

## Mining Act

Passed 29 January 2003

(RT<sup>1</sup> I 2003, 20, 118),

entered into force 1 December 2003,

amended by the following Act:

10.08.2004 entered into force 15.04.2004 - RT I 2004, 18, 131.

## Chapter 1

### General Provisions

#### § 1. Scope of application of Act

(1) With the aim of ensuring the safety of persons, property and the environment, and of ensuring the economical use of deposits, this Act provides requirements for:

- 1) mining and the secondary utilisation of underground workings;
- 2) plans for mining and the secondary utilisation of underground workings;
- 3) undertakings engaged in mining, the secondary utilisation of underground workings or preparation of plans for such work;
- 4) specialists in charge and authorities assessing and attesting the conformity thereof;
- 5) liability and state supervision.

(2) The safety requirements arising from § 4 of this Act extend to activities which are not mining or the secondary utilisation of underground workings but which involve hazards characteristic of areas of activity involving particular risks as specified in § 15.

(3) With the exception of the safety requirements provided for in § 4 of this Act, the requirements provided by this Act do not extend to natural persons who are the owners of registered immovables and who have the right, on the basis of the Earth's Crust Act (RT I 1994, 86/87, 1488; 1995, 75, 1321; 1996, 49, 953; 1997, 52, 833; 86, 1461; 93, 1562; 1998, 64/65, 1005; 1999, 10, 155; 54, 583; 95, 843; 2000, 54, 348; 102, 670; 2002, 53, 336; 61, 375; 63, 387), to extract earth substances and earth deposits present within the limits of the registered immovables for their personal households without an extraction permit.

#### § 2. Application of other Acts

(1) Where the prevention of hazards which may be caused to persons, property or the environment by mining or the secondary utilisation of underground workings is regulated by another Act or legislation established on the basis thereof, the requirements arising from the

other Act or legislation established on the basis thereof apply with the specifications arising from this Act.

(2) The occupational health and safety requirements for mining and the secondary utilisation of underground workings arise from the Occupational Health and Safety Act (RT I 1999, 60, 616; 2000, 55, 362; 2001, 17, 78; 2002, 47, 297; 63, 387).

(3) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375) apply to the administrative proceedings prescribed in this Act with the specifications arising from this Act.

(4) The provisions of the Building Act (RT I 2002, 47, 297; 99, 579) apply to geotechnical site investigations and geodetic surveys. The provisions of the Building Act apply to the building of underground structures with the specifications arising from this Act. The provisions of the Building Act do not apply to the building and use of underground structures which are part of a working mine.

### § 3. Definitions for purposes of this Act

(1) The following are mining:

1) work in the earth's crust for the purpose of utilising mineral resources or earth substances which is performed upon the winning thereof, upon the construction of underground workings, during geological explorations or upon the building of underground structures which are parts of mines;

2) transport operations related to the mining or primary processing of mineral resources or earth substances;

3) the primary processing of mineral resources and earth substances, the including industrial crushing, sizing, dewatering, briquetting and storage of mineral resources or earth substances, or

4) the placement of heaps or the recultivation of extracted areas or heaps.

(2) An underground working is an empty space in the earth's crust covered by a natural layer where persons can stay due to the size and accessibility of the space, and other empty spaces in the earth's crust which present hazards characteristic of underground workings and where persons can stay.

(3) The secondary utilisation of underground workings (hereinafter secondary utilisation of workings) is the use of underground workings for purposes which involve the presence of persons in the underground workings but which are not related to mining.

(4) An underground structure is a civil engineering works which is created within an underground working as a result of human activity and which is not a part of a working mine.

(5) A mine is a production unit involved in the mining of mineral resources and earth substances which consists of the civil engineering works and buildings necessary to mine the mineral resources and earth substances.

## Chapter 2

### Mining and Secondary Utilisation of Workings

#### § 4. Safety requirements

(1) The safety of persons, property and the environment shall be ensured during mining and the secondary utilisation of workings.

