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Immovables Expropriation Act

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Passed	Published	Entry into force
14.06.1995	RT I 1995, 59, 1006	22.07.1995
15.05.2002	RT I 2002, 47, 297	01.01.2003
19.06.2002	RT I 2002, 61, 375	01.08.2002
15.06.2005	RT I 2005, 39, 308	21.07.2005
16.06.2005	RT I 2005, 40, 312	21.07.2005
21.02.2007	RT I 2007, 24, 128	26.03.2007
26.02.2009	RT I 2009, 18, 109	28.03.2009
20.05.2009	RT I 2009, 28, 170	01.07.2009
26.11.2009	RT I 2009, 62, 405	01.01.2010
20.05.2010	RT I 2010, 29, 151	20.06.2010
17.06.2010	RT I 2010, 38, 231	01.07.2010
23.01.2013	RT I, 14.02.2013, 2	01.03.2013
11.06.2014	RT I, 21.06.2014, 8	01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the ministers' official titles have been replaced on the basis of subsection 107 ³ (4) of the Government of the Republic Act starting from the wording in force as of 1 July 2014.
18.02.2015	RT I, 23.03.2015, 3	01.07.2015
04.05.2016	RT I, 18.05.2016, 1	01.01.2017
18.01.2017	RT I, 25.01.2017, 1	01.03.2017

Chapter 1 GENERAL PROVISIONS

§ 1. Purpose of Act

- (1) This Act provides for the grounds of and procedure for expropriation of immovables.
- (2) This Act applies to all cases of expropriation of immovables, unless otherwise provided by this Act.
- (3) Restricted rights *in rem* are expropriated in accordance with this Act.
- (4) The provisions of the Administrative Procedure Act apply to the administrative procedure prescribed in this Act, taking account of the specifications provided for in this Act.
[RT I 2002, 61, 375 – entry into force 01.08.2002]

§ 2. Definition of expropriation

- (1) Expropriation of immovables means the transfer of an immovable without the consent of the owner in the public interest for fair and immediate compensation.
- (2) Expropriation of immovables is decided by the Government of the Republic. In the events provided by law, expropriation may be decided by other state agencies or a local authority.
- (3) Expropriation is not precluded by provisions of law which prohibit or restrict the transfer or division of immovables or by the rights of third persons entered in the land register.

§ 3. Permissibility of expropriation

- (1) An immovable may be expropriated in the public interest for the following purposes:
 - 1) construction or expansion of construction works of police authorities, customs authorities, custodial institutions and rescue service agencies;
[RT I 2010, 29, 151 – entry into force 20.06.2010]
 - 2) energy production and construction or expansion of construction works necessary for energy supply;
 - 3) construction or expansion of public ports, airports and the construction works servicing them;
 - 4) extraction of mineral resources;
 - 5) installation or expansion of lines;
 - 6) construction or expansion of public educational, medical and welfare institutions;
 - 7) construction or acquisition of public roads (national and local roads, except for winter roads), public railways and public squares;
 - 8) alteration or removal of construction works which substantially damage the surroundings or scenery if the owner has not done so by

a prescribed date;

9) creation of access to bodies of water, scenic points of interest, protected natural objects and cultural monuments and ensuring preservation of such objects;

10) construction or expansion of cultural and sporting facilities, public beaches, tourist routes and recreation areas;

11) construction or expansion of cemeteries;

12) construction or expansion of public waste disposal sites and construction works necessary for waste management;

13) construction or expansion of construction works necessary for water supply to public water catchments and reservoirs, and sewerage and water purification;

14) construction of gaseous fuel installations;

15) construction of pressure equipment and assemblies;

15¹) transfer of land adjacent to the state border for performance of the international obligations of the Republic of Estonia;

15²) acquisition of the land adjacent to the state border in order to use it as the border strip;

15³) construction or expansion of national defence objects;

[RT I 2007, 24, 128 – entry into force 26.03.2007]

15⁴) construction of environmental monitoring station;

[RT I, 18.05.2016, 1 - entry into force 01.01.2017]

16) in other events provided by law.

(2) The owner of an immovable may request the expropriation of their immovable by the state or a local authority for a fair and immediate payment if the established public law restrictions do not allow for the use of the immovable for its current intended purpose.

[RT I, 14.02.2013, 2 – entry into force 01.03.2013]

(3) Expropriation is not permitted if the purpose for which expropriation is requested is achievable without the acquisition of an immovable belonging to another person.

(3¹) Before commencement of an expropriation procedure the state or the local authority must identify whether the owner of the immovable consents to the transfer of the immovable. To that end the state or the local authority will make an offer to the owner of the immovable and the price indicated therein must not be lower than the usual value of the immovable. If the owner of the immovable accepts the offer, the state or the local authority will have the right to enter into a contract with the owner of the immovable for the transfer of the immovable to the state or the local authority. If the owner of the immovable does not accept the offer within the term specified in the offer, the state or the local authority will have the right to expropriate the immovable for the purposes specified in subsection (1) of this section in accordance with the procedure provided for in this Act. If the owner of the immovable does not accept the offer within the prescribed term or submits a modified acceptance, it will be deemed that the owner has not accepted the offer.

[RT I 2009, 18, 109 – entry into force 28.03.2009]

(4) Expropriation in the events specified in clauses 1) to 7) and 9) to 15) of subsection (1) of this section is permitted, in areas where detailed planning has been made mandatory, only on the basis of an approved detailed plan or, in areas where detailed planning has not been made mandatory, on the basis of building design criteria, as defined in the Planning Act. Also, expropriation is permitted on the basis of a special national plan or a special plan of the local authority. Expropriation for the purpose of acquisition of an immovable for the construction of a public road or a public railway is permitted on the basis of building design criteria, a special national plan or a special plan of the local authority.

[RT I, 23.03.2015, 3 - entry into force 01.07.2015]

§ 4. Participants in expropriation procedure

(1) The participants in an expropriation procedure include the parties to expropriation and other persons whose rights are prejudiced by expropriation.

(2) The parties to expropriation include the owner of the immovable to be expropriated, the holder of the right of superficies and the acquirer of the immovable to be expropriated.

(3) The holder of an immovable to be expropriated is deemed to be the subject of expropriation and the expropriation applicant is deemed to be the expropriating authority as of making the expropriation decision. If an immovable has been encumbered with a right of superficies, the holder of the right of superficies is deemed to be the subject of expropriation.

(4) State agencies and rural municipality or city governments may be expropriation applicants and expropriating authorities.

