

Land Improvement Act

Passed 22 January 2003

(RT¹ I 2003, 15, 84),

entered into force 1 July 2003,

amended by the following Act:

21.04.2004 entered into force 01.05.2004 - RT I 2004, 32, 227.

Chapter 1

General Provisions

§ 1. Scope of application of Act

(1) This Act provides the requirements for the designing, building and management of land improvement systems, the specifications for the foundation and operations of land improvement associations operating as non-profit associations, the procedure for exercising state supervision over implementation of this Act, and liability for violations of this Act.

(2) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

§ 2. Land improvement

(1) For the purposes of this Act, land improvement is the drainage or irrigation of land, the two-way regulation of the water regime of land, the liming of acid soils, and agricultural land improvement, agricultural engineering and other work to manage land improvement systems in order to increase the cultivation value of land intended for use as profit yielding land and of land for residential lots intended for use as residential land but used for agricultural purposes and located in a rural area (hereinafter land for residential lots).

(2) For the purposes of this Act, a rural area is the territory of a village, town or small town. The Government of the Republic has the right to establish a list of cities whose territories are, for the purposes of this Act, deemed to be rural areas.

§ 3. Land improvement system

(1) For the purposes of this Act, a land improvement system is a set of buildings and constructions needed for the drainage, irrigation or two-way regulation of the water regime of profit yielding land or land for residential lots (hereinafter land improvement constructions).

- (2) For the purposes of this Act, a network regulating a land improvement system (hereinafter a regulation network) is a network of water conduits built to receive excess water (hereinafter a drainage network) or to distribute water (hereinafter an irrigation network).
- (3) For the purposes of this Act, an artificial recipient of a land improvement system (hereinafter an artificial recipient) is a water conduit built to transfer excess water flowing from a drainage network, a water conduit built to transfer water to the water intake of an irrigation network, or a regulated section of a natural body of water on which, by maintaining the correct level of water, the proper functioning of the regulation network depends.
- (4) For the purposes of this Act, a jointly used recipient is an artificial recipient which ensures the proper functioning of a land improvement system located on several registered immovables.
- (5) For the purposes of this Act, a road serving a land improvement system is a road which is necessary for the performance of work to manage land improvement systems and which is not a public road within the meaning of the Roads Act (RT I 1999, 26, 377; 93, 831; 2001, 43, 241; 50, 283; 93, 565; 2002, 41, 249; 47, 297; 53, 336; 61, 375; 63, 387).
- (6) For the purposes of this Act, a recipient of a drainage system is a natural body of water which receives excess water through an artificial recipient or a regulation network.
- (7) For the purposes of this Act, the territory of a land improvement system is an area in which a regulation network is located.

§ 4. Requirements for land improvement systems

- (1) A regulation network shall ensure that the soil water regime is suitable for crop husbandry and shall minimise the threat of the spread of pollution.
- (2) An artificial recipient shall ensure that excess water is transferred from the drainage network or that water is supplied to the irrigation network, and shall have maximum self-purifying capacity.
- (3) The requirements provided in subsections 3 (1)–(8) and (11) of the Building Act (RT I 2002, 47, 297; 99, 579) apply to buildings of a land improvement system.

Chapter 2

Requirements for Building of Land Improvement Systems

§ 5. Building of land improvement systems

- (1) For the purposes of this Act, the building of a land improvement system is the erection of buildings or the building of constructions belonging to a land improvement system, or the reconstruction thereof.
- (2) For the purposes of this Act, the reconstruction of a land improvement system is the making of significant alterations to the plans or to the methods of drainage or irrigation of the land improvement system or to the structure of land improvement constructions, or the technological modification of land improvement constructions.

§ 6. Requirements for building of land improvement systems

- (1) A land improvement system shall be built on the basis of a permit to build a land improvement system (hereinafter building permit) in adherence to the building design documentation prepared for the land improvement system and the technical requirements for building land improvement systems.
- (2) The building materials and products used for building a land improvement system shall conform to the requirements provided in the Building Act.
- (3) A land improvement system shall be built by an undertaking registered in the register of undertakings operating in a field of land improvement as an undertaking engaged in land improvement construction work (hereinafter builder).
- (4) Small-scale drainage systems may also be built by persons who do not have the registration specified in subsection (3) of this section.
- (5) A small-scale drainage system is:
 - 1) a ditch drainage network located within the limits of one immovable within the territory of a land improvement system with an area of not more than 20 hectares;
 - 2) a subsurface drainage network or irrigation network located within the limits of one immovable within the territory of a land improvement system with an area of not more than 2 hectares.
- (6) The following techniques shall be used for preserving soil and maintaining soil fertility in the process of building land improvement systems on agricultural land and land of residential lots:
 - 1) stripping of soil from the area under the land improvement construction;
 - 2) stripping and subsequent replacement of soil from an area where earth is to be spread out, provided that the estimated thickness of the layer of earth covering the soil is more than 10 centimetres;
 - 3) loosening of soil compacted due to the building of the land improvement system.

- (7) For the purposes of this Act, soil is taken to mean the humic layer of soil.
- (8) The technical requirements for the building of land improvement systems shall be established by the Minister of Agriculture.

§ 7. Application for design criteria for land improvement systems

- (1) Before preparing building design documentation for a land improvement system, an application to obtain design criteria for the land improvement system (hereinafter design criteria) shall be submitted to a regional land improvement bureau in the area of government of the Ministry of Agriculture (hereinafter land improvement bureau). Several persons may submit a joint application to obtain design criteria, in which case the names of all the applicants shall be included in the application.
- (2) An application shall set out:
 - 1) the name, personal identification code or registry code (in the absence of a personal identification code, the date of birth) and contact details of the applicant;
 - 2) the location, cadastral register number and intended purpose of the immovable, and the name of the owner thereof;
 - 3) the area of the territory of the planned land improvement system and the length of the artificial recipient;
 - 4) the planned methods of drainage or irrigation;
 - 5) information relating to the building materials and products to be used;
 - 6) the planned method of land use;
 - 7) other information which the applicant considers necessary for obtaining design criteria.

§ 8. Issue of and refusal to issue design criteria for land improvement systems

- (1) The head of a land improvement bureau shall make a decision to issue or to refuse to issue design criteria within thirty days as of the receipt of a corresponding application. The applicant shall be sent the decision within three working days after the decision is made.
- (2) If approval is required from another administrative authority for the review of an application and if such approval has not been submitted, the land improvement bureau shall forward a copy of the application to the competent administrative authority of the state or a local government in order to obtain approval.
- (3) The issue of design criteria shall be refused if:
 - 1) the planned land improvement system does not conform to the requirements;

- 2) the planned land improvement system would present dangers to the life or health of persons or to property or the environment;
- 3) the other administrative authority specified in subsection (2) of this section refuses to approve the application.
- (4) Design criteria shall set out:
 - 1) the necessity to perform field surveys related to land improvement in order to prepare building design documentation for a land improvement system or to build a land improvement system;
 - 2) the necessity to conduct an expert assessment of the building design documentation;
 - 3) the state or local government agencies or persons whose approval is to be obtained for the building design documentation.
- (5) Design criteria shall be published on the website of the corresponding land improvement bureau and the relevant local government shall be informed of the issue thereof.

§ 9. Building design documentation for land improvement systems

- (1) The building design documentation for a land improvement system (hereinafter building design documentation) is a set of documents needed for the building and use of the land improvement system which consists of a letter of explanation describing the aim of the building of the land improvement system as well as technical drawings, documents setting out the volume of work, technical calculations and, if necessary, a calculation of the building costs, the maintenance instructions for the land improvement system and other relevant documents.
- (2) The building design documentation shall conform to:
 - 1) the design criteria for the land improvement system;
 - 2) the results of the field survey related to land improvement, in cases where the conduct of a field survey is prescribed by the design criteria;
 - 3) the design standards for land improvement systems and the substantive and formal requirements for building design documentation.
- (3) Building design documentation shall enable:
 - 1) a land improvement system to be built which conforms to the requirements;
 - 2) the conformity of building to the building design documentation to be inspected;
 - 3) the conformity of the land improvement system to the requirements to be inspected;
 - 4) the land improvement system built on the basis of such documentation to be used and maintained.

- (4) Building design documentation shall be prepared by an undertaking registered in the register of undertakings operating in a field of land improvement as an undertaking engaged in land improvement design or expert assessment related to land improvement (hereinafter designer).
- (5) Building design documentation for small-scale drainage systems may also be prepared by persons who meet the requirements for specialists in charge provided in subsection 28 (2) of this Act.
- (6) The substantive and formal requirements for building design documentation prepared for land improvement systems, and the design standards related thereto shall be established by the Minister of Agriculture.

