

## Ambient Air Protection Act

Passed 22 April 1998,

(RT<sup>1</sup> I 1998, 41/42, 624),

entered into force 1 January 1999,

amended by the following Acts:

19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387;

19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375;

09.05.2001 entered into force 01.01.2002 - RT I 2001, 50, 283;

08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843;

20.01.1999 entered into force 01.01.2000 - RT I 1999, 10, 155.

### Chapter 1

#### General Provisions

#### **§ 1. Scope of application of Act**

(1) This Act regulates activities which involve the emission of pollutants into the ambient air, damage to the ozone layer, and appearance of factors which cause climate change.

(2) Standards for air inside buildings are not established on the basis of this Act.

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

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

#### **§ 2. Quality and level of pollution of ambient air**

(1) The quality of ambient air is the condition characterising the composition of the ambient air that is assessed on the basis of the level of pollution.

(2) The level of pollution is the concentration of a pollutant in the ambient air or the deposition of a pollutant on the ground during a specific period of time which is established by the procedure for the determination of the level of pollution. The procedure for the determination of the level of pollution shall be established by a regulation of the Minister of the Environment.

(3) The limit value of the level of pollution, the target value of the level of pollution and the alert threshold of a pollutant shall be established by regulations of the Minister of the Environment, and are defined as follows:

1) the limit value of the level of pollution is the permissible volume of a pollutant per unit of volume of ambient air at which level the effect of the pollutant does not damage human health or the environment during the period specified in subsection (2) of this section;

2) the target value of the level of pollution is the volume of a pollutant per unit of volume of ambient air which determines another level of pollution for a specified term in order to avoid harmful effects on human health or the environment;

3) the alert threshold of a pollutant is the volume of a pollutant per unit of volume of ambient air, which when exceeded requires the implementation of measures to protect human health.

(4) For the purposes of this Act, a pollutant is a substance or a mixture of substances which is emitted into the ambient air as a result of human activity and which may have harmful effects on human health, the environment or property.

### **§ 3. Emission limit value of pollutant**

(1) The emission limit value of a pollutant is a calculated standard at which a pollutant emitted into the ambient air from a specific stationary source of pollution and from all other sources in the same area shall not exceed the limit value of the level of pollution of the ambient air.

(2) The emission limit value from a stationary source of pollution per second and per year shall be established by an ambient air pollution permit.

### **§ 4. Environmental targets established for emissions**

(1) The following environmental targets for emissions shall be established by a regulation of the Minister of the Environment:

1) the limit value of emissions of a pollutant per unit of volume of gases emitted from a combustion plant;

2) the limit value of emissions of a pollutant per production unit or unit of energy;

3) the limit value of emissions of a pollutant per unit of distance travelled by or unit of energy of a mobile source of pollution.

(2) The procedure and methods for determination of the emission levels of a pollutant shall be established by a regulation of the Minister of the Environment.

### **§ 5. Sources of pollution**

(1) A source of pollution is a source which emits pollutants into the ambient air. Sources of pollution are divided into stationary and mobile sources of pollution.

(2) A stationary source of pollution is a source of pollution with a permanent location.

(3) A mobile source of pollution is a motor vehicle or non-road mobile machinery which uses gaseous, liquid or solid fuel.

## Chapter 2

### Reduction of Pollution of Ambient Air

#### **§ 6. Measures to reduce level of pollution**

(1) If the emission of pollutants into the ambient air is regulated by international agreements, the summated emission limit value of the pollutants from stationary sources of pollution in a county shall be established by a regulation of the Government of the Republic.

(2) In the interests of the protection of human health and the environment and in order to disperse pollutants, rural municipality and city governments may in the case of unfavourable meteorological conditions:

1) restrict the movement and use of motor vehicles and non-road mobile machinery with traffic signs, with the exception of emergency and road service vehicles;

2) restrict the operation of stationary sources of pollution in specific areas of their administrative territory according to the conditions set out in the ambient air pollution permit.

(3) In order to prevent the established limit value of the level of pollution being exceeded, rural municipality and city governments may temporarily or permanently restrict the movement of motor vehicles and non-road mobile machinery in a specific area, recreation area or tourist area.

#### **§ 7. Mandatory state monitoring of quality of ambient air**

(1) Lists of cities, other high density areas and rural areas and pollutants subject to mandatory determination therein shall be established by a regulation of the Minister of the Environment.

(2) The duties of a possessor of a stationary source of pollution with regard to monitoring of the quality of the ambient air in the area affected by the source of pollution, and the procedure for submission of information obtained from the monitoring to the person organising the state monitoring of the quality of the ambient air shall be determined by an ambient air pollution permit.