(5) The state or a local authority may transfer the right of ownership in an expropriated immovable to third persons in order to attain the purpose of the expropriation. Section 46 of this Act does not apply to the transfer.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 5. Expropriation procedure

(1) An expropriation procedure begins with the submission of an expropriation application, with the submission of the draft decision specified in subsection 12¹ (1) of this Act by the rural municipality or city government to the rural municipality or city council or with preliminary work and terminates with the registration of the expropriated immovable in the ownership of the expropriating authority, denial of the expropriation application or abandonment of expropriation.

(2) If an expropriation decision or a decision made or a step taken in the course of an expropriation procedure (including regarding the preliminary building design documentation or building design documentation of a public road or public railway) is contested in court, the expropriation procedure and the time-limits thereof will not be suspended. In the event of contestation of such a decision or step, the possession of the immovable or the right of ownership will not be transferred to the expropriating authority. If several decisions made or steps taken in the course of the same expropriation procedure are contested in court, the disputes will be settled in the course of one procedure.

(3) The contestation of a decision on determining the expropriation payment and compensation will be reviewed separately from the contestation of decisions made or steps taken in the course of the same expropriation procedure and the expropriation procedure and the time-limits thereof will not be suspended in the event of contestation of the given decision. The contestation of the given decision

does not impede the transfer of the possession or the right of ownership of the expropriated immovable to the expropriating authority.
[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 6. Compulsory possession

(1) If the expropriation of an immovable is not practical, the immovable property ownership may, in the public interest, be restricted by establishment of compulsory possession. The provisions for expropriation of immovables apply to the establishment of compulsory possession, unless otherwise provided for in chapter 8¹ of this Act.
[RT I 2007, 24, 128 – entry into force 26.03.2007]

(2) Compulsory possession is established by encumbrance of an immovable with a restricted right *in rem* or the obligation to tolerate utility networks or utility works provided for in § 158¹ of the Law of Property Act.
[RT I 2007, 24, 128 – entry into force 26.03.2007]

(3) A compulsory possessor may use an immovable only for the purpose prescribed in the decision establishing compulsory possession.

(4) If encumbrance of an immovable with compulsory possession does not permit use of the immovable for its current purpose, the owner of the immovable has the right to demand that the applicant for establishment of compulsory possession acquire the immovable or a part thereof.

Chapter 2 PRELIMINARY WORK AND DECISION OF EXPROPRIATION

§ 7. Permit for preliminary work

(1) Before submission of an expropriation application, an expropriation applicant has the right to perform preliminary work at an immovable to determine the suitability of the immovable for the purpose of the expropriation.

(1¹) From sunrise to sunset an expropriation applicant may, without the consent of the owner and the holder of the right of superficies, perform preliminary work that does not harm the immovable (such as surveying and inspection) at an immovable or a part thereof which has not been fenced or marked.

(1²) The consent of the owner or, if the immovable has been encumbered with a right of superficies, the consent of the holder of the right of superficies is required for the performance of preliminary work at a fenced and marked immovable or a part thereof, including in construction works, fenced yards and gardens. If the owner or the holder of the right of superficies refuses to grant consent to perform preliminary work in buildings, fenced yards or gardens, the expropriation applicant will apply to an administrative court in whose territorial jurisdiction the immovable is located for a permit for preliminary work and in another event the applicant will apply to the county governor or, in the event of expropriation for construction of a national road or public railway, to the Minister for Economic Affairs and Communications.

(1³) If the work to be performed (such as drilling, excavation and cutting) harms an immovable or a part thereof which has not been fenced or marked, the consent of the owner or, if the immovable has been encumbered with a right of superficies, the consent of the holder of the right of superficies is required for the performance of preliminary work. If the owner or the holder of the right of superficies refuses to grant the consent, the expropriation applicant will apply to the county governor or, in the event of expropriation for construction of a national road or public railway, to the Minister for Economic Affairs and Communications for a permit for the preliminary work.

(2) The county governor or, in the events provided for in this Act, the minister responsible for the field will decide on the issue of a permit for preliminary work within two weeks as of the date of receipt of an application for a preliminary work permit.

(3) An application for a permit for preliminary work must set out:

- 1) the address of the immovable and the number of the registered immovable;
- 2) the expropriation applicant and the purpose of the expropriation;
- 3) the purpose, method and scope of the preliminary work;
- 4) the term for preliminary work and the time of performance of the work.

(4) A permit for preliminary work must set out:

- 1) the address of the immovable and the number of the registered immovable;
- 2) the name and the place of residence or seat of the owner of the immovable or the holder of the right of superficies;
- 3) the persons who have the right to do the preliminary work;
- 4) the method and scope of the preliminary work;
- 5) the time of the preliminary work for expropriation.

(5) A county governor or, in the event provided for in this Act, the minister responsible for the field must immediately notify the owner of an immovable or the holder of a right of superficies of any application for a permit for preliminary work and deliver the decision on the grant or denial thereof to the owner of the immovable or to the holder of the right of superficies. A notice of application for a permit for preliminary work and a decision to grant or deny it must be delivered to a person by registered mail with advice of delivery or against signature on a notice where the time of delivery of the document must be recorded. If the notice of application for a permit for preliminary work and the decision to grant or deny it cannot be delivered to the owner of the immovable or the owner of the right of superficies in the aforementioned manner or if no information on the address of the person is available or if the person does not reside at the known address and their actual whereabouts are unknown and the information cannot be delivered in any other manner, the notice of the decision to grant or deny the permit will be published in a national daily newspaper by which the notice will be considered as delivered to the person.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 8. [Repealed – RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 9. Compensation of damage caused by preliminary work for expropriation

[RT I 2002, 61, 375 – entry into force 01.08.2002]

(1) An expropriation applicant who has performed preliminary work for expropriation or on whose initiative preliminary work for expropriation has been performed is required to compensate the owner of the immovable and third persons for all damage caused by the preliminary work. Failing agreement on the amount of and compensation for damage, this will be determined by a court.

(2) –(3) [Repealed – RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 10. Notifying person about intention to submit expropriation application

(1) Within six months after the completion of preliminary work the expropriation applicant will inform the owner of the immovable and the holder of the right of superficies about the abandonment of the expropriation, unless the consent of the owner of the immovable or the holder of the right of superficies was not required for the performance of the preliminary work, or about the intention to submit an expropriation application. The holders of other restricted rights *in rem* will also be informed of the intention to submit an expropriation application.

(2) The state and the local authority will grant the owner of the immovable and the holders of restricted rights *in rem* the right to access the conceptual design of the planned construction works and the preliminary building design documentation or building design documentation of a public road or public railway approved by the issuer of the building permit for construction of the public road or public railway upon applying for expropriation.