§ 10. Field surveys related to land improvement

- (1) The aim of field surveys related to land improvement is to obtain primary data for the preparation of building design documentation and the building of land improvement systems. A field survey related to land improvement shall be conducted if so prescribed by the design criteria. The applicant for design criteria shall bear the costs of the field survey.
- (2) Field surveys related to land improvement shall be conducted to an extent which ensures the reliability of the data needed for the preparation of building design documentation and the building of land improvement systems.
- (3) Field surveys related to land improvement shall be conducted by undertakings registered in the register of undertakings operating in a field of land improvement as undertakings engaged in field surveys related to land improvement.
- (4) An undertaking specified in subsection (3) of this section shall present the results of the field survey to the applicant for design criteria and to the land improvement bureau within thirty working days as of the conclusion of the field survey.
- (5) The requirements for field surveys related to land improvement shall be established by the Minister of Agriculture.

§ 11. Expert assessment of building design documentation

- (1) Expert assessment of building design documentation is evaluation of the conformity of the building design documentation to:
- 1) the design criteria for the land improvement system;
 - 2) the results of the field survey related to land improvement, in cases where the conduct of a field survey is prescribed by the design criteria;

- 3) the design standards for land improvement systems and the substantive and formal requirements for building design documentation;
 - 4) the requirements for the land improvement system.
- (2) Expert assessment of building design documentation shall be conducted in cases where it is prescribed by the design criteria or demanded by the authority whose approval is required pursuant to subsection 8 (2) of this Act. The person who orders the building design documentation shall bear the costs related to the conduct of the expert assessment.
- (3) Expert assessment of building design documentation shall be conducted by undertakings registered in the register of undertakings operating in a field of land improvement as undertakings engaged in expert assessment related to land improvement, or by the Land Improvement Bureau of Supervision and Expertise (hereinafter LIBSE), which is in the area of government of the Ministry of Agriculture.
- (4) The requirements for expert assessment of building design documentation prepared for land improvement systems and the rates of fees charged for expert assessment conducted by the LIBSE shall be established by the Minister of Agriculture.

§ 12. Right to enter immovable

In order to conduct a field survey related to land improvement, prepare building design documentation or perform acts related to the expert assessment of a land improvement system or of building design documentation, an undertaking operating in a field of land improvement has the right to enter an immovable where a land improvement system is being built or is planned or an immovable which may be affected by a planned land improvement system or which may itself affect a planned land improvement system (hereinafter neighbouring immovable) in the presence of the owner of the immovable or a person authorised by the owner or, if the time for staying on the immovable has been agreed beforehand with the owner or a person authorised by the owner, without the presence of those persons.

§ 13. Building permit for land improvement system

- (1) A building permit is consent granted for the building, on the immovable specified in the building permit, of a land improvement system conforming to the requirements of the building design documentation.
- (2) A building permit is granted for an unspecified term, except in the case specified in subsection (3) of this section.

(3) A building permit becomes invalid if building does not commence within two years as of the issue of the building permit.

(4) If a building permit has been issued to a person who is not the owner of the relevant immovable, the land improvement system specified in the building permit may be built on the immovable with the permission of the owner of the immovable.

(5) The owner of an immovable shall permit a land improvement system servicing another immovable to be built on the owner's immovable if the other immovable cannot be used for its intended purpose without a land improvement system being built or if building the system at another location would involve excessive expense. The parties concerned shall establish a real servitude on the bases and pursuant to the procedure provided by the Law of Property Act (RT I 1993, 39, 590; 1999, 44, 509; 2001, 34, 185; 93, 565; 2002, 47, 297; 53, 336; 99, 579).

§ 14. Application for and issue of building permits

(1) In order to obtain a building permit, an application, the building design documentation and other necessary documents shall be submitted to a land improvement bureau and the state fee shall be paid, within three years as of obtaining the design criteria.

(2) The head of a land improvement bureau shall make a decision to issue or to refuse to issue a building permit within ten working days as of the receipt of the documents specified in subsection (1) of this section. The decision shall be sent to the applicant within three working days as of the decision being made. The local government shall be informed of the issue of a building permit.

(3) The substantive and formal requirements for applications for building permits for land improvement systems and for building permits themselves shall be established by the Minister of Agriculture.

§ 15. Grounds for refusal to issue building permit

The issue of a building permit shall be refused if:

- 1) the building design documentation does not conform to the design criteria;
- 2) the building design documentation has not been prepared in accordance with the results of the field survey related to land improvement, in cases where a field survey is prescribed by the design criteria;

- 3) the building design documentation does not conform to the design standards for land improvement systems or the substantive and formal requirements for building design documentation;
- 4) the building design documentation has been prepared by a person who does not have the registration specified in subsection 9 (4) of this section, in cases where registration is prescribed;
- 5) more than three years have passed from the issue of the design criteria;
- 6) the applicant has knowingly submitted incorrect or incomplete information in the application or the applicant attempts to influence the authority issuing the building permit in an unlawful manner;
- 7) assessment of the significant environmental impact has not been conducted, in cases where assessment thereof is prescribed;
- 8) the state fee has not been paid.

§ 16. Information entered in building permit

The following shall be entered in a building permit:

- 1) the name, personal identification code or registry code (in the absence of a personal identification code, the date of birth) and contact details of the applicant for the building permit;
- 2) the location, cadastral register number and intended purpose of the immovable, and name of the owner thereof;
- 3) the location of the planned land improvement system, the area of the territory thereof and the length of the artificial recipient;
- 4) technical information concerning the building design documentation;
- 5) details concerning the designer.

§ 17. Suspension and restoration of validity of building permit

- (1) The validity of a building permit shall be suspended if circumstances become evident which prevent the land improvement system from being built in conformity with the requirements or due to which the process of building or the land improvement system being built could present dangers to the life or health of persons or to property or the environment.
- (2) If circumstances specified in subsection (1) of this section become evident in the course of supervision, the head of the land improvement bureau shall suspend the validity of the building permit within ten days as of being informed of the circumstances which

constitute the basis for suspension. The decision shall be sent to the applicant by post within three working days as of the decision being made.

(3) If circumstances specified in subsection (1) of this section have been eliminated, the head of the land improvement bureau shall restore the validity of the building permit within ten working days as of being informed of the elimination of the circumstances. The decision shall be sent to the applicant by post within three working days as of the decision being made.

§ 18. Revocation of building permit

(1) A building permit shall be revoked if:

- 1) the owner of the land improvement system submits an application to this effect;
- 2) the land improvement system being built presents dangers to the life or health of persons or to property or the environment;
- 3) the owner of the land improvement system repeatedly fails to comply with a precept issued on the bases and pursuant to the procedure provided for in this Act;
- 4) the owner of the land improvement system repeatedly obstructs the exercise of state supervision;
- 5) the applicant knowingly submits incorrect or incomplete information in the application or attempts to influence the authority issuing the building permit in an unlawful manner.

(2) The head of the land improvement bureau shall revoke a building permit within ten working days as of being informed of a basis for revocation of the building permit as specified in subsection (1) of this section. The decision shall be sent to the applicant by post within three working days as of the decision being made.

(3) If the land improvement system being built on the basis of a revoked building permit presents dangers to the life or health of persons or to property or the environment, a precept for the demolition or liquidation of the land improvement system shall be issued to the owner thereof.

§ 19. Duties of owners of land improvement systems in event of building land improvement systems

The owner of a land improvement system is required to:

- 1) apply for a building permit before the building of the land improvement system commences;

- 2) ensure that the land improvement system is built on the basis of and in adherence to the building design documentation;
- 3) establish owner supervision with the aim of ensuring that the requirements for building land improvement systems are met;
- 4) enable the state supervisory agency to perform supervisory operations, monitor land improvement or investigate the technical reasons for any failures of the land improvement system;
- 5) organise, upon completion of the land improvement system, the preparation of a legal instrument concerning the putting of the system into service, and to submit the legal instrument to the land improvement bureau;
- 6) ensure that the technical documentation concerning the building of the land improvement system is prepared and preserved and, where necessary, to submit the documents to the state supervisory agency;
- 7) order, where necessary, that a field survey related to land improvement be conducted, that the building design documentation be compiled or that expert assessment of the land improvement system be conducted;
- 8) perform other obligations provided for in this Act.