#### **§ 8. Restrictions on manufacture, use and import of goods**

(1) Lists of goods, the manufacture, use, import, export or transit of which is restricted or prohibited in the interests of the protection of the ambient air, shall be approved by a regulation of the Government of the Republic.

(2) Substances which deplete the ozone layer and products which contain such substances, the manufacture, use, import, export or transit of which is restricted or

prohibited, shall be determined and the control requirements for such substances shall be established by a regulation of the Government of the Republic.

(3) Goods subject to the restrictions or prohibitions specified in subsections (1) and (2) of this section may only be manufactured, used, imported, exported or in transit with the authorisation of the Ministry of the Environment.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(4) The procedure for application for and granting of authorisation shall be established by the Minister of the Environment.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

### **§ 9. Requirements for fuel**

(1) Fuel is a solid, liquid or gaseous combustible material or substance which is used in combustion plants for the purpose of obtaining energy. Untreated municipal waste and hazardous waste, regardless of the combustible substances contained therein, are not deemed to be fuel.

(2) Quality requirements for the composition and physical properties of fuels manufactured or used in Estonia or imported into Estonia shall be established by a regulation of the Minister of Economic Affairs.

(3) Natural and legal persons selling fuel shall verify conformity of the fuel to quality requirements upon receipt of the fuel for sale.

(4) Upon transport, storage, delivery or use of fuel, the persons selling or consuming the fuel shall ensure that the emission of pollutants into the ambient air is minimal.

(5) The control requirements for the transport, storage and quality of fuel shall be established by a regulation of the Government of the Republic.

### **§ 10. Standards for content of pollutants and smoke in exhaust gases of motor vehicles and non-road mobile machinery**

The standards for the content of pollutants and smoke in the exhaust gases of motor vehicles and non-road mobile machinery shall be established by a regulation of the Minister of the Environment.

## Chapter 3

### Ambient Air Pollution Permit

### **§ 11. Ambient air pollution permit and issuer thereof**

(1) Pollutants may be emitted into the ambient air from a stationary source of pollution on the basis of an ambient air pollution permit and a special pollution permit, unless otherwise provided for in this section.

(2) The emission levels of pollutants and capacities of plants used are established by a regulation of the Minister of the Environment; in the case of lower emission levels or capacities of plants used, an ambient air pollution permit is not required.

(3) The issuers of ambient air pollution permits to possessors of stationary sources of pollution are:

1) environmental authority of the location of the source of pollution, if the height of emission of pollutants is up to 100 metres above ground level;

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

2) the Ministry of the Environment, if the height of emission of pollutants from at least one source of pollution in the possession of a possessor of a source of pollution is greater than 100 metres above ground level.

(4) The possessor of a stationary source of pollution is required to apply for a special pollution permit:

1) if the technology of the production process or the plant leads to the emission limit value of a pollutant permitted by a pollution permit being exceeded for a short period of time;

2) in the case of activities which cause the limit value of the level of pollution of the ambient air to be exceeded for a short period of time;

3) in the case of incineration of waste.

(5) The methods and levels of the emission of pollutants permitted by a special pollution permit shall be safe to humans and to the environment. The following shall be determined by a special pollution permit:

1) the place of emission and the method of treatment;

2) the waste being treated and the quantity thereof;

3) the meteorological conditions;

4) the term.

(5<sup>1</sup>) The provisions concerning open proceedings apply to proceedings of application for and issue of ambient air pollution permits and special pollution permits, taking account of the specifications provided for in this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(6) The procedure for application for and issue of pollution permits and special pollution permits shall be established by a regulation of the Minister of the Environment.

§ 12. Making application for pollution permit public

(1) Within two weeks after the receipt of an application for a pollution permit from the possessor of a new stationary source of pollution or a stationary source of pollution under reconstruction, the issuer of the pollution permit shall publish a notice concerning the initiation of proceedings in the official publication *Ametlikud Teadaanded*<sup>2</sup>.

(2) The issuer of a pollution permit is required to send a copy of the application to the rural municipality or city government of the location of the source of pollution. The rural municipality or city government shall present its position concerning the application not later than within one month after receipt of the copy of the application.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

#### § 12<sup>1</sup>. Public session

In order to ensure the protection of persons to whom the emission of pollutants into the ambient air from a stationary source of pollution may cause material damage or whose interests may in some other way be damaged thereby, the issuer of pollution permits may hold a public session on its own initiative or at the request of a participant in the proceedings.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

### **§ 13. Preferential right to emit pollutants into ambient air**

If the limit value of the level of pollution of the ambient air does not permit all applications for a pollution permit to be satisfied, the following have a preferential right to obtain a pollution permit:

- 1) persons who generate energy for housing, hospitals, social welfare institutions, child care institutions and educational institutions;
- 2) persons with lower emission levels of pollutants per unit of similar production.

