marketed only if:

- 1) they bear the 'EC FERTILISER' marking or
- 2) they are registered in the register of fertilisers and the corresponding registration decision has not been suspended.

(2) In order to ensure the traceability of fertilisers, the handler of fertilisers preserves information regarding the origin of fertiliser lots two years after the termination of marketing.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

### **§ 17. Marketing harmless fertilisers with non-conforming composition**

(1) Assessment of the harmlessness of fertilisers whose composition does not conform to the requirements but that are considered harmless, organisation of their market supervision and determination of the obligations of handlers is based on the Product Conformity Act.

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

(2) Harmless fertilisers with a non-conforming composition may be marketed with the permission of the head of the supervisory authority or an official authorised by them, provided that information on the actual composition of the fertiliser is provided on the packaging of the fertiliser or on an information leaflet without damaging the original labelling. The head of the supervisory authority or an official authorised by them will make a decision on whether to permit or prohibit the marketing of the fertilisers within 30 days as of receiving a corresponding application. A copy of the relevant decision will be sent to the distributor by post within five working days as of the date on which the decision is made.

#### **§ 18. Termination of marketing harmful fertilisers with non-conforming composition**

(1) Harmful fertilisers whose composition does not conform to the requirements and that cannot be rendered harmless to human and animal life and health or to property or the environment by way of reprocessing will be removed from the market and handled in compliance with the requirements of the Waste Act at the handler's expense.

(2) Fertilisers that may pose a threat to human and animal life and health or to property or the environment due to their toxicity, flammability or detonability or due to the radiation hazard or other risk factor presented by them are deemed to be harmful fertilisers with a non-conforming composition.

## **Chapter 4 REGISTER OF FERTILISERS**

#### **§ 19. Foundation and organisation of activities of register of fertilisers**

(1) The register of fertilisers (hereinafter *register*) is a database founded by the Government of the Republic included in the state information system. The statutes of the register will be established by the Government of the Republic.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

(2) The chief processor of the register is the Ministry of Agriculture and the authorised processor of the register is the Agricultural Board.

[RT I 2009, 34, 224 - entry into force 01.01.2010]

(3) The aim of maintaining the register is to collect and systematise information regarding fertilisers for marketing purposes, handlers of fertilisers and their areas of activity.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

#### **§ 20. [Repealed – RT I 2004, 32, 228 – entry into force 01.05.2004]**

#### **§ 21. Registration of fertilisers**

(1) A fertiliser will be registered in the name of its handler on the basis of a standard-form application and information and documents submitted concerning the fertiliser.

(2) [Repealed – RT I 2008, 49, 271 – entry into force 01.01.2009]

(3) A fertiliser containing a plant protection product will be registered in the register of fertilisers after the plant protection product contained in the fertiliser has been registered in the register of plant protection products.

(4) A handler does not need to register a fertiliser in the name of the handler if the handler purchases or acquires in any other manner the fertiliser from another handler who has already registered the fertiliser in the name of that handler.

#### **§ 22. Bases for registration of fertilisers**

(1) In order to register a fertiliser, the handler will submit a standard-form application and, if necessary, the information and documents concerning the fertiliser provided for in the statutes for maintenance of the register to the authorised processor and pay the state fee.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

(2) The authorised processor will make a decision to register or to refuse to register a fertiliser within 15 working days as of receiving all the documents necessary to make the decision. A copy of the decision will be sent to the applicant by post within five working days as of the date on which the decision is made.

(3) A fertiliser is deemed to be registered as of the date of its entry in the register.

(4) The standard-form for applications for the registration of fertilisers will be established by the Minister of Agriculture.

### **§ 23. Refusal to register fertilisers**

The authorised processor will refuse to register a fertiliser if:

- 1) it is evident from the documents submitted that the fertiliser does not conform to the requirements;
- 2) the test protocol submitted has been issued by a laboratory that lacks the requisite accreditation;
- 3) the applicant has knowingly submitted false information to the authorised processor or supervisory official or has influenced the authorised processor or supervisory official in an unlawful manner;
- 4) the state fee is not paid.

### **§ 24. [Repealed – RT I 2008, 49, 271 – entry into force 01.01.2009]**

### **§ 25. Amendment of registry entry**

(1) If information on the basis of which a registry entry was made changes, the handler will inform the authorised processor thereof in writing within ten working days as of the date on which the information changes.