(3) The notice of the intention to submit an expropriation application will be delivered to the person by registered mail with advice of delivery or against signature on the notice where the time of delivery of the document is recorded. The owner of the immovable and the holders of restricted rights *in rem* have the right to submit their opinion and objections within two weeks.

(4) If the expropriation applicant cannot deliver the notice of the intention to submit an expropriation application to the owner of the immovable or to the holders of restricted rights *in rem* in the manner specified in subsection (3) of this section, because no information on the address of the person is available or if the person does not reside at the known address and their actual whereabouts are unknown and the information cannot be delivered in any other manner, the notice will be published in a national daily newspaper by which the notice will be considered as delivered to the person.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 11. Applying for expropriation

(1) An expropriation application must set out:

1) the name and seat of the expropriation applicant;

[RT I 2005, 40, 312 – entry into force 21.07.2005]

2) the name and place of residence or seat of the owner of the immovable to be expropriated;

3) the address of the immovable and the number of the registered immovable;

4) the content of the rights the deletion of which is applied for and the names and places of residence or seats of the holders thereof;

5) a detailed description of the purpose of expropriation with documents substantiating the need for expropriation;

6) information on whether expropriation of the accessories, essential parts and fruits of the immovable is also applied for;

7) information on restrictions on the immovable property ownership and obligations of the owner relating thereto.

(2) The following must be appended to an expropriation application:

1) a transcript of the land register part of the immovable to be expropriated;

[RT I 2005, 40, 312 – entry into force 21.07.2005]

2) the cadastral certificate and the cadastre plan;

[RT I 2005, 40, 312 – entry into force 21.07.2005]

3) if any, the written opinion and objections of the owner of the immovable to be expropriated and the holders of the restricted rights *in rem* encumbering the immovable;

[RT I 2005, 40, 312 – entry into force 21.07.2005]

4) an extract from the area plan, if any;

5) the conceptual design of the intended construction works;

5¹) in the event of a public road and public railway, the preliminary building design documentation or the building design documentation approved by the issuer of the building permit;

[RT I 2005, 40, 312 – entry into force 21.07.2005]

6) the opinion of the local authority.

(3) The local authority will submit an expropriation application to the minister responsible for the field, except in the event provided for in subsection 12¹ (1) of this Act. The minister responsible for the field will submit the application to the Government of the Republic along with the minister's opinion.

(4) State agencies will submit an expropriation application to the minister whose area of government includes the field for which expropriation is applied. The minister will submit the application to the Government of the Republic along with the minister's opinion.

(5) [Repealed – RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 12. Expropriation decision

(1) An expropriation decision must set out:

1) the names and places of residence or seats of the parties to expropriation;

2) the address of the immovable and the number of the registered immovable;

3) the extinguishment of rights and the names and places of residence or seats of the known holders thereof;

4) the expropriation of the essential parts, accessories and fruits or the right of the owner of the immovable to remove the essential parts, accessories or fruits of the immovable;

5) a description of the purpose of expropriation and the term for the purposeful use of the expropriated immovable;

5¹) information about the possibilities of accessing the conceptual design of construction works or the preliminary building design documentation or the building design documentation of a public road;

6) in the event of refusal to expropriate, the reason thereof.

(1¹) In the event of expropriation for the purpose of construction of a public road or a public railway, the location of the public road or public railway will, in addition to the items listed in subsection (1) of this section, be approved by an expropriation decision in accordance with the preliminary building design documentation or building design documentation approved by the issuer of the building permit.

(2) The Government of the Republic will decide expropriation by an order which must be promptly delivered to the owner of the immovable and the holders of the rights *in rem* encumbering the immovable by registered mail with advice of delivery or against signature on the notice where the time of delivery of the order is recorded. If the order cannot be delivered to the owner of the immovable or the holder of the restricted rights *in rem* in the aforementioned manner or if no information on the address of the person is available or if the person does not reside at the known address and their actual whereabouts are unknown and the order cannot be delivered in any other manner, the operative part of the order will be published in a national daily newspaper by which the order will be considered as delivered to the person.

(3) [Repealed – RT I 2005, 40, 312 – entry into force 21.07.2005]

(4) Expropriation will be decided on the basis of the approved planning.
[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 12¹. Expropriation decision for acquisition of immovable for construction or acquisition of local road

(1) In an expropriation procedure carried out for acquisition of an immovable for the purpose of construction or acquisition of a local road, the expropriation decision will be made by the rural municipality or city council on the basis of a draft decision submitted by the rural municipality or city government, which contains the information specified in subsection 11 (1) and subsections 12 (1) and (1¹) of this Act and which is accompanied by the documents specified in subsection 11 (2). In an expropriation procedure carried out for the acquisition of an immovable for the purpose of construction or acquisition of a local road, the application specified in subsection 14 (4) of this Act will be submitted to the rural municipality or city council via the rural municipality or city government.

(2) The rural municipality or city council must promptly deliver the decision to the owner of the immovable and the holders of the rights *in rem* encumbering the immovable by registered mail with advice of delivery or against signature on the notice where the time of delivery of the decision is recorded. If the decision cannot be delivered to the owner of the immovable or the holder of the restricted rights *in rem* in the aforementioned manner or if no information on the address of the person is available or if the person does not reside at the known address and their actual whereabouts are unknown and the decision cannot be delivered in any other manner, the operative part of the decision will be published in a national daily newspaper by which the decision will be considered as delivered to the person.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 13. Expropriation notation

(1) On the basis of an expropriation decision, an expropriating authority may submit an application to the registrar of the land register for the entry of an expropriation notation in the land register part of the immovable.

[RT I, 21.06.2014, 8 – entry into force 01.01.2015]

(2) An expropriation notation prohibits the transfer or encumbrance of an immovable by the subject of expropriation.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 14. Expropriation of part of immovable

(1) If the expropriation of a part of an immovable is applied for and the immovable is thereby divided into parts or loses value in such a manner that the remaining parts or some parts can no longer be used for their intended purpose, the owner of the immovable will have the right to demand the expropriation of the entire immovable or a certain part of the immovable.

(2) If the expropriation of an entire immovable is applied for, but the purpose of the expropriation can be achieved by the expropriation of a part of the immovable, the owner of the immovable will have the right to demand that the remaining part of the immovable be not expropriated.

(3) If, due to the expropriation of an immovable or a part thereof, the immovable or the accessories or fruits of the immovable or a part thereof cannot be used according to their current intended purpose, the owner of the immovable will also have the right to demand the expropriation of the accessories and fruits.

(4) The owner of an immovable may demand the rights provided for in this section until the expropriation decision is made. An application must be submitted to the Government of the Republic through the minister specified in § 11 of this Act.