(2) At the site of the mining or the secondary utilisation of a working (hereinafter site), measures shall be taken to:

- 1) prevent, detect and control fires, explosions and the creation and spread of environments dangerous to health;
- 2) ensure the existence of warning systems and other systems of communication which are sufficient to ensure that assistance, evacuation and rescue operations can be commenced without delay and performed smoothly;
- 3) mark and delimit danger zones;
- 4) prevent an inrush of water when work is performed in the vicinity of flooded workings;
- 5) prevent the ground from sinking or collapsing, or to keep such situations under control.

(3) Pursuant to the procedure prescribed by the safety requirements established on the basis of subsection (5) of this section, records shall be kept regarding persons staying in underground workings. Persons staying in underground workings shall be equipped with the necessary protective equipment.

(4) The provision of mine rescue services organised on the basis of the Rescue Act (RT I 1994, 28, 424; 1998, 39, 598; 2000, 50, 316; 2001, 50, 283; 2002, 42, 267; 61, 375; 63, 387) shall be guaranteed for underground work.

(5) Safety requirements for mining and the secondary utilisation of workings shall be established by the Minister of Economic Affairs and Communications.

## § 5. Suspension and termination of mining

(1) Mining shall be suspended or terminated at the mining site in a manner which ensures the safety of persons, property and the environment and which leaves it possible for the remaining mineral resources to be extracted later.

(2) The suspension of mining is a temporary or long-term stoppage in the mining of mineral resources or earth substances for economic reasons or as the result of an accident which calls for a longer period of maintenance work. Any short-term stoppage of mining which is necessary for the repair of equipment or maintenance of the site is not deemed to be suspension of mining.

(3) The termination of mining is the ending of the mining of mineral resources or earth substances for the purposes of closing the mine or quarry.

(4) The procedure for the suspension and termination of mining shall be established by the Minister of Economic Affairs and Communications.

## § 6. Permit for secondary utilisation of underground workings, and building permits and permits for use of underground structures

(1) A building permit issued on the basis of the Building Act is required in order to build an underground structure. Upon application for a building permit, the building design documentation for the underground structure shall conform to the requirements set for building design documentation by the Building Act and shall be prepared taking the relevant mining conditions into consideration.

(2) A permit for use of a construction works which is issued on the basis of the Building Act is required for the use of an underground structure or the secondary utilisation of a working. Corresponding approval from the Technical Inspectorate shall be appended to an application for a permit for use of a construction works. The Technical Inspectorate shall inspect the respective underground structure or the underground working where secondary utilisation operations are to be performed. On the basis of the results of the inspection, the Technical Inspectorate shall grant permission for the use of the underground structure or for secondary utilisation of the working or shall refuse to grant such permission if the measures applied do not ensure the safety of persons, property and the environment.

## § 7. Plans for mining and secondary utilisation of workings

(1) A plan for mining or the secondary utilisation of a working (hereinafter plan) is a set of documents which is necessary to conduct mining operations or the secondary utilisation of a working and which includes:

- 1) the layout of the mine or of the working subject to secondary utilisation;
- 2) geological drawings;
- 3) plans of the technology to be used;
- 4) a letter of explanation containing a description of the measures to be applied for the protection of persons, property and the environment, and, in the case of mining, a description of the recultivation of extracted areas and of the mining conditions and the technology to be used;
- 5) other documents prescribed by legislation.

(2) The plan shall be prepared in accordance with the primary purpose to such an extent and in such a form that mining operations or the secondary utilisation of a working can be carried out on the basis thereof.

(3) The requirements for plans for mining or the secondary utilisation of workings shall be established by the Minister of Economic Affairs and Communications.

#### § 8. Mine survey operations and mine surveying documentation

(1) Mine survey operations are the survey and documentation of the mining of mineral resources or earth substances.

(2) Mine survey operations shall be conducted upon the construction of underground workings. Mine survey operations shall be organised in such a way that it is subsequently possible for the survey results to be verified on the basis of the relevant documentation.