§ 20. Owner supervision

- (1) At least three working days before the building of a land improvement system commences, the owner of the land improvement system shall inform the land improvement bureau of the date on which building work is to commence and the names of the person who is to exercise owner supervision and of the specialist in charge or, in the case of a land improvement association, a person conforming to the requirements established for specialists in charge. The owner of the land improvement system shall also inform the relevant local government of commencement of the building of the land improvement system.
- (2) Owner supervision shall be exercised by undertakings registered in the register of undertakings operating in a field of land improvement as undertakings engaged in design, owner supervision, or expert assessment related to land improvement, or by land improvement associations within their licensed territories, provided that the associations have entered into a corresponding legal relationship with a person who meets the requirements set out in subsection 28 (3) of this Act.

- (3) Owner supervision over a small-scale drainage system may also be exercised by a person specified in subsection (2) of this section or by the owner of the land improvement system.
- (4) Owner supervision shall not be exercised by a person who is building the land improvement system or who has conducted expert assessment of the building design documentation.
- (5) The person exercising owner supervision has the right to demand that the designer bring the building design documentation into conformity with the requirements established for building design documentation.
- (6) The person exercising owner supervision has the right to demand that the builder of a land improvement system:
- 1) present certificates of conformity concerning the building materials and products used, and replace any non-conforming building materials and products;
 - 2) redo work which does not conform to the requirements;
 - 3) suspend building work in the event of a significant violation of the requirements established for land improvement systems or for the building thereof, or in the event of an accident hazard arising;
 - 4) document the building work in a proper and timely manner.
- (7) Owner supervision shall be exercised from the date on which the building of a land improvement system commences until the legal instrument concerning the land improvement system being put into service is approved.
- (8) The procedure for exercising owner supervision over land improvement systems shall be established by the Minister of Agriculture.

§ 21. Preparation of legal instruments concerning putting of land improvement systems into service

- (1) On completion of a land improvement system which conforms to the requirements and which is built on the basis of a building permit and building design documentation and is duly documented pursuant to the provisions of clauses 26 (1) 2)–6) of this Act, the owner of the land improvement system shall organise the preparation of a legal instrument concerning the putting of the land improvement system into service.
- (2) The following shall be set out in the legal instrument concerning the putting of the land improvement system into service:

- 1) the name, personal identification code or registry code (in the absence of a personal identification code, the date of birth) and contact details of the owner of the land improvement system;
- 2) the location of the land improvement system;
- 3) the method of drainage or irrigation;
- 4) the technical characteristics of the land improvement system;
- 5) the details of the designer, builder and person exercising owner supervision;
- 6) the guarantee periods provided by the designer and builder.

§ 22. Submission and approval of legal instruments concerning putting of land improvement system into service

- (1) Within five working days as of the completion of a land improvement system, the owner of the land improvement system shall submit the legal instrument concerning the putting of the land improvement system into service together with the documents specified in clauses 26 (1) 2)–6) of this Act to the land improvement bureau. The land improvement bureau shall make copies of the submitted documents and return the original documents to the person who submitted them.
- (2) The head of the land improvement bureau shall make a decision to approve or to refuse to approve the legal instrument concerning the putting of the land improvement system into service within five working days as of receipt of the legal instrument. The decision shall be sent to the owner of the land improvement system by post within three working days as of the decision being made.
- (3) The substantive and formal requirements for legal instruments concerning the putting of land improvement systems into service shall be established by the Minister of Agriculture.

§ 23. Grounds for refusal to approve legal instruments concerning putting of land improvement systems into service

The legal instrument concerning the putting of a land improvement system into service shall not be approved if the land improvement system does not conform to the requirements established for land improvement systems or to the building design documentation.

§ 24. Expert assessment of land improvement systems

- (1) Expert assessment of a land improvement system is evaluation of the conformity of a land improvement system to the requirements established for land improvement systems.

(2) Expert assessment of a land improvement system shall be conducted if the land improvement bureau which reviews the legal instrument concerning the putting of the land improvement system into service considers the land improvement system not to conform to the requirements. The owner of the land improvement system shall bear the costs related to the conduct of the expert assessment.

(3) Expert assessment of land improvement systems shall be conducted by undertakings registered in the register of undertakings operating in a field of land improvement as undertakings engaged in expert assessment related to land improvement, or by the LIBSE.

(4) The requirements for expert assessment of land improvement systems, the procedure for the conduct of expert assessment and the rates charged by the LIBSE for the conduct of expert assessment shall be established by the Minister of Agriculture.

§ 25. Guarantee provided for land improvement systems

(1) For the purposes of this Act, a guarantee provided for a land improvement system is an obligation assumed by the designer or builder to ensure that, if used for its intended purpose and if properly maintained, the land improvement system will retain its quality, safety and usage characteristics for a set period of time.

(2) The guarantee period provided for a land improvement system shall be two years as of approval of the legal instrument concerning the putting of the land improvement system into service unless the designer, builder and owner of the land improvement system agree on a longer guarantee period.

(3) The performance of additional work arising from design errors which become evident during the guarantee period provided for a land improvement system shall be organised by the designer of the land improvement system. Such additional work shall be performed within a reasonable period of time at the expense of the designer.

(4) Construction faults which become evident during the guarantee period provided for a land improvement system shall be eliminated by the builder within a reasonable period of time at the expense of the builder.

§ 26. Requirements for and preservation of technical documentation concerning building of land improvement systems

(1) The following are technical documentation concerning the building of a land improvement system:

1) the building design documentation;

- 2) the record of construction work;
- 3) a report on covered works;
- 4) a report on the expert assessment of the building design documentation or the land improvement system;
- 5) documents certifying the conformity of the building materials and products used;
- 6) as-built drawings and the data regarding the staking out of the land improvement system;
- 7) other documents which characterise the building;
- 8) the legal instrument concerning the putting of the land improvement system into service.

(2) The owner of the land improvement system shall preserve the technical documentation concerning the building of a land improvement system throughout the entire service life of the land improvement system.

(3) The procedure for preparation of technical documentation concerning the building of land improvement systems as specified in clauses (1) 2), 3) and 6) of this section and the substantive and formal requirements for such documentation shall be established by the Minister of Agriculture.

Chapter 3

Requirements for Undertakings

§ 27. Right to operate in field of land improvement

A person may engage in field surveys related to land improvement, the design of land improvement systems, owner supervision over land improvement, expert assessment related to land improvement or land improvement construction work (hereinafter field of land improvement) if the person is an undertaking within the meaning of the Commercial Code (RT I 1995, 26–28, 355; 1998, 91–93, 1500; 1999, 10, 155; 23, 355; 24, 360; 57, 596; 102, 907; 2000, 29, 172; 49, 303; 55, 365; 57, 373; 2001, 34, 185; 56, 332 and 336; 89, 532; 93, 565; 2002, 3, 6; 35, 214; 53, 336; 61, 375; 63, 387 and 388; 96, 564; 102, 600; 110, 657; 2003, 4, 19), is registered in the register of undertakings operating in a field of land improvement and has entered into a corresponding legal relationship with a competent person specified in § 28 of this Act (hereinafter specialist in charge) or if the person is a sole proprietor competent to act as a specialist in charge in the corresponding field of land improvement.

§ 28. Specialist in charge

(1) A specialist in charge is a qualified person who meets the requirements provided in subsections (2) and (3) of this section and who is competent to direct and inspect the activities in a particular field of land improvement and to assume responsibility for the conformity of such activities to the requirements. A specialist in charge may operate as a sole proprietor or on the basis of a legal relationship with an undertaking operating in a field of land improvement.

(2) A specialist in charge who is engaged in field surveys related to land improvement or in land improvement design or expert assessment related to land improvement shall have acquired higher education in an appropriate field and have at least three years' experience in work related to the corresponding field of land improvement.

(3) A specialist in charge who is engaged in land improvement construction work or owner supervision over land improvement shall have acquired at least vocational secondary education in an appropriate field and have at least three years' experience in work related to land improvement construction work or owner supervision of land improvement.

§ 29. Obligations of undertakings engaged in field surveys related to land improvement

An undertaking engaged in a field survey related to land improvement is required to:

- 1) conduct the field survey to the extent prescribed by the design criteria;
- 2) ensure that the field survey conforms to the requirements;
- 3) deliver the results of the field survey to the person applying for a building permit and the land improvement bureau.

§ 30. Obligations of designers of land improvement systems

A designer is required to:

- 1) prepare building design documentation which conforms to design standards for land improvement systems and the substantive and formal requirements for building design documentation;
- 2) ensure that the building design documentation corresponds to the design criteria;
- 3) deliver the building design documentation to the person applying for a building permit.