Chapter 3 EXPROPRIATION PAYMENT

§ 15. Definition of expropriation payment

(1) In the event of the expropriation of an immovable, the expropriating authority must make an expropriation payment to the subject of expropriation.

(2) An expropriation payment must be made in money, unless the parties agree otherwise.

(3) The expropriating authority must pay compensation to persons whose rights are harmed by expropriation.

§ 16. Calculation of value of immovable to be expropriated and of restricted right *in rem*

(1) The value of an immovable designated for expropriation which is ascertained by a special valuation or the value of a restricted right *in rem* will serve as the basis for determining an expropriation payment and compensation, unless the parties agree otherwise. An expropriation payment for an immovable must not be lower than the usual value of the immovable or a right of superficies at the moment of passing the expropriation decision.

(2) Illegal construction works will not be valued.

(3) A change in the value of an immovable to be expropriated or in the value of a restricted right *in rem* in the period between passing the expropriation decision and the special valuation or its possible change in the future will not be taken into consideration in determining an expropriation payment.

(4) A special valuation will be carried out upon entry into force of an expropriation decision. A special valuation will follow the procedure established on the basis of subsection 8 (2) of the Land Valuation Act.

(5) For the purpose of carrying out a special valuation, an expropriation applicant will submit an application to the county governor. If expropriation is planned for the purpose of construction or acquisition of a national road or a public railway, an expropriation applicant will submit an application for a special valuation to the minister responsible for the field. The application must indicate the location of the immovable, the number of the registered immovable, the name and place of residence or seat of the owner of the immovable or the holder of the right of superficies as well as those of the holders of other restricted rights *in rem*. The county governor or the minister responsible for the field will immediately accept the application for examination. In the event of expropriation for the purpose of construction or acquisition of a local road, the rural municipality or city government will organise a special valuation.

(6) Upon initiation of an evaluation the county governor or, in the event of planning expropriation for the purpose of construction or acquisition of a national road or a public railway, the minister responsible for the field or, in the event of planning expropriation for the purpose of construction or acquisition of a local road, the rural municipality or city government will order an enforcement officer to record, value and, where necessary, administer the immovable to be expropriated in accordance with the procedure provided for in the Code of Enforcement Procedure, taking account of the specifications arising from this Act. The parties of expropriation are deemed to be the debtor and the creditor for the purposes of the Code of Enforcement Procedure. A land evaluation holding an activity licence in accordance with subsection 4 (1) of the Land Valuation Act must participate in the valuation of an immovable and restricted rights *in rem*.

(7) The county governor, the minister responsible for the field and the rural municipality or city government may involve additional experts in and set up committees for the valuation of an immovable and restricted rights *in rem*.

(8) The term of recording and valuation must not be shorter than two weeks or longer than two months.

(9) The result of a special valuation will be formalised in a valuation report signed by all the authors. The valuation report will be submitted to the county governor or to the minister responsible for the field or to the rural municipality or city government and to the expropriation applicant, the owner of the immovable and the holders of the restricted rights *in rem*.

(10) Expenses relating to a special valuation, including the expropriation payment and the actual expenses of identifying the compensations such as the enforcement officer's fee, experts' fees, travel allowances and daily allowances, office expenses and other similar expenses will be borne by the expropriating authority.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 17. Amount of expropriation payment

(1) An expropriation payment must cover the expenses to be incurred by a subject of expropriation due to expropriation, whereby the expropriation payment of an immovable must cover the value of the immovable as well as the value of the accessories and fruits expropriated together with the immovable, unless otherwise provided by law.

(2) Constructions works erected at an immovable and reorganisations, plantations and sowings made at an immovable following the entry into force of an expropriation decision will not be compensated, unless the expropriating authority benefits from them.

(3) Essential parts, accessories and fruits of an immovable to be expropriated, including the essential parts specified in subsection (2) of this section, may be removed by the subject of expropriation from the immovable only with the permission of the expropriating authority.

[RT I 2002, 47, 297 – entry into force 01.01.2003]

§ 18. Compensation in event of deletion of real servitude

(1) If a real servitude encumbering an immovable to be expropriated is deleted, the expropriating authority must compensate the owner of the dominant immovable for damage arising from a decrease in the value of the immovable and of other property.

(2) Instead of compensation, the owner of the dominant immovable has the right to demand expropriation of the immovable belonging to the owner if the immovable can no longer be purposefully used due to the deletion of the real servitude.

§ 19. Compensation in event of deletion of personal servitude, real encumbrance, right of superficies or right of pre-emption

(1) If a personal servitude, real encumbrance or right of pre-emption encumbering an immovable under expropriation is deleted, the expropriating authority must compensate for damage arising from the deletion of such rights *in rem*.

(2) If an immovable under expropriation is encumbered with a usufruct, the usufruct will continue in the thing granted in place of the expropriated immovable.

(3) In the event of expropriation of a plot of land encumbered with a right of superficies, the right of superficies must also be expropriated.

§ 20. Expropriation of immovable encumbered with mortgage

(1) An expropriating authority has the right to transfer a mortgage encumbering an immovable to be expropriated to another immovable in the ownership of the expropriating authority, unless the interests of the mortgagee are harmed thereby.

(2) If an immovable to be expropriated is replaced by another immovable by agreement of the parties and the expropriating authority demands the deletion of the mortgage encumbering the expropriated immovable, the mortgagee will have the right to demand the transfer of the mortgage to the replaced immovable to the first vacant ranking.

(3) If an expropriating authority does not consent to the continuation or transfer of a mortgage encumbering an immovable to be expropriated, the mortgage will continue on the expropriation payment.

§ 21. Compensation in event of termination of commercial lease or residential lease contract

If a commercial or residential lease contract terminates due to the expropriation of an immovable, the commercial lessee or residential lessee has the right to demand compensation for damage.

Chapter 4

AGREEMENT PROCEDURE

§ 22. Commencement of agreement procedure

(1) An agreement procedure means entry into an agreement on the amount of an expropriation payment payable to a subject of expropriation for an immovable to be expropriated and on the amount and payment of the compensation for harm caused to the rights of other persons by the expropriation, on guaranteeing the interests of the holders of the harmed rights and on the terms and conditions of the transfer of the possession of the immovable. An expropriation procedure is usually organised by the county governor or, in the event of expropriation for the purpose of construction or acquisition of a local road, by the mayor of the rural municipality or city or, in the event of expropriation for the purpose of construction or acquisition of a public road or public railway, by the minister responsible for the field (hereinafter *competent person*).

(2) The competent person will initiate an agreement procedure immediately after the entry into force of an expropriation decision and completion of a special valuation.