(3) Mine survey operations shall be conducted in order to ensure:

- 1) that underground workings are excavated in accordance with the design documentation;
- 2) that the work performed is surveyed and documented;
- 3) that the amount of mineral resources or earth substances won and the size of the mineral resource or earth substance deposit are determined;
- 4) that mine surveying documentation is prepared.

(4) Survey work during mine survey operations shall be performed in compliance with the valid geodetic system.

(5) The procedure for mine survey operations shall be established by the Minister of Economic Affairs and Communications.

## Chapter 3

### Holders of Exploration and Extraction Permits, and Undertakings

#### § 9. Holders of exploration and extraction permits

(1) For the purposes of this Act, the holder of an exploration or extraction permit is a person to whom such a permit has been issued or transferred on the basis of the Earth's Crust Act.

(2) The holder of an exploration or extraction permit shall ensure that the plans for mining are prepared and the mining operations are conducted by a person specified in § 10 of this Act who undertakes to perform such operations in accordance with the conditions set by the exploration or extraction permit.

#### § 10. Right to operate as undertaking

(1) It is permitted for a person (hereinafter undertaking) to engage in mining, the secondary utilisation of workings or the preparation of relevant plans if the undertaking employs a specialist in charge specified in § 14 of this Act and is registered in the register specified in § 20.

(2) An undertaking has the right to engage in mining, the secondary utilisation of workings or the preparation of relevant plans within the limits of the competence of its specialist in charge.

#### § 11. Obligations of undertakings engaged in mining or secondary utilisation of workings

An undertaking engaged in mining or the secondary utilisation of workings shall ensure compliance with the requirements arising from this Act, including doing the following:

- 1) perform the mining operations or the secondary utilisation of workings in compliance with the plans prepared according to the relevant requirements;
- 2) possess adequate means for mining or the secondary utilisation of workings in compliance with the relevant requirements;
- 3) only engage persons who have sufficient professional training for mining or the secondary utilisation of workings;
- 4) appoint a specialist in charge and ensure that his or her duties are performed;
- 5) ensure that records are kept regarding persons staying in the underground workings;

- 6) inform the holder of an exploration or extraction permit of any deviation from the requirements set by the exploration or extraction permit or the plans;
- 7) immediately inform the Technical Inspectorate of any accident or extensive breakdown at the site.

#### § 12. Obligations of undertakings engaged in preparation of plans

An undertaking engaged in the preparation of plans shall ensure compliance with the requirements arising from this Act, including doing the following:

- 1) ensure that the plans conform to the requirements;
- 2) ensure that the plans conform to the primary purpose;
- 3) ensure that the plans are prepared by persons with sufficient professional training therefor;
- 4) appoint a specialist in charge and ensure that his or her duties are performed;
- 5) preserve in full all plans prepared thereby for at least seven years as of the termination of work carried out on the basis of such plans.

#### § 13. Mandatory documentation for undertakings engaged in mining or secondary utilisation of workings

(1) An undertaking engaged in mining or the secondary utilisation of workings shall have the following documents:

- 1) a plan for mining or the secondary utilisation of workings;
- 2) documents concerning risk assessment;
- 3) occupational safety instructions and instructions for the use of equipment and machinery;
- 4) mine surveying documentation.

(2) In addition to the documents specified in subsection (1) of this section, an undertaking engaged in underground work shall also have the following documents:

- 1) a plan to remedy the effects of accidents;
- 2) a procedure for keeping records regarding persons staying underground;
- 3) dewatering, ventilation and electrical supply plans, and other technological plans.

(3) An undertaking engaged in mining or the secondary utilisation of underground workings shall prepare a development plan for each calendar year or for a longer period divided into years and shall submit the plan to the local government of the location of the mining site for information purposes if the local government so required. The purpose of a

development plan covering the activities of an undertaking is to ensure effective control over the environmental impact of the mining operations and to ensure the optimum scope of the operations.

(4) The requirements for the mandatory documentation for undertakings engaged in mining or the secondary utilisation of workings shall be established by the Minister of Economic Affairs and Communications.

