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Trading Act

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Amended by the following acts

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26.11.2009	RT I 2009, 62, 405	01.01.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011 enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, pp. 24–26).
23.02.2011	RT I, 25.03.2011, 1	01.01.2014; date of entry into force changed to 01.07.2014 [RT I, 22.12.2013, 1]
05.12.2013	RT I, 22.12.2013, 1	01.01.2014
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05.06.2014	RT I, 29.06.2014, 1	01.07.2014
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
21.11.2018	RT I, 12.12.2018, 3	01.01.2019
20.02.2019	RT I, 13.03.2019, 2	15.03.2019

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application of Act

(1) This Act provides the bases of and procedure for trading, the organisation of supervision of trading and liability for violations of this Act.

(2) To the extent not regulated by other legislation, this Act applies to economic and professional activities within the framework of which the following takes place:

- 1) offer and sale of movables and provision of services related to the sold movables;
[RT I 2008, 8, 58 - entry into force 15.05.2008]
- 2) transfer and taking into possession or grant of use and taking into use of movables;
[RT I 2008, 8, 58 - entry into force 15.05.2008]
- 3) creation or alteration of movables in accordance with an order placed by a client;
- 3¹) maintenance or repair of movables;
[RT I 2008, 8, 58 - entry into force 15.05.2008]

- 3²) offer and provision of building cleaning services;
[RT I 2008, 8, 58 - entry into force 15.05.2008]
4) offer and provision of beauty treatment and personal services;
5) catering;
6) organisation of street and market trading, and organisation of trading at public events.

(3) This Act also applies to cases where a person offers and sells movables outside the economic or professional activities thereof by way of street or market trading or at a public event.

(4) The provisions of the Administrative Procedure Act apply to the administrative procedure prescribed in this Act, taking account of the specifications arising from this Act.

§ 2. Definitions

In this Act, the following definitions are used:

- 1) "trader" means a person or body which, within the framework of the economic or professional activities thereof, offers and sells goods or offers and provides services;
- 2) "organiser of trading" means a person or body which, within the framework of the economic or professional activities thereof, organises street or market trading or trading at public events, including fairs and trade fairs;
- 3) "seller" means a natural person who serves clients on behalf of a trader, or a person who sells goods or provides services outside the economic or professional activities thereof by way of street or market trading;
- 4) "goods" mean movables offered for sale or being sold;
- 5) "client" means a consumer within the meaning of the Consumer Protection Act (hereinafter *consumer*), or a person who is not a consumer but wishes to enter into a transaction or concludes a transaction with a trader;
- 6) "place of sale" means a place where a trader directly offers and sells goods or offers and provides services;
- 7) "e-trade" means the offer for sale or sale of goods or services on the Internet without the parties being simultaneously physically present.

[RT I 2008, 8, 58 - entry into force 15.05.2008]

§ 3. Trading

(1) For the purposes of this Act, trading means the activity of a person or body within the framework of which the activities specified in clauses 1 (2) 1)–5) of this Act (hereinafter *sale of goods or services*) and the activity specified in clause 6) are conducted.

(2) Trading is divided into:

- 1) wholesale trade, where goods and services related to such goods are sold to a person who is not a consumer;
- 2) retail trade, where goods and services related to such goods are sold to a client, and where related activities may involve the preparation and serving of food;

[RT I 2008, 8, 58 - entry into force 15.05.2008]

3) catering, where food is sold together with its preparation and serving or just its serving for consumption on the premises. Upon catering, related goods may be sold and supplementary services may be provided;

[RT I 2008, 8, 58 - entry into force 15.05.2008]

4) service, where work is performed in accordance with an order placed by a client and whereby a new movable is created or an existing movable or its characteristics are maintained, improved or altered, or possession or use of a movable is granted or taken, or building cleaning services or beauty treatment and personal services (hereinafter *services*) are offered or provided and goods related to such services are sold;

[RT I 2008, 8, 58 - entry into force 15.05.2008]

5) organisation of street or market trading or organisation of trading at public events where the organiser of trading organises the sale of goods or services or catering through a place of business which is in the possession of the organiser of trading.