(3) If an immovable to be expropriated is situated in the territory of several counties, the expropriating authority will submit a request to the county governor of the county in whose territory the land register concerning the immovable to be expropriated is maintained.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 23. Notification of initiation of agreement procedure

(1) To initiate an agreement procedure, the competent person will publish a notice in a national daily newspaper, asking the persons whose rights are harmed by the expropriation to inform the notifier of their rights and claims. The term for notification must not be less than two weeks.

(2) The competent person will make a proposal to the owner of the immovable and holders of restricted rights *in rem* to notify of harm caused by the expropriation, which is not indicated in the valuation report specified in subsection 16 (9) of this Act. The competent person will deliver the proposal to the persons by registered mail with advice of delivery or against signature on the notice where the time of delivery of the document is recorded. The owner of the immovable and the holders of the restricted rights *in rem* must communicate their claims within two weeks following the receipt of the proposal.

(3) If the proposal specified in subsection (2) of this section cannot be delivered to the owner of the immovable or the holder of the restricted rights *in rem* in the aforementioned manner or if no information on the address of the person is available or if the person does not reside at the known address and their actual whereabouts are unknown and the proposal cannot be delivered in any other manner, the operative part of the proposal will be published in a national daily newspaper by which the proposal will be considered as delivered to the person.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 24. Summoning parties to agreement procedure

(1) After the expiry of the term specified in § 23 of this Act for submission of claims and notifying of damage, the competent person will summon the parties to the agreement procedure, including the parties to expropriation and other persons whose rights are harmed by the expropriation, and make a proposal to them to agree on the amount of the expropriation payment and compensation, on the conditions of payment thereof and on the conditions of ensuring the interests of the holders of the harmed rights and the conditions of voluntary transfer of the possession of the immovable or the right of superficies. The mayor of the rural municipality or city will summon the parties to the agreement procedure, including the subject of expropriation and other persons whose rights are harmed by the expropriation. A person authorised by the competent person may participate in the negotiations instead of the competent person.

(2) In an agreement procedure a notice of the time of a meeting set by the competent person will be delivered to the parties in accordance with the procedure provided for in subsections 23 (2) and (3) of this Act. The first meeting will be deemed as held if at least one subject of expropriation or one holder of a restricted right *in rem* is present. The time of the next meeting of the agreement procedure will be agreed in the ongoing meeting or be set by the competent person.

(3) In negotiations over an agreement on the amount of an expropriation payment and compensation the parties to expropriation and other persons whose rights are harmed by the expropriation will follow the highest value of the immovable or restricted right *in rem* specified in subsection 16 (9) of this Act. The competent person has the right to involve experts in negotiations and the expenses of the experts will be borne by the expropriating authority.

(4) Claims not entered in the land register, which have not been submitted by the due date set on the basis of subsection 23 (1) of this Act or which have not been submitted within the term specified in subsection 23 (2) will not be satisfied.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 25. Term for entry into agreement

(1) The competent person will set a term of up to 30 days for entry into an agreement.

(2) If a party to expropriation does not appear or if none of the parties to expropriation appear before the competent person by the agreed time without good reason or if no agreement is reached within the prescribed term, the competent person will terminate the agreement procedure and the expropriation procedure will continue.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 26. Deed and minutes of agreement procedure

(1) The competent person or a person authorised by the competent person will draw up a deed regarding reaching an agreement and the deed will be signed by the parties to the procedure and the author of the deed. The deed must set out the terms and conditions of payment of the expropriation payment and compensation, the guaranteeing of the interests of the holders of the harmed rights and the delivery of the possession of the immovable. If no agreement on the terms and conditions of payment of the expropriation payment and compensation, the guaranteeing of the interests of the holders of the harmed rights and the delivery of the possession of the

immovable is reached, the expropriation payment and compensation will be paid and the possession will be taken over in accordance with the procedure provided for in this Act.

(2) On the basis of a deed of agreement, the parties to an agreement procedure may demand from one another the transfer of the right of ownership in the immovable to the expropriated and the deletion of rights encumbering the immovable.

(3) The competent person or a person authorised by the competent person will take the minutes of the agreement procedure. The competent person or a person authorised by the competent person will take minutes of an agreement procedure which was unsuccessful due to the circumstances provided for in subsection 25 (2) of this Act, stating the reasons for the failure of the agreement procedure and the amount of the expropriation payment and compensation last demanded by the subject of expropriation and the owners of the rights to be deleted and last offered by the expropriating authority.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

Chapter 5

DECIDING ON EXPROPRIATION PAYMENT AND COMPENSATION

[RT I 2005, 40, 312 - entry into force 21.07.2005]

§ 27. Decision on expropriation payment and compensation

(1) If no agreement is reached on an expropriation payment and compensation payable for harmed rights, the county governor or, in the event of expropriation for the purpose of construction or acquisition of a national road or a public railway, the minister responsible for the field or, in the event of expropriation for the purpose of construction or acquisition of a local road, the rural municipality or city government will make a decision setting the expropriation payment and compensation.

(2) The highest value of the immovable or the restricted right *in rem* indicated in the valuation report specified in subsection 16 (9) of this Act will be indicated as the amount of the expropriation payment and compensation in the decision setting the expropriation payment and compensation. For the purpose of valuation of other claims that have been communicated within the prescribed term, but with regard to which no agreement has been reached, the competent person will organise an additional valuation procedure whose expenses will be borne by the expropriating authority.

(3) For the purpose of organisation of the additional valuation procedure specified in subsection (2) of this section, the competent person may involve experts and establish committees. The term of valuation must not exceed one month. The results of valuation must be set out in a valuation report. A decision setting an expropriation payment and compensation must indicate the highest value of the claim for damage specified in the valuation report as the amount of the value of the claim for damage. The valuation report will be submitted to the person concerned along with the decision setting the expropriation payment and compensation.

(4) A decision setting an expropriation payment and compensation will be delivered to a person by registered mail with advice of delivery or against signature on a notice where the time of delivery of the decision is recorded. If the decision cannot be delivered to the owner of the immovable or the holder of the restricted rights *in rem* in the aforementioned manner or if no information on the address of the person is available or if the person does not reside at the known address and their actual whereabouts are unknown and the decision cannot be delivered in any other manner, the operative part of the decision will be published in a national daily newspaper by which the decision will be considered as delivered to the person.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 28. – § 32. [Repealed – RT I 2005, 40, 312 – entry into force 21.07.2005]

Chapter 6

ABANDONMENT OF EXPROPRIATION

§ 33. Abandonment of expropriation

(1) An expropriating authority has the right to abandon expropriation until the expropriation payment and compensation have been paid to the subject of expropriation, the holders of the restricted rights *in rem* and the holders of other harmed rights or to the escrow account of an enforcement officer or, with the consent of the subject of expropriation, until registration of the immovable in the name of the expropriating authority.