### **§ 14. Content of pollution permit**

(1) The following shall be determined by a pollution permit:

- 1) the place and method of emission of pollutants into the ambient air;
- 2) the names and emission limit values of the pollutants being emitted into the ambient air;
- 3) the term of the pollution permit;
- 4) monitoring of the quality of the ambient air in the area affected by the source of pollution;
- 5) requirements for the monitoring of the volume of pollutants emitted and for determination of the efficiency of treatment plants;
- 6) the need to clean pollutants and the method thereof.

(2) A pollution permit may contain requirements that are not specified in this section but are established by or on the basis of law.

### **§ 15. Term of pollution permit**

(1) A pollution permit may be issued for up to ten years.

(2) The issuer of a pollution permit may amend the conditions of or revoke a pollution permit if:

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

1) the requirements of the pollution permit or legislation have been repeatedly violated;

2) inaccurate information has been submitted upon application for the permit;

3) the emission of pollutants into the ambient air has resulted in harmful consequences which could not have been foreseen upon issue of the permit;

4) environmental targets are amended by legislation;

5) the possessor of the source of pollution changes the technological process.

(3) Upon the division of activities or merger of the possessor of a stationary source of pollution or upon the transfer of a source of pollution to another possessor, the pollution permit becomes invalid three months after the date of change of the possessor.

(4) A new possessor of a stationary source of pollution is required to apply for a new pollution permit after the liquidation, division or merger of the former possessor.

(5) The possessor of a source of pollution is required to notify the issuer of the pollution permit and the city or rural municipality government of the location of the source of pollution immediately of any changes in production or technology which increase the emission levels of pollutants or adversely affect the conditions for the dispersion of pollutants.

### **§ 16. Bases for refusal to issue pollution permit**

(1) The issue of a pollution permit shall be refused if:

1) the applicant for the permit submits inaccurate information;

2) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

3) the application is not in accordance with other legislation;

4) the emission level applied for from a new stationary source of pollution would cause the limit value of the level of pollution to be exceeded in the area affected by the source of pollution;

5) in the case of a new stationary source of pollution, it is not guaranteed that environmental targets established on the basis of this Act will be met;

6) the best available technology is not used upon the commencement of operations of new stationary sources of pollution or upon reconstruction of existing stationary sources of pollution.

(2) A term for compliance with the requirements of clauses (1) 4) and 5) of this section may be established by a pollution permit for stationary sources of pollution under operation.

#### § 17. Making issue of pollution permit public

The issuer of a pollution permit shall make a decision to issue the pollution permit public and send a copy of the pollution permit to the rural municipality or city government of the location of the source of pollution.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

#### § 18. Validity of permit

A pollution permit issued on the basis of this Act becomes valid one month after the date of making of the pollution permit public pursuant to the procedure provided for in this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

### Chapter 4

#### Duties of Possessor of Source of Pollution

#### § 19. Duties of possessor of stationary source of pollution

(1) A possessor of a stationary source of pollution shall ensure that the volume of pollutants emitted into the ambient air from a source of pollution in the possession of the possessor does not cause the limit value of the level of pollution of the area to be exceeded.

(2) The possessor of a stationary source of pollution shall devise methods for restriction of the volume of pollutants emitted into the ambient air in order to reduce the level of pollution in the case of unfavourable meteorological conditions. An order to restrict the emission of pollutants shall be issued by the rural municipality or city government.

#### § 20. Best available technology

(1) A possessor of a stationary source of pollution shall use the best available technology and cleaning installations to reduce emission levels of pollutants in so far as it is technically possible and economically viable, taking into consideration the expenses to be incurred and possible damage.

(2) A possessor of a stationary source of pollution shall verify the efficiency of the cleaning installations for pollutants and maintain documentary records pursuant to the requirements established by the pollution permit.

If a pollution permit requires pollutants to be cleaned, operation without cleaning installations or with defective cleaning installations is prohibited.

### **§ 21. Reporting**

(1) A possessor of a stationary source of pollution shall maintain documented records on all information concerning the sources of pollution of the possessor, including:

- 1) the use of raw materials, fuel consumption and energy use, and the quantity of production;
- 2) the volumes of pollutants emitted into the ambient air.

(2) A possessor of a stationary source of pollution who has received an ambient air pollution permit shall report on activities concerning pollution of the ambient air pursuant to the procedure established by a regulation of the Government of the Republic.

(3) County governors shall organise the collection and verification of information in their administrative territory concerning pollution of the ambient air and the forwarding of such information to the Ministry of the Environment.