[RT I 2008, 8, 58 - entry into force 15.05.2008]

Chapter 2 REQUIREMENTS FOR TRADERS, ORGANISERS OF TRADING AND SELLERS

§ 4. Requirements for traders and organisers of trading

(1) A trader is required to:

- 1) create conditions which meet the requirements for the sale of goods or services and guarantee that the requirements will be adhered to;
- 2) ensure it has staff with the training necessary for the work;
- 3) verify, when receiving goods, that they correspond to the accompanying document and that the accompanying document meets the established requirements;
- 4) ensure that the requirements established for goods and services are met;
- 5) ensure that correct information which meets the requirements is provided concerning the goods or services being sold;
- 6) ensure that settlements and measurements are accurate;

7) be in possession of the accompanying document of the goods and present such document to the person exercising supervision at the request thereof, except in cases where it is impossible to present the document at the moment of inspection due to other obligations imposed on the trader by law;

8) present the documents certifying the conformity of the goods to the person exercising supervision at the request thereof and by the date determined thereby;

9) [repealed - RT I, 25.03.2011, 1 - entry into force 01.07.2014 (entry into force changed - RT I, 22.12.2013, 1)]

10) provide the place of business with a sign setting out the business name of the trader and information on the time of trading and, if the place of business has a name, also the name of the place of business. Upon operation in the field of wholesale trade, it is not mandatory to display the time of trading at the place of business;

[RT I 2008, 8, 58 - entry into force 15.05.2008]

11) disclose, upon sale of goods or services by way of e-trade on the Internet, the business name or name, address of the seat and contact details of the trader, the price of the goods or services in accordance with the provisions of the Consumer Protection Act and information relating to e-trade provided for in the Law of Obligations Act and the Information Society Services Act;

[RT I 2008, 8, 58 - entry into force 15.05.2008]

12) ensure that the sale of goods or services at the place of business does not damage the interests of persons who reside or regularly stay in the immediate vicinity of the place of business.

[RT I, 29.06.2014, 1 - entry into force 01.07.2014]

(2) It is prohibited for a trader to:

1) illegally restrict or favour the sale of goods or services or to influence clients through disparagement of the goods or services of other traders, prohibited use of a business name or in any other manner which is contrary to good trade ethics and practice;

2) sell goods the handling of which is prohibited by law;

3) accept goods for sale from a person who does not have the right to handle the goods in such manner if that activity is restricted by law.

4) [repealed - RT I 2008, 8, 58 - entry into force 15.05.2008]

(3) An organiser of trading is required to:

1) ensure that a place of business meets the requirements established for the sale of goods or services which it is permitted to sell at that place;

[RT I 2008, 8, 58 - entry into force 15.05.2008]

2) ensure that goods and services are sold at a place of sale and during the time of trading prescribed for such purposes;

3) ensure that the requirements provided for in §§ 19 and 20 of this Act are met;

4) issue a selling permit pursuant to the requirements provided for in § 18 of this Act.

§ 5. Requirements for sellers

(1) A natural person serving clients on behalf of a trader shall:

1) have specialist knowledge and knowledge of the goods or services being sold and adhere to the requirements established for the sale thereof;

2) orally provide additional information concerning the characteristics, origin, conditions for use, price and warranty against defects of the goods or services being sold and the meaning of internationally used or generally recognised symbols at the request of the client and in addition to the written information pertaining to the goods or services;

3) [repealed - RT I 2008, 8, 58 - entry into force 15.05.2008]

4) when selling goods or services outside the place of business of the trader, prove, at the request of a client or an official exercising supervision, his or her right to serve clients on behalf of the trader.

(2) A person who sells goods or services outside the economic or professional activities thereof by way of street or market trading or at a public event shall:

1) have knowledge of the goods or services sold by him or her;

2) adhere to the requirements established for the sale of the goods or services;

3) wear in a visible place a name tag with his or her name on it.

Chapter 3 REQUIREMENTS FOR GOODS AND SERVICES AND SALE THEREOF

§ 6. Requirements for goods and services

(1) Goods and services being sold shall meet the requirements established for such goods and services by legislation.

(2) The provisions of subsection (1) of this section extend to:
1) the provision of services related to the sale of goods;
2) the sale of goods related to the provision of services;
3) goods delivered and services provided without charge upon the sale of goods or services and goods delivered or services provided for the purpose of sales promotion in any manner.
[RT I 2008, 8, 58 - entry into force 15.05.2008]

(3) If goods are being sold by weight, volume or measure according to an order placed by a client and if relevant information is accessible in the immediate vicinity of the goods at the place of sale, the labelling on the goods packaged by the seller need not conform to the requirements set by legislation for the sales packaging of goods.

(4) A minister authorised by the Government of the Republic may establish the requirements for labelling of goods and the methods for determining the composition or characteristics of goods which are to be set out on the labelling.