(2) The county governor or, in the event of expropriation for the purpose of construction or acquisition of a local road, the mayor of the rural municipality or city or, in the event of expropriation for the purpose of construction or acquisition of a national road or a public railway, the minister responsible for the field will declare that an expropriating authority has abandoned expropriation if the expropriating authority:

1) within three months following the entry into force of the expropriation decision, has not submitted a request for a special valuation to the county governor or, in the event of expropriation for the purpose of construction or acquisition of a national road or a public railway, to the minister responsible for the field or has not, in the event of expropriation for the purpose of construction or acquisition of a local road, commenced a special valuation;

2) within three months following a special valuation, has not submitted an application for initiation of an agreement procedure to the county governor or, in the event of expropriation for the purpose of construction or acquisition of a national road or a public railway, to the minister responsible for the field, or the mayor of the city or rural municipality has not, in the event of expropriation for the purpose of construction or acquisition of a local road, initiated an agreement procedure within three months as of a special valuation;

3) within the term provided for in subsection (1) of this section, informs the subject of expropriation and the competent person that the expropriating authority has abandoned the expropriation;

4) has not paid the expropriation payment and compensation to the subject of expropriation, the holders of the restricted rights *in rem* and the holders of other harmed rights by the agreed date or paid them to an escrow account of an enforcement officer within three months following the decision setting the expropriation payment and compensation.

(3) After declaring that the expropriating authority has abandoned the expropriation, the county governor or, in the event of expropriation for the purpose of construction or acquisition of a local road, the rural municipality or city government or, in the event of expropriation for the purpose of construction or acquisition of a national road or a public railway, the minister responsible for the field will terminate the expropriation procedure, inform the subject of expropriation, the expropriating authority and other persons whose

rights are harmed by the expropriation about the termination and submit an application to the land registry department for deletion of the expropriation notation. The county governor, the minister responsible for the field or the mayor of the rural municipality or city will publish a notice of the termination of the expropriation procedure in a national daily newspaper.
[RT I 2010, 38, 231 – entry into force 01.07.2010]

§ 34. Reinstatement of rights in event of abandonment of expropriation

If by agreement of the expropriating authority and the holders of rights, the rights encumbering an immovable are deleted by the time the expropriating authority is declared to have abandoned expropriation, the former holders of the rights will have the right to demand, within one month after publication of a notice concerning the declaration of abandonment of the expropriation in a national daily newspaper, the reinstatement by a court of the rights which belonged to them.
[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 35. Compensation for damage in event of abandonment of expropriation

In the event of declaration of the abandonment of expropriation, the expropriating authority is required to compensate the subject of expropriation and the persons whose rights were harmed by the expropriation for all damage relating to the expropriation.

Chapter 7

TRANSFER OF POSSESSION AND OWNERSHIP OF IMMOVABLE TO BE EXPROPRIATED AND MAKING OF EXPROPRIATION PAYMENT

§ 36. Taking possession of immovable to be expropriated

(1) Possession of an immovable to be expropriated may be taken after the expropriation payment and compensations have been paid to an escrow account of an enforcement officer.

(2) If the expropriation payment and compensation have not been paid to an escrow account of an enforcement officer within three months following the making of a decision setting the expropriation payment and compensation, the enforcement officer will immediately inform the county governor or, in the event of expropriation for the purpose of construction or acquisition of a national road or a public railway, the minister responsible for the field.

(3) The possession of an immovable to be expropriated will be taken over from the subject of expropriation and handed over to the expropriating authority by an enforcement officer.

(4) An enforcement officer will take over and hand over the possession of an immovable to be expropriated after receiving an order from the county governor or, in the event of expropriation of the immovable for the purpose of construction or acquisition of a national road or a public railway, from the minister responsible for the field or, in the event of expropriation for the purpose of construction or acquisition of a local road, from the rural municipality or city government. The county governor or the minister responsible for the field will issue an order to start the takeover of the possession of the immovable to be expropriated on the basis of an application of the expropriating authority which must be accompanied by a certificate of payment of the expropriation payment and compensation to the escrow account of an enforcement officer. The rural municipality or city government may issue an order on the takeover of an immovable to be expropriated along with the decision specified in subsection 27 (1) of this Act.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 37. Deed of taking possession of immovable to be expropriated

(1) An enforcement officer will draw up a deed concerning the takeover and handover of the possession of an immovable to be expropriated, which will be signed by the parties to expropriation, the enforcement officer and two witnesses present at the takeover and handover. If one party refuses to sign the deed, it will be recorded in the deed. The deed will be sent to the subject of expropriation, the expropriating authority, the enforcement officer and the county governor or, in the event of expropriation for the purpose of construction or acquisition of a national road or a public railway, to the minister responsible for the field or, in the event of expropriation for the purpose of construction or acquisition of a local road, to the rural municipality or city government. The form of the deed will be established by the minister responsible for the field.

(2) All the complaints of the expropriating authority regarding the things to be handed over will be recorded in the deed.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 38. Reduction of expropriation payment

(1) An expropriating authority has the right, on the basis of complaints recorded in a deed of takeover and handover of an immovable to be expropriated, to request that the expropriation payment be reduced within 10 days after drawing up the deed. The basis for the reduction of the payment is damage which reduced the value of the immovable and make attainment of the purpose of expropriation more difficult, such as environmental pollution, extensive drilling, excavation and cutting.

(2) The application for reduction of the expropriation payment will be submitted to the county governor or, in the event of expropriation for the purpose of construction or acquisition of a national road or a public railway, to the minister responsible for the field. After receiving the application, the county governor or the minister responsible for the field must summon the parties to expropriation within five days for conclusion of an agreement on reduction of the expropriation payment. Upon delivery of the respective notice, the provisions of subsection 27 (4) of this Act will be followed.

(3) Failing agreement, the county governor or the minister responsible for the field will submit the application and the deed of takeover and handover of the immovable to the valuator for examination of the expropriation payment, taking into account the complaints recorded in the deed. Within two weeks the valuator must draw up a new valuation report or submit a motivated opinion on the refusal to amend the valuation report to the county governor or to the minister responsible for the field.

(4) Upon drawing up a new valuation report, the county governor and, in the event of expropriation for the purpose of construction or acquisition of a national road or a public railway, the minister responsible for the field will make a new decision setting the expropriation payment, which will serve as the basis for making the expropriation payment.