(5) Undertakings engaging in underground work shall ensure that the location maps of the underground workings are preserved and submitted to the county archives for permanent preservation in compliance with the requirements of the Archives Act (RT I 1998, 36/37, 552; 1999, 16, 271; 2000, 92, 597; 2001, 88, 531; 93, 565; 2002, 53, 336; 61, 375; 63, 387; 82, 480).

## Chapter 4

### Specialist in Charge

#### § 14. Specialist in charge

(1) A specialist in charge is a person who:

1) is competent to organise and direct mining operations, the secondary utilisation of underground workings or the preparation of relevant plans in compliance with the requirements provided by legislation;

2) undertakes to ensure that the requirements provided by this Act and legislation established on the basis thereof are complied with during mining, the secondary utilisation of underground workings or the preparation of relevant plans.

(2) The appointment of a specialist in charge does not release an undertaking from the liability arising from mining, the secondary utilisation of underground workings or the preparation of relevant plans.

#### § 15. Requirements for specialists in charge in certain areas of activity

(1) A specialist in charge employed by an undertaking engaged in an area of activity involving particular risks shall have a level of professional training, work experience and knowledge which ensures the safety of work performed under his or her direction in the corresponding area of activity.

(2) A specialist in charge employed by an undertaking engaged in the preparation of plans in areas of activity involving particular risks shall have undergone corresponding training and

have at least three years' work experience with an undertaking engaged in design work to ensure that the plans prepared under his or her direction conform to the requirements.

(10.08.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

(3) The conformity of a specialist in charge specified in subsections (1) and (2) of this section to the requirements shall be assessed and attested by a person specified in § 18 of this Act.

(4) For the purposes of this Act, the following are areas of activity involving particular risks:

- 1) underground work;
- 2) underwater mining at a depth of more than two metres, with the exception of the extraction of mud;
- 3) mining operations where blasting work is performed by the undertaking itself;
- 4) oil shale mining;
- 5) mining in a quarry if the extraction permit issued for the quarry sets out a maximum annual production of over 200 000 tonnes;
- 6) mining in a quarry where the height of the bench face is more than five metres.

#### § 16. Duties of specialist in charge

(1) A specialist in charge is required to ensure:

- 1) that work is performed in accordance with the plans;
- 2) that the safety requirements and other requirements arising from this Act are complied with upon the performance of work;
- 3) that work is performed by persons with professional training who have at their disposal the necessary documentation and means to perform the work and who are adequately instructed to perform the work in compliance with the requirements;
- 4) the safe use of the site;
- 5) that documentation of the work is organised.

(2) In accordance with the volume of work and the line of activity, a specialist in charge may appoint responsible supervisors whose duties include organising work, instructing workers and ensuring safety at specific stages of the work.

## Chapter 5

### Authority Assessing and Attesting Conformity of Persons

### § 17. Assessment and attestation of conformity of persons

- (1) For the purposes of this Act, assessment and attestation of the conformity of a person is a procedure in the course of which the conformity of a specialist in charge is assessed and is attested by way of the issue of corresponding certificates of competency.
- (2) In assessing and attesting the conformity of a person, the conformity of the person with the requirements provided for in § 15 of this Act is assessed and his or her knowledge of legislation relating to the corresponding area of activity is tested.
- (3) The procedure for assessment and attestation of the conformity of persons shall be established by the Minister of Economic Affairs and Communications.

### § 18. Authority assessing and attesting conformity of persons

- (1) The conformity of persons may be assessed and attested by a legal person registered in the register specified in § 20 of this Act.
- (2) An authority assessing and attesting the conformity of persons shall:
  - 1) have staff who have received the necessary professional training and who have the necessary education and experience;
  - 2) possess the resources to assess and attest the conformity of persons;
  - 3) be independent, qualified, impartial and non-discriminating;
  - 4) have liability insurance which meets the requirements provided for in § 19 of this Act and is valid for the entire period of its operation as an authority assessing and attesting the conformity of persons;
  - 5) be accredited to assess and attest the conformity of persons.
- (3) The provisions of § 14<sup>1</sup> of the Product Conformity Attestation Act (RT I 1999, 92, 825; 2002, 6, 20; 44, 282) apply to authorities assessing and attesting the conformity of persons.
- (4) In the event of termination of the activities of an authority assessing and attesting the conformity of persons, the authority shall hand over all the documentation concerning the assessment and attestation of the conformity of persons to the Technical Inspectorate within one month as of the date on which the authority is deleted from the register specified in § 20 of this Act.