§ 31. Obligations of persons exercising owner supervision over land improvement systems

(1) A person exercising owner supervision over a land improvement system is required to inspect:

- 1) the conformity of the building design documentation to the requirements;
- 2) the conformity of the building work to the building design documentation;
- 3) the conformity of the building materials and products used to the requirements;
- 4) adherence to the technical requirements for building land improvement systems;
- 5) the conformity of the land improvement system to the requirements;
- 6) safety and adherence to environmental and other requirements in the process of building the land improvement system;
- 7) the existence and conformity to the requirements of technical documentation concerning the building of land improvement systems.

(2) A person exercising owner supervision over land improvement systems is required to inform the owner of a land improvement system immediately of any detected violations and of any demands made on the basis provided for in subsections 20 (5) or (6) of this Act.

§ 32. Obligations of undertakings conducting expert assessment of building design documentation

An undertaking conducting expert assessment of building design documentation is required to:

- 1) inspect the conformity of the building design documentation to the design criteria, environmental and other requirements, the results of the field survey, the design criteria for the land improvement system, and the substantive and formal requirements for building design documentation;
- 2) conduct expert assessment of the building design documentation in conformity with the requirements.

§ 33. Obligations of undertakings conducting expert assessment of land improvement systems

An undertaking conducting expert assessment of a land improvement system is required to:

- 1) inspect the conformity of the land improvement system to the building design documentation;
- 2) inspect the conformity of the land improvement system to the requirements;
- 3) conduct expert assessment in conformity with the requirements;
- 4) inform the owner of the land improvement system immediately of any non-conformities detected in the course of expert assessment.

§ 34. Obligations of builders of land improvement systems

The builder of a land improvement system is required to:

- 1) build the land improvement system in conformity with the building design documentation;
- 2) adhere to the technical requirements for the building of the land improvement system and ensure safety in the process of building the land improvement system;
- 3) use building materials and products which conform to the requirements;
- 4) avoid polluting the environment;
- 5) prepare the documents specified in clauses 26 (1) 2), 3), 6) and 7) of this Act;
- 6) inform the owner of the land improvement system immediately of any non-conformities or potential non-conformities which become evident in the course of building;
- 7) deliver the technical documentation concerning the land improvement system prepared thereby to the owner of the land improvement system.

Chapter 4

Register of Undertakings Operating in Field of Land Improvement

§ 35. Register of undertakings operating in field of land improvement

- (1) The register of undertakings operating in a field of land improvement (hereinafter register) is a state register which is established by the Government of the Republic on the proposal of the Minister of Agriculture pursuant to the procedure provided for in the Databases Act (RT I 1997, 28, 423; 1998, 36/37, 552; 1999, 10, 155; 2000, 50, 317; 57, 373; 92, 597; 2001, 7, 17; 17, 77; 2002, 61, 375; 63, 387).
- (2) The chief processor of the register is the Ministry of Agriculture and the authorised processor of the register is the LIBSE.
- (3) The aim of maintaining the register is to provide the public with information on undertakings which have the right to operate in a field of land improvement.

§ 36. Registration application

- (1) An undertaking which wishes to operate in a field of land improvement specified in § 27 of this Act shall submit a registration application to the authorised processor of the register.
- (2) A registration application shall set out the following:

- 1) the name of the undertaking, the commercial registry code or the number of the certificate from the register of taxable persons, the seat of the undertaking and other contact details;
 - 2) the field of land improvement specified in § 27 of this Act in which the undertaking wishes to operate;
 - 3) the name and contact details of the specialist in charge competent to operate in the area of activity in which the undertaking wishes to operate;
 - 4) the name, official title and contact details of the person who signed the application.
- (3) A registration application shall include, in the form of an appendix, documents certifying that the specialist in charge has acquired the education and has the work experience in a corresponding field required on the basis of subsections 28 (2) and (3) of this Act.
- (4) A person who submits a registration application shall be responsible for the correctness of the information presented to the register
- (5) The formal requirements for registration applications and applications for amendment of registration information by undertakings operating in a field of land improvement, and the procedure for the submission of such applications shall be established by the Minister of Agriculture.

§ 37. Registration

- (1) The authorised processor of the register shall make a registration or amend registration information on the basis of information set out in a registration application, an application for amendment of registration information or a notice issued by a land improvement bureau concerning a precept issued on the basis of this Act within five working days as of receipt of the application or notice and the documents certifying the information presented therein.
- (2) The following are registration information:
- 1) the registration number;
 - 2) the date on which the registration is made;
 - 3) information presented in a registration application or application for amendment of registration information;
 - 4) information on precepts issued on the basis of this Act which have entered into force.
- (3) Registration information shall be published on the website of the authorised processor of the register.

§ 38. Refusal to register

(1) The authorised processor of the register shall make a decision to refuse to make a registration within five working days as of the receipt of a registration application if:

- 1) the undertaking has submitted inaccurate or incomplete information or if the undertaking attempts to influence the authorised processor of the register in an unlawful manner;
- 2) a court judgment depriving the undertaking of the right to operate in the corresponding area of activity has entered into force;
- 3) the person appointed as specialist in charge does not meet the requirements for specialists in charge, including cases where a court judgment depriving him or her of the right to operate in the corresponding field of land improvement has entered into force.

(2) Any decision to refuse to make a registration shall be sent by post within three working days as of the decision being made to the undertaking which submitted the registration application.

§ 39. Deletion of registration information

(1) The authorised processor of the register shall delete the registration information concerning an undertaking within three working days

- 1) as of the receipt of a written application to this effect from the undertaking specified in the registration information;
- 2) as of the entry into force of a court judgment by which the undertaking is deprived of the right to operate in the relevant area of activity;
- 3) as of being informed of the submission of inaccurate or incomplete information on the part of the undertaking, or as of an attempt by the undertaking to influence the authorised processor of the register in an unlawful manner;
- 4) as of being informed of the liquidation of the undertaking or death of the sole proprietor specified in the registration information;
- 5) as of termination of the term granted by the authorised processor of the register for entry into a legal relationship with another specialist in charge where the legal relationship between the undertaking and its former specialist in charge has ended;
- 6) as of the receipt of a decision by the head of the supervisory agency specified in subsection 64 (1) of this Act concerning repeated failure on the part of the undertaking to comply with a precept issued on the basis of this Act.

- (2) A decision to delete registration information shall be sent to an undertaking by post within three working days as of the decision being made.

Chapter 5

Register of Land Improvement Systems

§ 40. Register of land improvement systems

- (1) The register of land improvement systems is a state register which is established by the Government of the Republic on the proposal of the Minister of Agriculture pursuant to the procedure provided for in the Databases Act.
- (2) The chief processor of the register of land improvement systems is the Ministry of Agriculture.
- (3) The authorised processor of the register of land improvement systems is:
- 1) the LIBSE with respect to the electronic database;
 - 2) land improvement bureaux in their jurisdiction with respect to the registry files.
- (4) Information held in the register of land improvement systems is informative and statistical in nature. The aim of maintaining a register of land improvement systems is to keep record of land improvement systems being built and in service.

§ 41. Information held in register of land improvement systems

The following shall be entered in the register of land improvement systems concerning each land improvement system:

- 1) information concerning the design criteria as specified in the decision to issue the design criteria;
- 2) the consolidated results of the field survey related to land improvement conducted to prepare the building design documentation;
- 3) the consolidated data of the building design documentation;
- 4) a report on the expert assessment of the building design documentation or the land improvement system;
- 5) information contained in the building permit;
- 6) information concerning approval of or refusal to approve the legal instrument concerning the putting of the land improvement system into service;
- 7) information contained in the legal instrument concerning the putting of the land improvement system into service;

- 8) information concerning the end of the application of the land improvement system;
- 9) the dates on which building commenced and concluded;
- 10) information on precepts issued on the basis of this Act which have entered into force.

§ 42. Submission of information to register of land improvement systems

(1) Information to be entered in the register and submitted to a land improvement bureau on the basis of and pursuant to the procedure provided by this Act shall be forwarded to the LIBSE by the land improvement bureau within five working days as of the receipt of such information. A person who submits information to a land improvement bureau shall be responsible for the correctness thereof.

(2) A land improvement bureau shall submit the information arising from a decision or precept issued thereby which is to be entered in the register to the LIBSE within five working days as of the decision being made or the precept entering into force. The land improvement bureau shall be responsible for the correctness of the information submitted.