(5) Upon expropriation for construction or acquisition of a local road, the rural municipality or city government may summon the subject of expropriation within five days on the basis of complaints recorded in the deed of takeover and handover and make a proposal to

reduce the expropriation payment. Upon delivery of the respective notice, the provisions of subsection 27 (4) of this Act must be followed. If no agreement is reached with the subject of expropriation, the rural municipality or city government may, within 20 days, make a proposal to the valuator to revise the expropriation payment. Within two weeks the valuator must draw up a new valuation report or submit a motivated opinion on the refusal to amend the valuation report to the rural municipality or city government. Upon drawing up a new valuation report, the rural municipality or city government will make a new decision setting the expropriation payment, which will serve as the basis for making the expropriation payment.
[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 39. Risk of accidental destruction and payment of taxes

- (1) The risk of accidental destruction of a thing will transfer to an expropriating authority upon taking possession of an immovable.
- (2) An expropriating authority is required to pay the taxes incumbent on an immovable as of taking possession.

§ 40. Payment of expropriation payment

(1) A county governor or, in the event of expropriation for the purpose of construction or acquisition of a national road and a public railway, the minister responsible for the field or, in the event of expropriation for the purpose of construction or acquisition of a local road, the rural municipality or city government, must inform the subject of expropriation and other persons concerned about paying the expropriation payment and compensation and publish a notice in a national daily newspaper.

(2) After receipt of an order of the county governor or, in the event of expropriation for the purpose of construction or acquisition of a national road and a public railway, the minister responsible for the field or, in the event of expropriation for the purpose of construction or acquisition of a local road, the rural municipality or city government, the enforcement officer must, in accordance with the decision setting the expropriation payment and compensation, pay the expropriation payment and compensation to the subject of expropriation and other persons whose rights have been harmed by the expropriation.

(2¹) If residential premises which were used by a subject of expropriation until making an expropriation decision as their permanent or primary place of residence constitute an essential part of an immovable or the object of a right of superficies to be expropriated, the expropriation payment must be made to the subject of expropriation immediately after drawing up a deed in an agreement procedure or after making the decision specified in subsection 27 (1) of this Act. In the event of later reduction of the expropriation payment, the expropriating authority will have the right of recourse against the subject of expropriation to the extent of the reduced amount.

(3) Claims secured by mortgages to be deleted will become collectible as of the publication of the notice specified in subsection (1) of this section and the creditor has the right to file a claim for payment against the expropriation payment. The creditor has the right to demand the recognition of a claim within six months as of the publication of the notice. The claim will be settled in accordance with the procedure provided for in the Code of Enforcement Procedure. If no claims are filed within the term, the expropriation payment will be made to the subject of expropriation.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 41. Registration of immovable to be expropriated in name of expropriating authority

(1) If, as agreed, an expropriation payment and compensation have been paid directly to the subject of expropriation and the holders of the harmed rights or to an escrow account of an enforcement officer, the land registry department will register the immovable to be expropriated in the ownership of the expropriating authority on the basis of the application of the latter.

(2) The application must be accompanied by the decision setting the expropriation payment and compensation and the certificate of payment of the expropriation payment and compensation.

(3) Upon expropriation of a part of an immovable, the immovable will be divided on the basis of an application of the expropriating authority and the expropriated part will be registered in the name of the expropriating authority.

(4) An expropriating authority is required to pay all expenses and fees relating to registration, unless otherwise provided by law.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

§ 42. Deletion of entries from land register

After registration of an expropriated immovable in the name of the expropriating authority, the land registry department will delete the restricted rights *in rem* and notations subject to deletion from the land register part in accordance with the expropriation decision.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

Chapter 8 RETURN OF EXPROPRIATED IMMOVABLE

§ 43. Return of expropriated immovable

(1) The former owner of an expropriated immovable has the right to demand the return of the immovable which belonged to the former owner if an expropriating authority or a legal successor thereof does not use the expropriated immovable according to the expropriation decision or gives notice of the relinquishment of the use of the immovable according to the decision.

(2) The provisions regulating expropriation apply to the return of expropriated immovables, unless otherwise provided for in §§ 44 and 45 of this Act.

(3) A subject of expropriation has the right to demand the return of an expropriated immovable even if the parties to expropriation have entered into an agreement for the transfer of the expropriated immovable.

(4) A request for the return of an expropriated immovable may be submitted within one year from the date a person becomes or should have become aware of the use of the expropriated immovable in a manner contrary to the expropriation decision, or of the relinquishment of the use of the immovable according to the expropriation decision.

(5) If, in the event of transfer of an expropriated immovable, its former owner relinquishes the right of pre-emption in accordance with § 46 of this Act, the former owner loses the right to demand the return of the expropriated immovable.

§ 44. Refusal to return expropriated immovable

The return of an expropriated immovable may be refused if:

- 1) the expropriated immovable has been significantly altered as compared to the time of expropriation;
- 2) all or most of the expropriation payment has been paid with another immovable by agreement of the parties to expropriation;
- 3) the expropriated immovable is not used according to the initial purpose of expropriation, but the expropriated immovable is used in the public interest at the time of the request for return.

§ 45. Reinstatement of rights in event of return of expropriated immovable

The holders of rights which encumbered an immovable to be expropriated and were deleted from the land register in the course of the expropriation procedure have the right to demand, within one year after the return of the expropriated immovable, the reinstatement of the rights which belonged to them by a court.

§ 46. Right of pre-emption of subject of expropriation

(1) The subject of expropriation has the right of pre-emption in the event of transfer of an expropriated immovable by the expropriating authority or a legal successor thereof.

(2) The subject of expropriation has the right of pre-emption even if the parties to expropriation have entered into a contract for the purchase and sale of an expropriated immovable.

Chapter 8¹

ESTABLISHMENT OF COMPULSORY POSSESSION FOR IMPOSITION OF OBLIGATION TO TOLERATE UTILITY NETWORKS AND UTILITY WORKS

[RT I 2007, 24, 128 - entry into force 26.03.2007]

§ 46¹. Establishment of compulsory possession for imposition of obligation to tolerate utility networks and utility works

(1) For the purpose of imposition of the obligation to tolerate utility networks and utility works provided for in subsection 158¹ (1) of the Law of Property Act, compulsory possession will be established in favour of the person specified in subsection 158¹ (1) of the Law of Property Act on the preconditions provided for in this Act.

(2) The establishment of compulsory possession in the events specified in subsection (1) of this section is permitted in areas where preparation of a detailed plan is mandatory for the purposes of the Planning Act on the basis of an approved detailed plan or the plan specified in § 29¹ of the Planning Act and, in areas where preparation of a detailed plan is not mandatory, on the basis of the design criteria specified in § 46³ of this Act or on the basis of the plan specified in § 29¹ of the Planning Act.