(2) The authorised processor will make a decision to amend a registry entry within five working days as of the receipt of the relevant notice and payment of the state fee by the applicant. A copy of the decision to amend the registry entry will be sent to the applicant by post within five working days as of the date on which the decision is made.

### **§ 26. Suspension of validity of registration decision**

(1) The validity of a registration decision will be suspended if:

- 1) further handling of the fertiliser may pose a threat to human and animal life and health or to property or the environment;
- 2) the handler submits a written application to this effect;
- 3) the composition of the fertiliser has been found to be non-conforming in the course of supervision;
- 4) the handler has violated the requirements established for the packaging or labelling of the fertiliser;
- 5) the handler has not informed the authorised processor of changes made to the information entered in the register.
- 6) the handler has failed to pay the state fee by the due date.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

(2) The authorised processor will make a decision to suspend the validity of a registration decision within ten working days as of becoming aware of the circumstances specified in subsection (1) of this section. An entry will be made in the register concerning suspension of the validity of the registration decision.

(3) The validity of a registration decision will be suspended until the circumstances that caused its suspension have been eliminated.

(4) A copy of the decision to suspend the validity of a registration decision will be sent to the handler by post within five working days as of the date on which the decision is made.

(5) As of becoming aware of the suspension of the registration decision of a fertiliser, the handler is required to suspend the handling of the fertiliser to the extent determined by the decision.

(6) The handler will inform the authorised processor of elimination of the circumstances that constituted the grounds for suspension of a registration decision and the processor, after verifying the information submitted by the handler, will promptly make a decision to restore the validity of the registration decision and will send a copy of the decision to the handler by post or by electronic means not later than on the fifth day as of the date on which the decision is made. The handler may resume the handling of the fertiliser as of the date of becoming aware of the decision.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

### **§ 27. Invalidation and deletion of registry entries**

(1) A registry entry will be invalidated if the handler:

- 1) has submitted a written application to this effect;
- 2) has knowingly submitted false information to the authorised processor or supervisory official or has influenced the authorised processor or supervisory official in an unlawful manner;
- 3) has repeatedly failed to eliminate, by the term specified in the precept, any deficiencies discovered in the course of supervision;
- 4) is unable to comply with the requirements arising from this Act due to the permanent circumstances prevailing in the enterprise.
- 5) has failed to eliminate the circumstances that constituted the grounds for suspension of the registration decision within 21 days;

[RT I 2008, 49, 271 - entry into force 01.01.2009]

6) has repeatedly failed to pay the state fee by the due date.  
[RT I 2008, 49, 271 - entry into force 01.01.2009]

(2) The authorised processor will make a decision to invalidate a registry entry within ten working days as of becoming aware of the circumstances specified in subsection (1) of this section. A copy of the decision will be sent to the handler by post within five working days as of the date on which the decision is made.

(3) A registry entry will be deleted immediately after a decision to invalidate the registry entry is made.

(4) A handler is required to terminate the handling of a fertiliser as of becoming aware of the invalidation of the relevant registry entry.

### **§ 28. Protection and disclosure of information entered in register**

(1) Except for information classified as a business secret, information entered in the register is public and will be published on the website of the Agricultural Board and may also be published in hardcopy, in both cases adhering to the requirements of the Personal Data Protection Act and the Public Information Act.  
[RT I 2009, 34, 224 - entry into force 01.01.2010]

(2) For the purposes of this Act, the quantities of substances that are contained in fertilisers and pose a threat to humans, animals, property or the environment will not be considered a business secret.

## **Chapter 5 SUPERVISION**

### **§ 29. Authorities exercising supervision**

(1) State supervision over compliance with the requirements for handling fertilisers is exercised by:  
[RT I 2004, 32, 228 - entry into force 01.05.2004]

1) the Agricultural Board;

[RT I 2009, 34, 224 - entry into force 01.01.2010]

2) the Tax and Customs Board to the extent provided for in the customs rules for the purposes of the Customs Act;

[RT I 2004, 32, 228 - entry into force 01.05.2004]

3) the Consumer Protection Board, to the extent provided by the Consumer Protection Act.

(2) The Agricultural Board cooperates with other authorities of executive power within the limits of their competence.

[RT I 2009, 34, 224 - entry into force 01.01.2010]

### **§ 30. Rights of supervisory officials**

(1) A supervisory official is an official of a supervisory authority who conducts, within the limits of their authority, state supervision over compliance with the requirements of the relevant EU legislation, this Act and legislation established on the basis of this Act. Supervisory acts are generally performed without giving prior notice to the handler.