### § 19. Liability insurance

- (1) An authority assessing and attesting the conformity of persons shall have a liability insurance contract for an insured sum which guarantees that all damages which may be

caused to third parties by its operations will be compensated, and which is at least 500 000 kroons.

(2) In the case of excess policy, the insurer shall compensate for the full amount of the damage and claim the excess from the policyholder.

## Chapter 6

### Registration of Undertakings

#### § 20. Registration application

(1) An authority assessing and attesting the conformity of undertakings and persons shall submit a registration application to the registrar of the register of economic activities (hereinafter register).

(2) A registration application shall set out the following:

1) the name, address and other contact details, and the registry code or personal identification code or, in the absence of the latter, date of birth;

2) the area of activity (assessment and attestation of the conformity of persons, mining, secondary utilisation of underground workings or preparation of plans) in which the person wishes to operate;

3) the name(s) and contact details of one or more specialist(s) in charge if the application is submitted for assessment and attestation of the conformity of persons, mining, secondary utilisation of underground workings or preparation of plans, and information concerning their competence;

4) the name and location of the site if the application is submitted for mining or the secondary utilisation of underground workings;

5) the name, official title and contact details of the person who signed the registration application;

6) if the person wishes to engage in the assessment and attestation of the conformity of persons, information concerning liability insurance coverage and accreditation.

(3) In addition to the areas of activity specified in clause (2) 2) of this section, an undertaking may provide more specific information in the registration application concerning the area of activity in which the undertaking wishes to operate.

(10.08.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

#### § 21. Registration procedure and registry data

(1) The provisions of the Register of Economic Activities Act (RT I 2004, 12, 79) apply to the registration procedure with the specifications arising from this Act.

(2) Concerning each undertaking, information specified in clauses 20 (2) 2)-4) and 6), and subsection 20 (3) of this Act and, if a precept specified in § 28 of this Act has been issued, information concerning the precept and other information provided by law shall be entered in the register in addition to the information prescribed by the Register of Economic Activities Act.

(10.08.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

#### § 22. Refusal to register

The registration is refused on the grounds provided by the Register of Economic Activities Act and in cases where during the sixty days prior to application, the registration information concerning the undertaking has been deleted on the basis of a decision specified in subsection 28 (2) of this Act.

(10.08.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

#### § 23. Deletion of registration

Registration shall be deleted on the grounds provided by the Register of Economic Activities Act, and on the basis of a decision provided for in subsection 28 (2) of this Act once the term for contestation of the decision has passed if the decision is not contested or, if the decision is contested, as of the date on which the court judgment to uphold the contested decision enters into force.

(10.08.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

§ 24. (Repealed - 10.08.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

### Chapter 7

#### State Supervision

#### § 25. State supervisory authority

State supervision over conformity with the requirements provided for in this Act and legislation established on the basis thereof shall be exercised by the Technical Inspectorate (hereinafter the Inspectorate).

## § 26. Competence of Inspectorate

(1) The following are within the competence of the Inspectorate:

- 1) supervision over the safe organisation of work at sites and over the operation of authorities assessing and attesting the conformity of persons;
- 2) investigation of the causes of breakdowns or accidents on sites;
- 3) issue of precepts and making of resolutions;
- 4) inspection of plans;
- 5) verifying registry data.

(10.08.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

(2) The Director General of the Inspectorate may form committees of experts to resolve issues related to supervision. A committee of experts has an advisory role.