§ 43. Publication of information held in register of land improvement systems

(1) The information held in the register of land improvement systems is public and shall be published on the website of the LIBSE.

(2) The provisions of the Personal Data Protection Act (RT I 1996, 48, 944; 1998, 59, 941; 111, 1833; 2000, 50, 317; 92, 597; 104, 685; 2001, 50, 283; 2002, 61, 375; 63, 387) apply to the publication of personal data.

§ 44. Interbase cross-usage of data

Interbase cross-usage of data shall be conducted between the register of land improvement systems, the commercial register, the land cadastre, the land register, the register of construction works, the register of agricultural support and agricultural parcels, the register of undertakings operating in a field of land improvement and other registers.

Chapter 6

Management of Land Improvement Systems

§ 45. Management of land improvement systems

(1) For the purposes of this Act, management of land improvement systems is the maintenance and renovation of land improvement systems, territories of land improvement

systems and environmental protection constructions connected thereto, the liming of acid soils, and the performance of agricultural land improvement and agricultural engineering work (hereinafter work to manage land improvement systems) in order to preserve and increase the cultivation value of land intended for use as profit yielding land and land of residential lots.

(2) In order to ensure that, during the period of its use, a land improvement system conforms to the requirements set out in subsections 4 (1) and (2) of this Act, the owner of the land improvement system or a person who, on the basis of a legal relationship, uses a land improvement system located on an immovable in the possession of the person (hereinafter possessor of land) shall, while using the land improvement system and the territory thereof, perform the work necessary to manage the land improvement system.

(3) A possessor of land shall not hinder the flow of water in the land improvement system or cause damage by other actions to other possessors of land by performing work to manage the land improvement system. A person who has caused damage to a land improvement system is required to inform the possessor of land and the land improvement bureau thereof immediately and to eliminate the damage caused.

(4) If a person specified in subsection (3) of this section fails to eliminate the damage, the possessor of the land shall eliminate the damage at the expense of the possessor, in which case the possessor of the land has the right of recourse against the person specified in subsection (3) of this section to the extent of the costs of eliminating the damage.

(5) The requirements for work to manage land improvement systems shall be established by the Minister of Agriculture.

§ 46. Organisation of work to manage land improvement systems

(1) Work to manage a land improvement system shall be organised by:

- 1) the possessor of the land;
- 2) possessors of land who gain benefit from the functioning of a jointly used recipient on the basis of a contract of partnership or through a land improvement association provided by this Act;
- 3) the state, through land improvement bureaux, with respect to jointly used recipients maintained by the state.

(2) Work to manage a land improvement system on an immovable in state ownership shall be organised by the state as the owner of the land improvement system through an administrator of state assets or a duly authorised representative.

(3) The provisions of clause (1) 2) of this section apply to possessors of land who have a land improvement system located on an immovable in their possession.

(4) A list of jointly used recipients maintained by the state shall be established by the Government of the Republic. Jointly used recipients with a catchment area of at least 10 km² may be included in the list. Work to manage such jointly used recipients shall be financed from funds allocated for such purpose from the state budget to the Ministry of Agriculture.

(5) In order to maintain the jointly used recipients specified in subsection (4) of this section, a person performing work to manage land improvement systems has the right to stay on an immovable in the presence of the possessor of the land or a person authorised by the possessor or, if the time for staying on the immovable has been agreed beforehand with the possessor of the land or the person authorised by the possessor, without the presence of those persons.

§ 47. Building of other constructions and regulation of water level in territories of land improvement systems

(1) Approval shall be obtained from a land improvement bureau for building design documentation concerning constructions planned within the territory of a land improvement system and not specified in subsection 3 (1) of this Act and for any intention to regulate the water level in a jointly used recipient or the protected section of a jointly used recipient.

(2) The protected section of a jointly used recipient is defined as the section of the receiving body of water of the land improvement system in which regulation of the water level affects the proper functioning of the land improvement system. The extent of the protected section shall be determined in the management plan for the land improvement system.

(3) The head of the land improvement bureau shall make a decision to grant or to refuse to grant approval within ten working days as of receipt of a corresponding application. The decision shall be sent to the possessor of land by post within ten working days as of the decision being made.

(4) Approval shall not be granted for building design documentation or for plans to regulate the water level in a jointly used recipient or the protected section of a jointly used recipient if the building of the construction or the regulation of the water level would impede the proper functioning of the land improvement system.

§ 48. Land use in territory of land improvement system

- (1) The intended purpose or application of the territory of a land improvement system (hereinafter land use) may be modified by the possessor of the land on the basis of prior approval granted by a land improvement bureau.
- (2) An immovable on which a land improvement system is located may be re-allotted, divided, merged, joined or separated (hereinafter land readjustment activities) on the basis of prior approval granted by a land improvement bureau.
- (3) Such approval shall set out the conditions for modifying the land use or performing the land readjustment activities which will ensure the proper functioning of land improvement systems located on the immovable concerned and on neighbouring immovables.
- (4) The head of a land improvement bureau shall approve an application for modification of the land use of an immovable or for performance of land readjustment activities within ten working days as of the receipt thereof. The approval shall be sent to the possessor of the land by post within three working days as of the decision being made.
- (5) Approval granted to modify the land use of an immovable or perform land readjustment activities does not give the right to modify the land use or to perform land readjustment activities without the consent of the owner of the immovable.

§ 49. Maintenance of land improvement systems

- (1) Maintenance of a land improvement system is the performance of work to maintain the land improvement system, except for maintenance work performed for the renovation thereof.
- (2) Maintenance of a land improvement system also includes the removal of vegetation and flow retarding obstacles from the streambed of ditches and the performance of maintenance work within the territory of the land improvement system and in water protection constructions located therein.

§ 50. Renovation of land improvement systems

- (1) Renovation of a land improvement system is the replacement or reconstruction of obsolete or deformed parts of the land improvement system, the restoration of ditches to their original condition and the reconstruction of parts of the land improvement system without making significant changes to the general parameters of the land improvement system.
- (2) In order to renovate a jointly used recipient maintained by the state, a plan for renovation of the recipient shall be prepared. The requirements for building design documentation provided in §§ 7–10 of this Act apply to renovation plans.

(3) The substantive and formal requirements for plans for the renovation of jointly used recipients of land improvement systems shall be established by the Minister of Agriculture.

§ 51. End of purposeful application of land improvement systems

(1) The purposeful application of a land improvement system is deemed to have ended if the land improvement system has become obsolete, is deformed or has lost a significant proportion of its ability to function for other reasons.

(2) The owner of a land improvement system shall submit an application to the land improvement bureau for the purposeful application of the land improvement system to be deemed to have ended.

(3) The land improvement bureau shall conduct an on-site inspection to verify whether or not the application is justified at the earliest opportunity but not later than within six months as of the receipt of the application specified in subsection (2) of this section.

(4) The head of the land improvement bureau shall make a decision to deem or to refuse to deem the purposeful application of a land improvement system to have ended within five working days as of the on-site inspection being conducted. The decision shall be sent to the owner of the land improvement system by post within three working days as of the decision being made.

(5) The purposeful application of a land improvement system is not deemed to have ended if:

- 1) the ability of the land improvement system to function has not significantly fallen, or
- 2) it is possible to restore the ability of the land improvement system to function by management means.

§ 52. Management plan for land improvement system

(1) In order to ensure the purposeful management of land improvement systems, management plans for the land improvement systems of river basin sub-districts (hereinafter management plans for land improvement systems) shall be prepared in accordance with the principles of water management plans prepared pursuant to the Water Act (RT I 1994, 40, 655; 1996, 13, 241; 1998, 2, 47; 61, 987; 1999, 10, 155; 54, 583; 95, 843; 2001, 7, 19; 42, 234; 50, 283; 94, 577; 2002, 1, 1; 61, 375; 63, 387) (hereinafter water management plans).

(2) A management plan for a land improvement system shall, taking into account the water management plan being prepared, set out the measures to be applied with regard to jointly used recipients and protected sections of jointly used recipients, in order to ensure that:

- 1) it is possible to use the territory of the land improvement system for the intended purpose;
 - 2) the requirements set out in subsections 4 (1) and (2) of this Act are complied with;
 - 3) any possible pollution of the groundwater and surface water within the territory of the jointly used recipients which may be caused by the land use is prevented.
- (3) The following shall be indicated on the map included in a management plan for a land improvement system:
- 1) jointly used recipients;
 - 2) protected sections of jointly used recipients;
 - 3) catchment areas of jointly used recipients;
 - 4) jointly used recipients maintained by the state;
 - 5) the regulation network.
- (4) The following shall be indicated in a management plan for a land improvement system:
- 1) the actual and recommended use of the territory of the land improvement system;
 - 2) the condition of the jointly used recipients;
 - 3) the impact of land use on the quality of water.
- (5) The following shall be set out in a management plan for a land improvement system, taking into account the water management plan being prepared:
- 1) border strips and other environmental protection constructions which are necessary for jointly used recipients;
 - 2) recommended areas of operation for land improvement associations.