§ 7. Requirements for sale of goods and services

(1) The sale of goods and services shall conform to the requirements established for the sale of such goods and services by legislation.

(2) Upon the sale of goods which do not conform to the requirements established by law or upon the sale of second-hand goods, information to this effect shall be displayed at the place of sale of the goods.

(3) Upon the sale of goods or services at a place of sale located outside a wholesale, retail, catering or service establishment or outside a place of sale, the trader is required to communicate the business name or name and the contact details of the trader and the name and sales price of the goods and services to the client.

(4) If work related to the fulfilment of an order is to be performed without the presence of the client, the trader is required to issue a document or token to the client which certifies acceptance of the order. The token shall enable identification of the trader by business name, name or registry code. If an order is fulfilled in the presence of the client, a document certifying acceptance of the order shall be issued to the client at the client's request.

§ 8. Accompanying document

(1) For the purposes of this Act, an accompanying document is a document accompanying goods which enables the goods to be identified and bears the requisite information established for source documents by the Accounting Act.

(2) [Repealed - RT I 2008, 8, 58 - entry into force 15.05.2008]

(3) The provisions of subsection (1) of this section do not apply to the activities of a person specified in subsection 5 (2) of this Act.

§ 9. Settlement

(1) [Repealed - RT I 2010, 22, 108 - entry into force 15.01.2011]

(2) Upon payment for goods or services by payment card, the trader shall provide the means for the card to be used in the presence of the client if the client so desires.

§ 10. Trade information

(1) Trade information is:

1) information concerning goods, services or the conditions of their sale which is provided for clients at the place of sale;

2) a sign indicating the place of business and setting out the business name of the trader, the trade mark, domain name and the type of the place of business in a manner which the client can understand and, if the place of business has a name, also the name of the place of business;

[RT I 2008, 8, 58 - entry into force 15.05.2008]

3) information on the time of trading displayed at the place of business.

(2) A sign indicating the place of business may be located only at the place of sale, next to the entrance to the place of business or on the building where the place of business is situated or in all the specified places at the same time.

[RT I 2008, 8, 58 - entry into force 15.05.2008]

(3) Information concerning the time of trading shall be displayed on the door or in the shop window next to the entrance to the place of business or at the place of sale.

(4) The trader shall provide information on suspension or termination of its activities in the manner specified in subsection (3) of this section.

(5) The provisions of subsection (3) of this section do not apply to places of business of traders engaged in wholesale trade.

§ 11. Communication of discount sale of goods

(1) The words "*lõpumüük*" [final sale], "*tühjendusmüük*" [everything must go], "*sulgemismüük*" [closing down sale] or other words or expressions with a similar meaning may be used to provide information about the sale of goods at a discount if:

- 1) all the goods for sale or a limited selection of the goods are to be put on final sale;
- 2) the sale is for a limited period of time;
- 3) the price of the goods to be sold under such conditions is significantly lower than the usual price.

(2) The words "*soodusmüük*" [sale], "*allahindlus*" [discount] or other words or expressions with a similar meaning may be used to provide information about the sale of goods at a discount if:

- 1) it is the goods normally sold by the trader which are to be sold at a discount;
- 2) the sale is for a limited period of time;
- 3) the price of the goods to be sold under such conditions is significantly lower than the usual price.

Chapter 4 PLACE OF BUSINESS UPON SALE OF GOODS OR SERVICES

[RT I, 29.06.2014, 1 - entry into force 01.07.2014]

§ 12. Engagement in trading

[Repealed - RT I, 29.06.2014, 1 - entry into force 01.07.2014]

§ 13. Registration application

[Repealed - RT I, 29.06.2014, 1 - entry into force 01.07.2014]

§ 14. Place of business

(1) For the purposes of this Act, a place of business means a trader's place of sale which is included in a wholesale, retail, catering or service establishment and which may include production, storage and other facilities.

[RT I 2008, 8, 58 - entry into force 15.05.2008]

(1¹) In the case of e-trade, the address of the website is deemed to be the place of business.
[RT I 2008, 8, 58 - entry into force 15.05.2008]

(2) A place of sale and a seasonal extension located in its immediate vicinity outside the indoor facilities of the place of sale are deemed to be one place of sale.

(3) A seasonal extension of a place of sale shall be approved by the rural municipality or city government.