## § 27. Rights and obligations of officials exercising state supervision

(1) Officials exercising state supervision have the right to:

- 1) monitor compliance with legislation without hindrance and without giving prior notice;
- 2) stay on sites and enter the premises of undertakings for the purpose of exercising state supervision;
- 3) obtain information necessary for supervision, and to examine relevant documents and copies thereof and to obtain transcripts thereof;
- 4) stop the operation of a site or demand the removal of persons from the site if the requirements provided by legislation are repeatedly violated or if continued operation would endanger persons, property or the environment, until such time as the violation or danger is eliminated;
- 5) issue precepts.

(2) The Director General of the Inspectorate or an official authorised by him or her has the right, on the basis of this Act and with regard to issues within the competence of the Inspectorate, to oblige an undertaking to inform the public of any dangers which have arisen or to publish such information at the expense of the undertaking.

(3) When performing their duties, officials exercising state supervision shall present identification.

(4) Officials exercising state supervision shall ensure the confidentiality of business and technical information which becomes known to them, unless the disclosure of such information is prescribed by law.

## § 28. Precept and decision

(1) An official exercising state supervision shall issue a precept for the termination of violations of the requirements of this Act or legislation established on the basis thereof, including for suspension of non-conforming mining operations, secondary utilisation of underground working or preparation of relevant plans, or for the removal of persons from sites, and in the precept the official shall:

- 1) demand that the offence be terminated;
- 2) where necessary, demand that activities related to the offence be suspended in part or in full, or
- 3) demand that acts necessary for the lawful continuation of the activities be performed.

(2) The Director General of the Inspectorate or an official authorised by the Director General has the right to make a decision of deletion from the register of a person which holds a registration in the register in the following cases:

- 1) upon repeated failure to comply with a precept;
- 2) if the person does not comply to the requirements set for operation in the relevant field of activity.

(3) If a precept of an official of the Inspectorate concerns a person which is registered in the register specified in § 20 of this Act, the Inspectorate shall enter the information concerning the precept in the register based on the Register of Economic Activities Act.

(4) In the event of failure to comply with a precept specified in subsection (1) of this section, an official exercising state supervision may impose a coercive measure pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580). The upper limit for penalty payments is 10 000 kroons.

(10.08.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

## § 29. Contestation of precept or act

(1) If a person does not agree with a precept or act of an official of the Inspectorate, the person has the right to file a written challenge with the Director General of the Inspectorate within ten working days as of the date on which the person became aware of the precept or act.

(2) Challenges shall not be filed against administrative acts or measures of the Director General of the Inspectorate.

(3) The filing of a challenge does not relieve the person of the obligation to comply with the precept.

(4) The Director General of the Inspectorate shall review a challenge and make a decision within fourteen days as of the date on which the challenge is filed. The official against whose precept or act the challenge is filed shall not participate in the challenge proceedings.

(5) A person who filed a challenge shall be notified of the decision specified in subsection (4) of this section and the decision shall be delivered against a signature or sent by post with advice of delivery within two working days as of the date on which the decision is made.

### § 30. Inspection of plans

(1) In the process of exercising state supervision, the Inspectorate has the right to inspect the compliance of plans prepared for mining operations or secondary utilisation of underground workings with the requirements.

(2) For the purposed of the inspection provided for in subsection (1) of this section, the Inspectorate has the right to involve competent persons (experts) who shall present their written opinion, or, in justified cases, to order the assessment services which are necessary for inspection.

(3) The Inspectorate shall bear the costs of inspection. If it is established that a plan prepared for mining operations or secondary utilisation of underground workings does not conform to the requirements, the person who ordered the plan shall bear the documented costs of the acts performed for inspection purposes arising from subsection (2) of this section.

## Chapter 8

### Liability

§ 31. (Repealed - 10.08.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

### § 32. Violation of requirements for mining, secondary utilisation of underground workings and preparation of related plans

(1) Violation of the requirements for mining or the secondary utilisation of underground workings or violation of the requirements for preparation of plans for mining operations or secondary utilisation of underground workings is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

### § 33. Violation of requirements for assessment and attestation of conformity of persons

(1) Violation of the requirements for assessment and attestation of the conformity of persons by an authority assessing and attesting the conformity of persons is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

### § 34. Proceedings

(1) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 86, 504; 82, 480; 105, 612; 2003, 4, 22) and of the Code of Misdemeanour Procedure (RT I 2002, 50, 313; 110, 654) apply to the misdemeanours provided in §§ 31-33 of this Act.