[RT I 2008, 49, 271 - entry into force 01.01.2009]

(2) Supervisory officials have the right:

1) to inspect premises where fertilisers are sold or handled in another manner and to inspect fertilisers, if necessary by opening the packaging;

2) in the presence of handlers or the representatives thereof, to monitor, unhindered, compliance with the requirements of the relevant EU legislation, this Act and legislation established on the basis of this Act on the territory and in the premises of enterprises, and to take, without charge, samples of fertilisers and the raw materials used in fertilisers;

[RT I 2008, 49, 271 - entry into force 01.01.2009]

3) to demand that handlers of fertilisers provide information that is necessary for supervision purposes and that they present copies and extracts of the relevant documents and excerpts, and, with the knowledge of the handlers, to record the situation at the time of the inspection by using technical equipment.

### **§ 31. Suspension of operation of handlers**

(1) The head of a supervisory authority will suspend the handling of a fertiliser on the grounds provided for in Article 15 of Regulation 2003/2003/EC of the European Parliament and of the Council or if they have reason to believe that the fertiliser poses a threat to human and animal life and health or to property or the environment. The decision will be prepared as a directive of the head of the supervisory authority, setting out the name of the fertiliser, information on the fertiliser lot, information on the harmful composition of the fertiliser, the spheres of handling where handling is to be suspended, obligations of the handler and the manner of eliminating the danger.

[RT I 2004, 32, 228 - entry into force 01.05.2004]

(2) While a restriction on handling is in force, the relevant supervisory authorities, in co-operation with each other, determine the extent of the danger and take the necessary measures. After elimination of the danger the head of the Agricultural Board will make a decision to revoke a decision specified in subsection (1) of this section. The decision will be formalised by a directive of the head of the supervisory authority.  
[RT I 2009, 34, 224 - entry into force 01.01.2010]

(3) A copy of the decision specified in subsections (1) and (2) of this section will be sent to the handler within five working days after the decision is made. The head of the supervisory authority will inform the public of the directive specified in subsections (1) and (2) of this section immediately by publishing it on the website of the supervisory authority.  
[RT I 2004, 32, 228 - entry into force 01.05.2004]

### **§ 32. Procedure for submission of information**

A person engaged in the production or import to Estonia of fertilisers will submit information concerning the volumes of fertilisers distributed during the previous half-year to the Agricultural Board by January 10 and July 10 each year and pay the state fee.  
[RT I 2009, 34, 224 - entry into force 01.01.2010]

### **§ 33. Organisation of supervision**

(1) Before performing a supervisory act, a supervisory official will present their identification and explain the purpose and method of the inspection.

(2) During performance of supervisory acts, a supervisory official of the Agricultural Board must wear a uniform.  
[RT I 2009, 34, 224 - entry into force 01.01.2010]

(3) A supervisory official must explain to a handler that the handler has the right to attend all supervisory acts, receive additional explanations, contest the acts performed by the supervisory official and make statements concerning supervision, which will be recorded at the handler's request.

(4) Supervisory officials must maintain business secrets learned in the course of supervision. Personal data may be disclosed in accordance with the Personal Data Protection Act. A business secret may be disclosed if failure to do so would pose a threat to human or animal life and health or to property or the environment.

(5) The provisions of the State Liability Act apply in the event of compensation for damage unlawfully caused to a handler in the course of supervisory acts performed under this Act.

### **§ 34. Taking of samples**

[RT I 2004, 32, 228 - entry into force 01.05.2004]

(1) A supervisory official has the right to take samples during supervisory acts at the expense of the handler in order to verify compliance with the requirements of the relevant EU legislation and this Act and legislation established on the basis of this Act.  
[RT I 2008, 49, 271 - entry into force 01.01.2009]

(2) Accredited laboratories will analyse samples to verify the compliance of the composition of fertilisers, prepare test protocols concerning the analyses and issue the test protocols. The costs of analysing samples taken during supervisory acts will be covered from the state budget.  
[RT I 2008, 49, 271 - entry into force 01.01.2009]

(3) A supervisory official has the right to suspend the marketing of a fertiliser until the results of the analysis of a sample taken during a supervisory act become available if the supervisory official has sufficient reason to believe that the fertiliser poses a threat to human or animal life and health or to property or the environment.  
[RT I 2004, 32, 228 - entry into force 01.05.2004]

(4) On the basis of the test protocol, the supervisory official will make a decision on whether to permit or prohibit the further marketing of the fertiliser within ten working days as of the receipt of the test protocol.  
[RT I 2008, 49, 271 - entry into force 01.01.2009]

(5) If a handler disagrees with the results of the analysis, the handler has the right to select another accredited laboratory to analyse a repeat sample at the handler's own expense.