(4) Regardless of the number of places of sale, the following are deemed to be one place of business:

- 1) the places of sale of one trader at a particular public event;
- 2) a mobile shop;
- 3) the entire delimited notional area where a trader sells goods or services on a seasonal basis;
- 4) the entire delimited notional area where an organiser of trading organises the sale of goods or services.

§ 15. Shops, stands and mobile shops

(1) A shop is a place of business of a trader engaged in retail trade which is a separate building or located in part of a building, on board a water craft or aircraft used to provide passenger services or on board a passenger train and which includes a sales area.

(2) A stand is a place of business of a trader which is a separate building or located in part of a building, on board a water craft or aircraft used to provide passenger services or on board a passenger train and which does not include a sales area.

[RT I 2008, 8, 58 - entry into force 15.05.2008]

(3) A mobile shop is a motor vehicle which has been adapted for the retail sale of goods and which travels on a commercial service route formed of places of sale located in the territory of one or more rural municipalities or cities and which need not have a sales area.

(4) A sales area is such space in a shop which is in the possession of a trader and where goods are offered for sale and into which the client enters in order to select goods and conclude a contract.

§ 16. Registration procedure

[Repealed - RT I, 29.06.2014, 1 - entry into force 01.07.2014]

Chapter 5 STREET AND MARKET TRADING AND TRADING AT PUBLIC EVENTS

§ 17. Street and market trading

(1) In street trading, a trader or a person specified in subsection 5 (2) of this Act operating on the basis of a selling permit sells goods or services at a place of sale in the ownership or possession of an organiser of trading on a street or in another similar place open to the public, as permitted by the rural municipality or city government.

(2) In market trading, a trader or a person specified in subsection 5 (2) of this Act operating on the basis of a selling permit sells goods or services during a set time of trading at a place of sale in the ownership or possession of an organiser of trading at a set location, as permitted by the rural municipality or city government.

(3) Any seasonal extension to a trader's place of sale outside the indoor facilities of the place of sale and in its immediate vicinity is not deemed to be street trading.

(4) In addition to the provisions of this Act, a local government may establish a procedure for street or market trading.

§ 18. Selling permit

(1) A selling permit is a document issued by an organiser of trading which constitutes the basis for the sale of goods or services under the conditions indicated therein.

(2) A selling permit shall set out:

1) the name and seat of the organiser of trading;

[RT I, 25.03.2011, 1 - entry into force 01.07.2014 (entry into force changed - RT I, 22.12.2013, 1)]

2) the name and registry code of the trader, the name of the corresponding register and the seat of the trader or, the name of a natural person, his or her personal identification code or, in absence of the latter, date of birth, and address;

3) the number of the selling permit;

4) the location of the place of sale;

5) a list of goods or services to be sold at the place of sale;

6) the time of trading;

7) the validity of the selling permit;

8) the price of the selling permit.

(3) [Repealed -RT I, 13.03.2019, 2 - entry into force 15.03.2019]

(4) The number of a selling permit is a non-recurrent combination of figures which is determined by an organiser of trading.

(5) [Repealed -RT I, 13.03.2019, 2 - entry into force 15.03.2019]

§ 19. Restrictions on sale

(1) It is prohibited to sell the following by way of market trading:

1) goods or services if the notice of economic activities to be submitted in connection with their sale must set out the definition of the goods or services sold as provided by law or for the sale of which an activity licence is required;

[RT I, 25.03.2011, 1 - entry into force 01.07.2014 (entry into force changed - RT I, 22.12.2013, 1)]

2) goods on the basis of a catalogue, printed advertisement or other printed matter;

3) audiovisual recording media containing a recording and blank audiovisual recording media;

4) computer programs on data media or installed on a hard disk;

5) other goods or services in the cases provided by law.

(2) In addition to the provisions of subsection (1) of this section, the sale of second-hand industrial goods and the sale of animals within the meaning of the Animal Protection Act (hereinafter *animals*) is prohibited by way of street trading.

(3) Young plants sold by way of street trading shall be sold in a place of sale which is separately marked off for that group of goods.

(4) Foodstuffs, animals, young plants and second-hand industrial goods, including motor vehicles, may be sold by way of market trading only in a place of sale which is separately marked off for those goods.

§ 20. Trading at public events

(1) A trader or a person specified in subsection 5 (2) of this section may sell goods or services at a public event on the basis of a selling permit issued by the organiser of trading.

(2) The provisions of § 18 of this Act apply to organisers of trading at public events and to selling permits issued thereby.