(3) The establishment of compulsory possession will be decided by a body whose competence includes approving a plan for construction of the respective utility networks or utility works. If the preparation of a detailed plan is not mandatory, compulsory possession will be established by the local authority on the basis of design criteria drawn up based on a comprehensive plan.

(4) If several decisions made or steps taken in the course of a procedure for the establishment of the same compulsory possession or several decisions made or steps taken in the course of the procedure specified in § 46³ of this Act are contested in a court, the disputes will be resolved within one procedure.

[RT I 2007, 24, 128 – entry into force 26.03.2007]

(5) In the event of compulsory possession, the owner of a utility network or a utility works may, by a written contract, grant sub-use thereof for the purpose of installation of works necessary for the provision of an electronic communications service without the consent of the owner of the immovable on the condition that the protection zone of the added works does not overreach the protection zone of the existing works.

[RT I, 25.01.2017, 1 - entry into force 01.03.2017]

§ 46². Establishment of compulsory possession for imposition of obligation to tolerate utility networks and utility works in areas where preparation of detailed plan is mandatory

(1) If the person specified in subsection 158¹ (1) of the Law of Property Act who would like to construct a utility network or a utility works at an immovable in the public interest has not, within three months after the approval of a detailed plan that provides for the construction of a utility network or a utility works at an immovable in the public interest, reached an agreement with the owner of the immovable for the purposes of subsection 158 (2) and (3) of the Law of Property Act, the person may submit to the body specified in subsection 46¹ (3) of this Act an application for the establishment of compulsory possession on the immovable. If the utility network or utility works for the construction of which the establishment of compulsory possession is applied for is located at multiple immovables, an application for the establishment of compulsory possession may be submitted separately or jointly with regard to all the said immovables.

(2) An application for the establishment of compulsory possession must set out:

- 1) the name and seat of the applicant along with a confirmation that the person applying for the establishment of compulsory possession is a person specified in subsection 158¹ (1) of the Law of Property Act;
- 2) the names and places of residence or seats of the owners of the immovables with regard to which the establishment of compulsory possession is applied for;
- 3) addresses and registered immovable numbers of the immovables with regard to which the establishment of compulsory possession is applied for;
- 4) a description of the purpose of establishment of compulsory possession along with a reference to the established detailed plan on the basis of which the establishment of compulsory possession is applied for.

(3) The following must be appended to an application for the establishment of compulsory possession:

- 1) a transcript of the land register part of the immovable with regard to which the establishment of compulsory possession is applied for;

- 2) the cadastral certificate and the cadastre plan;
- 3) an extract from the area plan;
- 4) draft building design documentation of the utility network or utility works for the construction of which the establishment of compulsory possession is applied for.

(4) Upon making a decision on the establishment of compulsory possession, the body specified in subsection 46¹ (3) of this Act will only verify the correctness of the data specified in subsections (2) and (3) of this section.

(5) A decision establishing compulsory possession must set out:

- 1) the names and places of residence or seats of the owner of the immovable and the person specified in subsection 158¹ (1) of the Law of Property Act;
- 2) the information that the person in favour of whom compulsory possession is established is a person specified in subsection 158¹ (1) of the Law of Property Act;
- 3) the address of the immovable and the number of the registered immovable;
- 4) a reference to the plan serving as the basis for the establishment of compulsory possession;
- 5) a reference to the legislation or agreement serving as the basis for the payment payable for the obligation to tolerate.

(6) The body that made the decision to establish compulsory possession will deliver the decision to the owner of the immovable immediately by registered mail with advice of delivery or against signature on the notice where the time of delivery of the decision is recorded. If the decision cannot be delivered to the owner of the immovable in the aforementioned manner or if no information on the address of the person is available or if the person does not reside at the known address and their actual whereabouts are unknown and the decision cannot be delivered in any other manner, the operative part of the decision will be published in a national daily newspaper by which the decision will be considered as delivered to the person.

(7) A decision to establish compulsory possession which has entry into force will be submitted to the register of construction works by the body that made the decision.

[RT I 2007, 24, 128 – entry into force 26.03.2007]

§ 46³. Establishment of compulsory possession for imposition of obligation to tolerate utility networks and utility works in areas where preparation of detailed plan is not mandatory

(1) The person specified in subsection 158¹ (1) of the Law of Property Act will submit an application for the establishment of compulsory possession to the rural municipality or city government. The application must contain the confirmation specified in clauses 11 (1) 1) to 3) and 7) of this Act that the applicant is a person listed in subsection 158¹ (1) of the Law of Property Act.

(2) Within two weeks after the receipt of the application specified in subsection (1) of this section, the rural municipality or city government will inform the owner of the immovable by registered mail about issuing the design criteria, which results in the creation of the obligation to tolerate prescribed in subsection 158¹ (1) of the Law of Property Act.

(3) The owner of the immovable has the right to submit their opinion and objections within four weeks after the receipt of the letter specified in subsection (2) of this section.

(4) If the opinion and objections were sent by mail, the rural municipality or city government will inform the owner of the immovable by registered mail or, if the opinion and objections were sent by electronic mail, the rural municipality or city government will inform the owner of the immovable by electronic mail about the position of the rural municipality or city government regarding the opinion and objections of the owner of the immovable within two weeks after receiving the opinion and objections.

(5) The rural municipality or city government will make a decision to establish compulsory possession, setting out:

- 1) the names and places of residence or seats of the owner of the immovable and the person specified in subsection 158¹ (1) of the Law of Property Act;
- 2) the information that the person in favour of whom compulsory possession is established is a person specified in subsection 158¹ (1) of the Law of Property Act;
- 3) the address of the immovable and the number of the registered immovable;
- 4) a reference to the legislation or agreement serving as the basis for the payment payable for the obligation to tolerate;
- 5) information about the existence of an agreement between the owner of the immovable and the person specified in subsection 158¹ (1) of the Law of Property Act or about the existence of the consent of the owner of the immovable.

(6) The decision to establish compulsory possession will be delivered to the owner of the immovable and to the person specified in subsection 158¹ (1) of the Law of Property Act in accordance with the procedure provided for in subsection 12 (2) of this Act.

(7) A decision to establish compulsory possession which has entry into force will be submitted to the register of construction works by the body that made the decision.

[RT I 2007, 24, 128 – entry into force 26.03.2007]

Chapter 9 FINAL PROVISIONS

§ 47. Application of Act upon implementation of ownership reform

The deprivation of property or refusal to return property in the course of the ownership reform is not considered expropriation and this Act does not apply to such cases.

§ 48. Application of Act to expropriation of construction works

This Act applies to the expropriation of both construction works as well as movables. An expropriation notation will be entered in the state register of construction works.

[RT I 2005, 40, 312 – entry into force 21.07.2005]