(6) The procedure for taking samples of fertilisers and the methodology for analysing the samples will be established by the Minister of Agriculture.  
[RT I 2004, 32, 228 - entry into force 01.05.2004]

### **§ 35. Precepts**

(1) If an offence is identified, the supervisory official will issue a precept in which they:

- 1) [Repealed – RT I 2008, 49, 271 – entry into force 01.01.2009]
- 2) demand that the offence be terminated;  
[RT I 2008, 49, 271 - entry into force 01.01.2009]
- 3) demand that steps be taken to terminate the offence and prevent future offences;
- 4) set a time limit for compliance with the precept.

(2) The supervisory official will deliver the precept to the handler or the representative thereof against signature either on site or send the precept to the handler by mail within five working days as of ascertainment of the circumstances that serve as the basis for the issue of the precept. If the handler or the handler's representative refuses to accept the precept on site, a corresponding notation will be made on the precept and the precept will be sent to the handler by mail within five working days as of the refusal to accept the precept.  
[RT I 2008, 49, 271 - entry into force 01.01.2009]

### **§ 36. Contestation of precept, decision or act of supervisory official**

(1) If a handler does not agree with a precept, decision or act of a supervisory official, the handler may file an intra-agency appeal with the head of the supervisory authority or contest the precept, decision or act in an administrative court on the conditions and in accordance with the procedure provided for in the Code of Administrative Court Procedure.

(2) Contestation of a precept does not release the handler from compliance with the requirements set out in the precept.

(3) In order to ensure compliance with a precept, the supervisory authority may impose a penalty payment in accordance with the procedure provided by the Substitutive Enforcement and Penalty Payment Act. The maximum limit of a penalty payment is 640 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

## **Chapter 6 LIABILITY**

### **§ 37. Violation of requirements for composition of fertilisers, and handling non-conforming fertilisers**

(1) Violation of the requirements for fertilisers, handling of a non-conforming fertiliser or failure to comply with the obligation to suspend the marketing of a non-conforming fertiliser is punishable by a fine of up to 200 fine units.

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

### **§ 37<sup>1</sup>. Failure to submit document certifying detonation stability of ammonium nitrate fertilisers of high nitrogen content**

(1) Failure to submit a document certifying the detonation stability of ammonium nitrate fertilisers of high nitrogen content is punishable by a fine of up to 200 fine units.

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

### **§ 38. Violation of requirements for packaging or markings on packaging of fertilisers**

(1) Violation of the requirements for the packaging or the markings on the packaging of fertilisers established by this Act is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal entity, is punishable by a fine of up to 1300 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

### **§ 39. Failure to comply with self-checking requirement or to perform notification obligation**

(1) Failure to comply with the self-checking requirement or to perform the notification obligation is punishable by a fine of up to 200 fine units.

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

#### **§ 40. Proceedings**

(1) The provisions of the General Part of the Penal Code and the Code of Misdemeanour Procedure apply to the misdemeanours provided in §§ 37–39 of this Act.

(2) The following extra-judicial bodies conduct proceedings in matters of misdemeanours provided in §§ 37 and 38 of this Act:

- 1) the Agricultural Board;  
[RT I 2009, 34, 224 - entry into force 01.01.2010]
- 2) the Consumer Protection Board.

(3) The Agricultural Board is the extra-judicial body that conducts proceedings in the misdemeanour cases provided for in §§ 37<sup>1</sup> and 39 of this Act.  
[RT I 2009, 34, 224 - entry into force 01.01.2010]

## **Chapter 7 IMPLEMENTING PROVISIONS**

#### **§ 41. Application of Act**

The register of fertilisers established on the basis of subsection 3 (1) of the Fertilisers Act is deemed to be the register of fertilisers specified in § 19 of this Act.

**§ 42.–§ 46.**[Omitted from this text.]

#### **§ 47. Entry into force of Act**

- (1) This Act will enter into force on 1 September 2003.
- (2) Subsection 21 (2) of this Act will enter into force as of Estonia's accession to the European Union.