§ 53. Preparation of management plan for land improvement system

- (1) The Ministry of Agriculture shall organise the preparation of management plans for land improvement systems and monitor compliance therewith through the land improvement bureaux.
- (2) The preparation of management plans for land improvement systems shall be financed from funds allocated for such purpose from the state budget to the Ministry of Agriculture.
- (3) The Ministry of Agriculture and the land improvement bureaux shall be provided with information necessary for the preparation of management plans for land improvement systems by persons in possession of such information free of charge.
- (4) A management plan for a land improvement system shall be reviewed and, where necessary, amended at least every six years.

(5) The substantive and formal requirements for management plans for land improvement systems shall be established by the Minister of Agriculture.

§ 54. Making management plans for land improvement systems public

(1) Prior to being made public, a management plan for a land improvement system shall be approved by the county government, county environmental authority and local government of the location of the relevant river basin sub-district.

(2) A management plan for a land improvement system shall be made public in the corresponding county town, where a display and a meeting to discuss the plan shall be organised. A management plan for a land improvement system shall be displayed for three months.

(3) The land improvement bureau organising the public display and the meeting to discuss a management plan for a land improvement system shall give notification of the location, time and duration of the display and meeting at least one week prior to the beginning of the public display and meeting in the official publication *Ametlikud Teadaanded*². The announcement shall also be published in at least one national daily newspaper if the proposed management plan for a land improvement system would have implications nationally, in a county newspaper if it would have implications on a county level or in a local newspaper if it would have implications locally.

(4) The owners of immovables located within the territory specified in the management plan for a land improvement system and also residents living within that territory and other persons have the right to propose corrections and amendments to the plan during the period of its display.

(5) The land improvement bureau which organised the preparation of the management plan for a land improvement system shall reply in writing to all written proposals within two months as of the end of the public display of the management plan for a land improvement system.

(6) On the basis of the results of the public display and meeting to discuss the management plan for a land improvement system, the land improvement bureau which organised the preparation of the management plan shall make any necessary corrections and amendments to the plan.

(7) Corrected and amended management plans for land improvement systems specified in subsection (6) of this section shall be approved by the Minister of Agriculture and published on the website of the Ministry of Agriculture.

(8) Management plans for land improvement systems of river basin sub-districts prepared on the basis of management plans for land improvement systems shall be approved by the Government of the Republic.

Chapter 7

Monitoring of Land Improvement

§ 55. Monitoring of land improvement and publication of results thereof

(1) The monitoring of land improvement is a system of measures applied with the aim of collecting information on the drainage condition of drained profit yielding land and land of residential lots, the lime requirement of agricultural land and the environmental impact of land improvement and land use.

(2) The following authorities shall organise the monitoring of land improvement:

1) land improvement bureaux with regard to the drainage condition and the environmental impact of land improvement;

2) The Plant Material Control Centre with regard to the lime requirement of land and the environmental impact of land use.

(3) In order to monitor land improvement, soil and water samples may be obtained free of charge and other necessary investigations may be performed. No person shall obstruct investigation or the taking of samples.

(4) Samples obtained in the process of monitoring land improvement shall be analysed by persons or agencies duly accredited for such work.

(5) The costs of monitoring shall be covered out of the funds allocated therefor from the state budget to the Ministry of Agriculture.

(6) The results of monitoring shall be published on the websites of the agencies specified in subsection (2) of this section and may additionally be published on paper.

Chapter 8

Land Improvement Associations

§ 56. Foundation of land improvement associations

(1) A land improvement association (hereinafter association) shall be founded pursuant to the procedure provided in the Non-profit Organisations Act (RT I 1996, 42, 811; 1998, 96, 1515; 1999, 10, 155; 23, 355; 67, 658; 2000, 55, 365; 88, 576; 2001, 56, 336; 93, 565; 2002,

53, 336) on the basis of a decision by those owners of immovables located within the territory in which the association is to operate who own more than one third of the territory of the land improvement system or who own more than one third of the length of the jointly used recipient located within such territory.

(2) In order for an association to be entered in the non-profit associations and foundations register, the following shall be submitted to the registrar in addition to the documents prescribed by the Non-profit Organisations Act:

- 1) a map of the territory in which the association is to operate, setting out the location of the regulation network and the jointly used recipient and indicating the boundary of the catchment area;
- 2) a certificate issued by the authorised processor of the register of land improvement systems concerning those owners of immovables located within the territory in which the association being founded is to operate on whose land the regulation network or jointly used recipient is located, and information concerning the area of the territory of the land improvement system and the length of the jointly used recipient located within the territory of the immovables.

§ 57. Articles of association of associations

In addition to the provisions of the Non-profit Organisations Act concerning articles of association, the following shall be determined by the articles of association:

- 1) the bases for calculation of contributions, land improvement costs and other payments;
- 2) the procedure for making the activities public;
- 3) the distribution of votes at the general meeting.

§ 58. Members of associations

(1) A compulsory member of an association is the owner of an immovable located within the territory of an association on whose immovable the land improvement system is situated. The owner of an immovable located within the territory of an association becomes a member of the association as of the creation of the legal capacity of the association regardless of how, or whether or not, the owner votes at the foundation meeting of the association.

(2) The owner of an immovable may become a member of an association even if the land improvement system is not situated on the land of the owner but the owner gains benefit from the activities of the association, as specified in its articles of association.

(3) The owner of an immovable has the right to authorise, by way of unattested proxy, the owner of the right of superficies, a usufructuary, a person with a personal right of use, or a person using the immovable on the basis of an agricultural lease contract or any other legal relationship to exercise the rights and perform the obligations arising from membership in an association.

(4) In the event of the transfer of an immovable in the ownership of a member of an association as specified in subsection (1) of this section, the acquirer of the immovable becomes a member of the association on the date on which the right of ownership is transferred. A successor who accepts the estate of a member of an association becomes a member of the association on the date of the opening of the succession. The former member ceases to be a member of the association on the date on which the new member assumes membership.

(5) A member of an association as specified in subsection (1) of this section ceases to be a member on the date on which the head of the land improvement bureau makes a decision to deem that the application of the land improvement system has ended.

§ 59. State as member of association

(1) The state shall only participate in an association as a compulsory member.

(21.04.2004 entered into force 01.05.2004 - RT I 2004, 32, 227)

(2) The rights of the state as a member of an association shall be performed by a minister or county governor appointed by the Government of the Republic who may authorise an official of the relevant ministry or county government to represent the state.

§ 60. Contribution

(1) The size of the contribution payable by a member of an association shall be proportional to:

1) the area of the territory of the land improvement system located on the immovable of the member, unless a jointly used recipient is situated on the immovable;

2) the length of the jointly used recipient located on the immovable of the member, unless a regulation network is situated on the immovable;

3) the area of the territory of the land improvement system and the length of the jointly used recipient located on the immovable of the member, if both the regulation network and jointly used recipient are situated on the immovable.

- (2) The articles of association of an association shall prescribe the methodology for calculating the size of the contribution payable by members of the association on the basis specified in subsection (1) of this section, and the procedure for payment thereof.
- (3) The size of the contribution payable by members of an association shall be determined on equal grounds for all members specified in subsection 58 (1) of this Act. The size of the contribution payable by members of the association whose immovables do not contain a land improvement system shall be determined by the general meeting on the bases prescribed by the articles of association.
- (4) Members of an association shall pay the contribution in the amount, pursuant to the procedure and within the term determined in the articles of association.
- (5) In the event of the transfer or succession of an immovable, including transfer in execution or bankruptcy proceedings, the acquirer of the immovable shall pay the association for the land improvement costs and other payments which were not paid by the transferor or bequeather of the immovable.

§ 61. Land improvement costs

- (1) For the purposes of this Act, land improvement costs are the costs necessary to perform the land improvement activities of an association.
- (2) In order to determine the land improvement costs for each year of operation of an association, the management board of the association shall prepare an annual plan which is based on the management plan for land improvement systems.
- (3) The size and term for payment of the annual contribution payable by members of the association intended to cover the land improvement costs shall be determined by the general meeting of the association. Advance payment may be required to cover costs.
- (4) The management board of the association has the right to demand a fine for delay in the amount of 0.07 per cent of the unpaid amount for each calendar day of the delay as of the first day of the month following the due date from the owner of an immovable who delays payment.