(2) Extra-judicial proceedings concerning the misdemeanours provided in §§ 31-33 of this Act shall be conducted by the Technical Inspectorate.

(3) (Repealed - 10.08.2004 entered into force 15.04.2004 - RT I 2004, 18, 131)

## Chapter 9

### Implementing Provisions

### § 35. Transitional provisions

(1) Undertakings to which, prior to the entry into force of this Act, an activity licence for mining operations or geological operations has been issued with a term of validity which expires after the entry into force of this Act may continue to operate on the basis of the activity licence in the field of activity and until the date specified therein.

(2) Undertakings specified in § 10 of this Act may operate until 1 May 2004 without being registered in the register specified in § 20 of this Act.

(3) Certificates issued on the basis of § 15 of the Technical Supervision Act (RT I 1998, 64/65, 1005; 2002, 61, 375; 63, 387) and prior to the entry into force of this Act are valid until the end of their period of validity and, in accordance with the scope of competence granted thereby, shall be considered to be equivalent to the certificates of competency required of specialists in charge.

(4) If no authority has been granted the right to assess and attest the conformity of persons, the functions provided in § 17 of this Act shall be performed by the Technical Inspectorate. State fees are charged for acts performed by the Technical Inspectorate related to assessment and attestation of the conformity of persons.

#### § 36. Amendment of Rescue Act

The Rescue Act (RT I 1994, 28, 424; 1998, 39, 598; 2000, 50, 316; 2001, 50, 283; 2002, 42, 267; 61, 375; 63, 387) is amended as follows:

1) in the text of the Act the words "Minister of Economic Affairs" and "Minister of Transport and Communications" are substituted by the words "Minister of Economic Affairs and Communications" in the appropriate case form;

2) the text of § 20 is amended and worded as follows:

“(1) Fire extinguishing and rescue work in underground structures and underground workings and in buildings and constructions located on the surface which are directly connected thereto (hereinafter underground constructions) shall be administered by the mine rescue service.

(2) The provision of mine rescue services in underground constructions shall be ensured by the undertaking performing the mining operations or the secondary utilisation of the underground working.

(3) The procedure for fire extinguishing and rescue work in underground structures, the procedure for co-operation with rescue service agencies and the rules for fire extinguishing and rescue work in underground structures shall be established by the Government of the Republic.

(4) The requirements arising from §§ 30 and 30<sup>1</sup> of this Act extend to employees of the mine rescue service.”;

3) subsections (8)–(11) are added to § 21 worded as follows:

“(8) In cases determined by county or local governments, the comprehensive plans and detailed plans shall be co-ordinated with the national rescue service agency or a local government rescue service agency pursuant to § 17 of the Planning Act (RT I 2002, 99, 579).

(9) Building design documentation submitted pursuant to the Building Act (RT I 2002, 47, 297; 99, 579) upon application to a local government for the issue of written consent, a building permit or a permit for use of construction works shall be approved in writing by the national rescue service agency or a local government rescue service agency if fire safety

requirements have been established by legislation with regard to the planned construction work.

(10) The national rescue service agency or a local government rescue service agency shall approve the building design documentation submitted upon application to a local government for the issue of written consent, a building permit or a permit for use of construction works or shall refuse to approve such documentation within ten days as of the date of submission thereof.

(11) A local government may give its written consent or issue a building permit or a permit for use of construction works after the national rescue service agency or a local government rescue service agency has approved the building design documentation in writing pursuant to subsection (10) of this section.”;

4) section 27 is amended and worded as follows:

“§ 27. Obligations and rights of state supervision over fire safety

(1) The following are the obligations of state supervision over fire safety:

1) supervision of the compliance of sites, activities, and the operation of devices with fire safety requirements;

2) supervision of the compliance of planning, design and construction with fire safety requirements;

3) application of administrative coercion in the event of a violation of fire safety requirements;

4) pre-trial proceedings in matters of violations of fire-safety requirements in the cases and pursuant to the procedure provided by law.