(3) The provisions of subsection (1) of this section do not release the trader from the obligation to comply with the appropriate authorisation obligation or notification obligation effective in respect of sale of the goods or services.

[RT I, 25.03.2011, 1 - entry into force 01.07.2014 (entry into force changed - RT I, 22.12.2013, 1)]

(4) It is not permitted to sell goods or services at a public event if their sale at public events is prohibited by law.

(5) In addition to the provisions of this Act, a local government may establish a procedure for the sale of goods or services at public events.

Chapter 6 SUPERVISION

§ 21. State supervision

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(1) State supervision over compliance with the requirements of this Act and legislation established on the basis thereof, except health protection requirements, shall be exercised by the Consumer Protection and Technical Regulatory Authority.

[RT I, 12.12.2018, 3 - entry into force 01.01.2019]

(2) State supervision over compliance with the health protection requirements shall be exercised by the Health Board.

(3) State supervision over compliance with the requirements for the place of business of a trader and the requirements for trading in markets, streets and at public events and the existence of a due accompanying document shall be exercised by the rural municipality or city government within its administrative territory.

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

§ 22. Special state supervision measures

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

In order to exercise state supervision provided for in this Act, a law enforcement authority may apply the special state supervision measures provided for in §§ 30, 31, 32, 49, 50 and 51 of the Law Enforcement Act on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

§ 23. Penalty payment rate

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

Upon failure to comply with a precept, the upper limit of the penalty payment imposed pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act is 640 euros.

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

Chapter 7

LIABILITY

§ 24. Operation in place of business not meeting requirements

[Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 25. Sale of goods or services in place of business without required sign

[Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 26. Sale of goods or services in place not intended for such sale

(1) Sale of goods or services by a trader or seller or organisation of the sale of goods or services by an organiser of trading in a place not intended for such sale, or sale or organisation of the sale of goods or services which are not intended for sale in the given place of sale –
is punishable by a fine of up to 200 fine units.

The same act, if committed by a legal person, –

is punishable by a fine of up to 2600 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 27. Sale of goods or services without corresponding notation in registration

[Repealed - RT I, 29.06.2014, 1 - entry into force 01.07.2014]

§ 28. Violation of requirements established for selling permits and issue thereof

[Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 29. Operation without selling permit

(1) Operation by a trader or seller without a selling permit, if such a permit is required, –
is punishable by a fine of up to 50 fine units.

The same act, if committed by a legal person, –

is punishable by a fine of up to 640 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 30. Violation of requirements established for sale of goods or services

[Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 31. Sale of goods or services not meeting requirements

(1) Sale by a trader or seller of goods or services which do not meet the requirements –
is punishable by a fine of up to 300 fine units.

The same act, if committed by a legal person, –

is punishable by a fine of up to 3200 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 32. Absence or failure to present accompanying document upon sale of goods

[Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 33. Procedure

(1) Extra-judicial proceedings concerning the misdemeanours provided for in § 26 of this Act shall be conducted by:

1) the Consumer Protection and Technical Regulatory Authority;

[RT I, 12.12.2018, 3 - entry into force 01.01.2019]

2) the Health Board;

3) the Police and Border Guard Board;

4) rural municipality or city governments.

(2) Extra-judicial proceedings concerning the misdemeanour provided for in § 29 of this Act shall be conducted by:

1) the Consumer Protection and Technical Regulatory Authority;

[RT I, 12.12.2018, 3 - entry into force 01.01.2019]

2) the Police and Border Guard Board;

3) rural municipality or city governments.

(3) Extra-judicial proceedings concerning the misdemeanours provided for in § 31 of this Act shall be conducted by:

1) the Consumer Protection and Technical Regulatory Authority;

[RT I, 12.12.2018, 3 - entry into force 01.01.2019]

2) the Health Board;

3) the Police and Border Guard Board.

[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

Chapter 8

IMPLEMENTING PROVISIONS

§ 34. Transitional provisions

(1) Trade licences issued for a specified term before the entry into force of this Act are valid until the date entered therein or until the information specified therein changes, but not for longer than until 15 April 2005.

(2) Trade licences issued for an unspecified term before the entry into force of this Act are valid until the information specified therein changes, but not for longer than until 15 April 2005.

(3) The bases for deleting registrations apply to the revocation of trade licences until 15 April 2005.

(4) Traders engaged in wholesale trade before the entry into force of this Act are permitted to operate without registration until 15 September 2004.

§ 35. Entry into force of Act

This Act enters into force on 15 April 2004.