§ 62. Participation in general meeting of association

Each member of an association or representative of a member who is granted an unattested proxy may participate in and vote at the general meeting.

§ 63. Restriction of right to vote

- (1) Each member of an association has one vote at the general meeting of the association. Depending on the number of immovables belonging to members of the association, a different number of votes may be prescribed in the articles of association, taking into account that no single member of the association participating in the general meeting shall have more than two-fifths of the total number of votes.
- (2) If an immovable is in the joint ownership of several persons, they shall jointly have one vote.

Chapter 9

State Supervision

§ 64. State supervision

- (1) State supervision over conformity with the requirements of this Act and legislation established on the basis thereof shall be exercised by land improvement bureaux in their jurisdiction and by the LIBSE (hereinafter supervisory agency).
- (2) A supervisory agency shall co-operate with other agencies of executive power within the limits of their authority.

§ 65. Rights and obligations of employees of supervisory agencies

- (1) An employee of a supervisory agency (hereinafter supervisory official) shall, within the limits of his or her competence, exercise state supervision over conformity with the requirements provided by this Act and legislation established on the basis thereof. As a general rule, supervisory operations shall be conducted without giving prior notice.
- (2) A supervisory official shall present his or her identification before conducting a supervisory operation. The right of the supervisory official to conduct supervisory operations shall be set out in his or her identification.
- (3) A supervisory official has the right to enter an immovable where the building of a land improvement system is planned or where a land improvement system is being built or where maintenance work is to be performed, in the presence of the owner of the immovable or a person authorised by the owner or without the presence of those persons provided that the time for staying on the immovable has been agreed beforehand with the owner or the person authorised by the owner, and, where necessary, to enter neighbouring immovables and inspect unhindered conformity with the requirements of this Act and legislation established on the basis thereof.

(4) A supervisory official has the right to demand that a possessor of land, an undertaking specified in § 27 of this Act or a land improvement association submit the necessary information and copies or excerpts of relevant documents and, with the knowledge of that person, to record the situation at the time of the inspection with the aid of technical equipment, to take control samples, without charge, of the building materials and products used or of the soil, to order expert analyses and to perform other necessary acts.

(5) Supervisory officials are required to maintain business secrets of which they become aware during the course of supervision. Personal data may be disclosed pursuant to the Personal Data Protection Act. A business secret may be disclosed if maintaining it could present dangers to the life or health of persons or to the environment.

(6) Expenses caused during a supervisory operation to a possessor of land, an undertaking specified in § 27 of this Act or a land improvement association shall not be compensated for, except expenses caused by the activities of a supervisory official which shall be compensated for pursuant to the provisions of the State Liability Act (RT I 2001, 47, 260; 2002, 62, 377).

§ 66. Special and protective clothing of supervisory officials

(1) A supervisory official shall wear special or protective clothing during certain supervisory operations.

(2) A list of supervisory operations during which supervisory officials are required to wear special or protective clothing shall be established by the Minister of Agriculture.

(3) The costs of acquiring the special or protective clothing specified in subsection (2) of this section shall be covered out of the funds allocated therefor from the state budget.

§ 67. Control samples

(1) Samples obtained in the course of supervision shall be analysed and evaluated by persons or agencies duly accredited for such work.

(2) Expert assessment ordered in the course of supervision shall be conducted by a person who meets the requirements provided in § 27 of this Act or by the LIBSE unless the person has previously conducted an expert assessment of the same building design documentation or land improvement system.

(3) A supervisory agency shall bear the costs for evaluation, analysis and expert assessment of control samples collected in the course of supervision. If it is established on the basis of the sample that the building material or product does not meet the requirements, the

supplier of the building material or product shall bear the costs for evaluation, analysis and expert assessment of a control sample.

§ 68. Investigation of causes of failures of land improvement systems

Land improvement bureaux shall organise the investigation of the causes of failures of land improvement systems. The causes of failures of land improvement systems shall be investigated by the LIBSE whose supervisory officials have the rights and obligations provided in § 65 of this Act while conducting investigations.

§ 69. Precepts of supervisory officials

(1) In the event that an offence is detected, a supervisory official shall issue a precept in which he or she shall:

- 1) call attention to the offence;
- 2) demand that the offence be terminated;
- 3) demand that acts necessary to terminate the offence and prevent further offences be performed or demand that certain acts not be performed;
- 4) set a term for compliance with the precept.

(2) A supervisory official shall communicate the precept to the relevant person or the representative thereof against a signature either on site or by sending the precept to the person by registered letter with advice of delivery within ten working days as of the commencement of the supervisory operation. If the person or the representative thereof refuses to receive the precept, a corresponding notation shall be made on the precept and the precept shall be sent to the person by registered letter with advice of delivery within three working days as of the refusal to receive the precept.

(3) A supervisory official shall send a copy of the precept by unregistered letter to the authorised processor of the relevant register within three working days as of the issue of the precept.

(4) In order to ensure compliance with a precept, the supervisory agency may impose a penalty payment pursuant to the procedure provided by the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580). The upper limit for a penalty payment is 10 000 kroons.

§ 70. Contestation of precept of supervisory official

If the recipient of a precept of a supervisory official does not agree with the precept, the recipient may file a protest with the head of the supervisory agency within ten working days as of being informed of the precept.

§ 71. Communication of results of supervision

The results of supervision shall be published on the websites of the corresponding land improvement bureau and the LIBSE.

Chapter 10

Liability

§ 72. Violation of requirements for building of land improvement systems

(1) Building of a land improvement system without building design documentation or a building permit, or violation of other requirements for the building of land improvement systems 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.

§ 73. Exercise of owner supervision through non-conforming persons

Exercise of owner supervision by a land improvement association through a person who does not conform to the requirements is punishable by a fine of up to 50 000 kroons.

§ 74. Failure to perform obligations related to building of land improvement systems

(1) Failure by the owner of a land improvement system to perform the obligations related to the building of land improvement systems 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.

§ 75. Violation of requirements for management of land improvement systems and requirement to obtain approval provided for in §§ 47 and 48 of this Act

(1) Violation of the requirements for the management of land improvement systems or of the requirement to obtain the approval provided for in §§ 47 and 48 of this Act is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

§ 76. 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 §§ 72–75 of this Act.

(2) The Ministry of Agriculture is the extra-judicial body which conducts proceedings in matters of misdemeanours provided in §§ 72–75 of this Act.

Chapter 11

Implementation of Act

§ 77. Requirements for existing land improvement systems

Land improvement systems built prior to the entry into force of this Act do not need to conform to the requirements of this Act for land improvement systems, although the regulation networks of such land improvement systems shall ensure that the soil water regime is suitable for crop husbandry and the artificial recipients thereof shall ensure the outflow of excess water from the drainage network or a sufficient inflow of water to the irrigation network.

§ 78. Requirements for land improvement systems being built

(1) If the building of a land improvement system commenced prior to the entry into force of this Act, building may be completed in adherence to the requirements valid at that time. Such land improvement systems shall, however, conform to the requirements provided in subsections 4 (1) and (2) of this Act.

(2) A legal instrument concerning the putting of a land improvement system specified in subsection (1) of this section into service shall be prepared and approved pursuant to the procedure provided by this Act. In order to decide on the approval of a legal instrument concerning the putting of a land improvement system into service, a land improvement bureau shall verify whether the land improvement system has been built in adherence to the requirements valid before the entry into force of this Act and whether the land improvement system conforms to the requirements provided in subsections 4 (1) and (2) of this Act.

§ 79. Guarantee

The provisions of § 25 of this Act do not apply to land improvement systems which are completed or the building of which commences before the entry into force of this Act.

§ 80. Activity licences in field of land improvement

(1) If an activity licence in the field of land improvement issued to a person before the entry into force of this Act expires after 1 July 2003, the person may continue to operate in the area of activity entered in the activity licence until the expiry date specified therein but not for longer than until 1 July 2004.

(2) The following categories of activity licence issued to persons pursuant to the procedure provided in subsection (1) of this section grant the right to engage in the following areas of activity:

- 1) an activity licence for field surveys grants the right to operate in the field of field surveys related to land improvement;
- 2) an activity licence for design work grants the right to operate in the field of design and owner supervision of land improvement systems;
- 3) an activity licence for expert assessment of building design documentation grants the right to operate in the field of design and owner supervision of land improvement systems;
- 4) an activity licence for construction supervision grants the right to operate in the field of owner supervision;
- 5) an activity licence for construction and reconstruction work grants the right to operate in the field of land improvement construction work.