5) recording and analysis of fires;

6) dissemination of information concerning fire safety;

7) co-ordination of comprehensive and detailed plans;

8) approval, in accordance with the fire safety requirements, of building design documentation submitted upon application to a local government for the issue of written consent, a building permit or a permit for use of construction works.

(2) The national rescue service agency or a local government rescue service agency has the right to conduct an expert assessment of fire-related issues arising from comprehensive and detailed plans submitted for co-ordination and building design documentation submitted for approval.

(3) In order for the expert assessment specified in subsection (2) of this section to be conducted, the national rescue service agency or a local government rescue service agency

has the right to involve persons who are competent to conduct an expert assessment or evaluation of comprehensive or detailed plans, building design documentation or construction works (experts). An expert shall present his or her opinion in writing.

(4) Expenses relating to the conduct of an expert assessment specified in subsection (2) of this Act, including the expert's fees, shall be covered by the person who wishes to build or use a construction works. The costs of the expert assessment shall be determined by a decision adopted by the head of the national rescue service agency or the head of a local government rescue service agency. The expert's hourly wage specified in this section shall not be higher than an amount equalling three times the hourly wage corresponding to the salary rate at the highest level of the salary scale for state public servants.”;

5) clause 28<sup>2</sup> 3) is repealed.

#### § 37. Amendment of Earth's Crust Act

The Earth's Crust Act (RT I 1994, 86/87, 1488; 1995, 75, 1321; 1996, 49, 953; 1997, 52, 833; 86, 1461; 93, 1562; 1998, 64/65, 1005; 1999, 10, 155; 54, 583; 95, 843; 2000, 54, 348; 102, 670; 2002, 53, 336; 61, 375; 63, 387) is amended as follows:

- 1) clause 2 (1) 5), § 24 and Chapters VI and VII are repealed;
- 2) in the Act, the words "construction of underground structures" are substituted by the words "building of underground structures" in the appropriate case form.

#### § 38. Amendment of State Fees Act

The State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 53, 310; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 18, 97; 23, 131; 24, 135; 27, 151 and 153; 30, 178; 35, 214; 44, 281; 47, 297; 51, 316; 57, 358; 58, 361; 61, 375; 62, 377; 90, 519; 102, 599; 105, 610; 2003, 4, 20) is amended as follows:

- 1) the title of Division 10 of Chapter 7 is amended and worded as follows:

“Division 10

Acts Performed on Basis of Land Cadastre Act, Earth's Crust Act and Mining Act”;

- 2) sections 109, 109<sup>1</sup>, 109<sup>2</sup> and 109<sup>3</sup>, subsections 183 (2<sup>1</sup>), (2<sup>2</sup>) and (2<sup>3</sup>), and Division 19<sup>1</sup> of Chapter 7 are repealed;

- 3) section 109<sup>4</sup> is added to Division 10 of Chapter 7 worded as follows:

“§ 109<sup>4</sup>. Procedures for conformity assessment and attestation of specialists in charge

- (1) A state fee of 500 kroons shall be paid for assessment and attestation of the conformity of a specialist in charge specified in § 15 of the Mining Act.

(2) A state fee of 100 kroons shall be paid for the extension of a certificate of competency of a specialist in charge and for the issue of a duplicate certificate.”

§ 39. Repeal of Technical Supervision Act

The Technical Supervision Act (RT I 1998, 64/65, 1005; 2002, 61, 375; 63, 387) is repealed.

§ 40. Entry into force of Act

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

(2) Section 36 of this Act enters into force on 1 May 2003.

(3) The provisions contained in this Act delegating authority for the establishment of regulations of ministers enter into force on the date of publication of this Act in the Riigi Teataja. Regulations of ministers established on the basis of this Act enter into force on the date of the entry into force of this Act unless a later date is set out in the regulation.

<sup>1</sup> RT = *Riigi Teataja* = *State Gazette*