§ 81. Entry of information concerning existing land improvement systems in register of land improvement systems

(1) Information concerning land improvement systems built before the entry into force of this Act shall be entered in the register of land improvement systems not later than by 1 July 2005.

(2) If the legal instrument concerning the putting of a land improvement system into service is approved during the period from 1 July 2003 to 1 July 2004, the information concerning the land improvement system shall be entered in the register of land improvement systems not later than by 1 October 2004.

(3) A list of information concerning the land improvement systems specified in subsections (1) and (2) of this section to be entered in the register of land improvement

systems, and the procedure for submission of the information to and entry of the information in the register shall be established by the Minister of Agriculture.

(4) Until such time as the register of land improvement systems is fully operational and interbase cross-use of data between the register of land improvement systems and the land register is possible, a certificate issued by the relevant land improvement bureau concerning the owners of the land improvement system together with a copy of the land register entry concerning the ownership of the immovable or, in the case of a cadastral unit which has not been entered in the land register, the certificate of the land cadastre shall be submitted instead of the certificate specified in clause 56 (2) 2) of this Act.

(5) The certificate specified in subsection (4) of this section shall be issued by a land improvement bureau.

§ 82. Preparation of management plans for land improvement systems

(1) Management plans for land improvement systems which conform to the requirements of § 52 of this Act shall be prepared taking account of the fact that the corresponding management plans for river basin sub-districts must be approved by 1 April 2008.

(2) Until such time as the management plan for the land improvement system of an association is approved, the management board of the association shall prepare an annual plan pursuant to subsection 61 (2) of this section with the aim that the maintenance work should ensure the proper functioning of the land improvement system.

§ 83. Recognition of existing land improvement associations

(1) A non-profit association founded prior to the entry into force of this Act whose articles of association specify the management of land improvement systems as one of its objectives and which wishes to continue its operation as a land improvement association on the basis of this Act shall, not later than by 1 July 2005, bring its articles of association into conformity with the requirements for the articles of association of land improvement associations provided for in this Act.

(21.04.2004 entered into force 01.05.2004 - RT I 2004, 32, 227)

(2) The Government of the Republic shall appoint the ministry or county government which will exercise the rights of a member of an association in an association specified in subsection (1) of this section, where the participation of the state is mandatory, within three months as of the articles of association thereof being brought into conformity with this Act.

§ 84. Transfer of land improvement systems to owners

(1) In the event of the return, privatisation or municipalisation of land as provided for in the Land Reform Act (RT 1991, 34, 426; RT I 2001, 52, 304; 93, 565; 2002, 11, 59; 47, 297 and 298; 99, 579; 100, 586), the Ministry of Agriculture shall organise, through the land improvement bureaux, the transfer of documents concerning land improvement systems located on the land specified in subsection 31 (2) of the Land Reform Act (state assets within the area of government of the Ministry of Agriculture) to the entitled subjects of the land reform. The documents shall be transferred free of charge.

(2) In order to transfer the documents specified in subsection (1) of this section, the local government shall submit a copy of the decision or contract to return the land, and the county governor or a person authorised by the governor shall submit a copy of the decision or contract to privatise the land, to the land improvement bureau within five working days as of the decision being made or the contract being entered into.

(3) The requirements for the documents to be submitted concerning land improvement systems and the procedure for submission thereof shall be established by the Minister of Agriculture.

§ 85. Retention of land improvement systems in state ownership, and land improvement systems still in state ownership

(1) If land is retained in state ownership, the Ministry of Agriculture shall organise the transfer of documents concerning land improvement systems to the relevant administrator of state assets.

(2) The relevant county government shall exercise the rights and perform the obligations of an administrator of state assets with respect to land improvement systems located on the land specified in subsection 31 (2) of the Land Reform Act, unless another state agency has been appointed by the Government of the Republic.

§ 86. Application of Act to holders of right to use land

The rights and obligations of owners of immovables provided for in this Act also extend to holders of a right to use land which arose prior to 1 November 1991.

§ 87. Amendment of Shores and Banks Protection Act

Subsection 20 (1) of the Shores and Banks Protection Act (RT I 1995, 31, 382; 1999, 95, 843; 2001, 50, 290; 2002, 61, 375; 63, 387; 99, 579) is amended and worded as follows:

“(1) Pursuant to the Land Tax Act (RT I 1993, 24, 428; 1996, 41, 797; 89, 1589; 1997, 82, 1398; 1999, 27, 381; 95, 840; 2000, 95, 612; 2001, 102, 666; 2002, 44, 284), the land of shore paths and water protection zones is not subject to taxation.”

§ 88. 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) section 197¹¹ is added to the Act worded as follows:

“§ 197¹¹. Application for building permit for land improvement system

A state fee of 300 kroons shall be paid upon application for a building permit for a land improvement system.”;

2) subsection (4) is added to § 216¹ worded as follows:

“(4) Until 30 June 2004, no state fee is charged for amendment of information entered in the register of non-profit associations and foundations by non-profit associations whose articles of association specify the management of land improvement systems as one of their objectives and which bring their articles of association into conformity with the requirements for the articles of association of land improvement associations established by the Land Improvement Act.”

§ 89. Amendment of Rural Development and Agricultural Market Regulation Act

The Rural Development and Agricultural Market Regulation Act (RT I 2000, 82, 526; 2001, 42, 235; 88, 531; 2002, 16, 93; 56, 352; 96, 566) is amended as follows:

1) clause 17 is added to subsection 3 (2), worded as follows:

“17) support for land improvement associations;”;

2) in § 15, the words "pursuant to § 29 of the Accounting Act (RT I 1994, 48, 790; 1995, 26–28, 355; 92, 1604; 1996, 40, 773; 42, 811; 49, 953; 1998, 59, 941; 1999, 55, 584; 101, 903)" are substituted by the words " pursuant to the Accounting Act (RT I 2002, 102, 600)";

3) in clause 39 (1) 1), the words “, and if at least 70 per cent of the plot of land is used for its intended purpose” are omitted;

4) the Act is amended by adding §§ 68¹²–68¹⁴ worded as follows:

“§ 68¹². Support for land improvement association

(1) Support for a land improvement association is financial assistance used as partial compensation for the foundation expenses of the first financial year and administrative expenses of the following two years of operation of a land improvement association.

(2) The list of expenses for the compensation of which support is granted shall be established by the Government of the Republic or, on the authorisation thereof, by the Minister of Agriculture.

§ 68¹³. Applicants for support for land improvement association

A non-profit association whose articles of association specify the management of land improvement systems as its objective and which operates on the basis of and pursuant to the procedure provided for in the Land Improvement Act may apply for support for a land improvement association.

§ 68¹⁴. Rate of support for land improvement association

(1) Support for a land improvement association is granted to an extent of up to 75 per cent of the foundation and administrative expenses of the first financial year of operation, up to 65 per cent of the administrative expenses of the second financial year and up to 50 per cent of the administrative expenses of the third financial year.

(2) The Minister of Agriculture shall establish the rate of support to be granted during a financial year and the maximum amount of support to be granted to an applicant within the limits of the rate of support for land improvement associations provided for in subsection (1) of this section.”;

5) the Act is amended by adding §§ 96⁹–96¹⁰ worded as follows:

“96⁹. Application for and grant of support for land improvement association

(1) In order to obtain support for a land improvement association, an application and documents certifying the information presented therein shall be submitted to the Board by the prescribed due date.

(2) The Board shall check the accuracy of the information and the compliance of the applicant with the requirements for the receipt of support for a land improvement association, and shall decide to award the support or deny the application within ten working days as of the due date for submission of applications.

(3) The Board shall calculate the amount of support for a land improvement association to be paid to an applicant, taking into consideration the prescribed rate of support and the maximum amount of support to be granted to one applicant.

§ 96¹⁰. Payment of support for land improvement association

Support for a land improvement association shall be paid within thirty working days as of the decision to grant the support being made.”

§ 90. Repeal of existing Land Improvement Act

The Land Improvement Act (RT I 1994, 34, 534; 2002, 53, 336) is repealed.

§ 91. Entry into force of Act

This Act enters into force on 1 July 2003, except Chapter 5 which enters into force on 1 July 2004.

¹ RT = *Riigi Teataja* = *State Gazette*

² *Ametlikud Teadaanded* = *Official Notices*