### **§ 22. Additional measures**

(1) Upon extraction of mineral resources, blasting operations, placement of spoil heaps, manure storage facilities and other heaps, and tipping of waste, the possessor of the source of pollution shall implement measures to reduce emissions of pollutants into the ambient air.

(2) Measures reducing emissions of pollutants into the ambient air shall not cause contamination of soil, water or other natural objects.

(3) The planning of settlements, transport terminals, industrial production sites and service sites:

- 1) shall be based on standards established on the basis of this Act;
- 2) shall avoid territories where the dispersion of pollutants in the event of unfavourable meteorological conditions is hindered due to natural or man-made factors.

(4) The possessor of a source is required to implement measures in order to avoid:

- 1) the spread of dust and rubbish from streets and roads;
- 2) the spread of dust and rubbish from means of transport or places of bulk storage;
- 3) pollution of the ambient air by stationary motor vehicles or non-road mobile machinery with running engines, unless this is required by the traffic rules.

(5) In order to ensure performance of the duty specified in subsection (4) of this section, local governments:

- 1) shall establish a procedure for the maintenance of sources which may cause the spread of dust and rubbish;
- 2) have the right to demand establishment of a real encumbrance on immovables which cause the spread of dust and rubbish in order to avoid the spread of dust and rubbish.

### **§ 23. Sanitary protection zone of stationary source of pollution**

- (1) If a possessor of a source of pollution is for technical or economic reasons unable to prevent the limit value of the level of pollution being exceeded outside the possessor's administrative territory, the possessor may apply for the formation of a sanitary protection zone surrounding the source of pollution.
- (2) A sanitary protection zone is an area surrounding a source of pollution, within the boundaries of which special conditions established by a regulation of the Minister of Social Affairs apply and in the air above which the limit value of the level of pollution may be exceeded.
- (3) The boundaries of a sanitary protection zone shall be determined by rural municipality or city governments by agreement with the possessors of the land directly bordering the source of pollution.

### **§ 24. Height of emission of pollutants**

- (1) Taking long-range transboundary air pollution into consideration, it is prohibited to build chimneys with a height of emission of pollutants greater than 250 metres above ground level.
- (2) In order to improve conditions in the air layer near the surface for the dispersion of pollutants emitted from a source of pollution, the height of emission may be increased:
  - 1) up to a height of 100 metres above ground level with the permission of the environmental authority of the location of the source of pollution if the rural municipality or city government consents thereto;

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

- 2) to greater than 100 metres above ground level with the permission of the Ministry of the Environment if the rural municipality or city government consents thereto.

### **§ 25. Duties of manufacturers, importers, users and drivers of motor vehicles and non-road mobile machinery**

Manufacturers, importers, users and drivers of motor vehicles and non-road mobile machinery shall ensure that the content of pollutants and the level of smoke in the exhaust gases of the motor vehicles and non-road mobile machinery are within the standards established by the Minister of the Environment.

### **§ 26. Duties of possessor of stationary source of pollution in event of accident**

(1) An accident is deemed to be the emission of pollutants into the ambient air as a result of the ignition, explosion or leakage of substances.

(2) The threshold quantities of dangerous chemicals, the exceeding of which upon handling of chemicals may cause a major accident which pollutes the ambient air, shall be established by a regulation of the Minister of Economic Affairs.

(3) A possessor of a stationary source of pollution who is involved in the handling of dangerous chemicals shall prepare an action plan for the prevention of accidents and for action in the event of accidents.

(4) In the case of an accident, a possessor of a source of pollution shall immediately begin to remedy the effects of the accident and notify the rural municipality or city government, county governor of the location and the Health Protection Inspectorate thereof.

(08.12.1999 entered into force 01.01.2000 - RT I 1999, 95, 843)

### **§ 27. Duty of possessor of stationary source of pollution upon transfer of possession**

A former owner is required to notify the issuer of the pollution permit and the city or rural municipality government of the location of any change in the possession of a stationary source of pollution within one month after transfer of the possession.

#### Chapter 5

#### Compensation for Damage and Substitutive Enforcement

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

### **§ 28. Liability**

(1) (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

(2) Damage caused to a third party by the emission of pollutants into the ambient air or violation of the requirements of this Act shall be compensated for by the legal or natural person who caused the damage.

(3) If the possessor of a source of pollution fails to perform the obligation to implement environmental protection measures required by the precept of an environmental inspector, the environmental supervision agency may apply substitutive enforcement pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act.

(09.05.2001 entered into force 01.01.2002 - RT I 2001, 50, 283)

#### Chapter 51

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

#### Liability

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 28<sup>1</sup>. Production or use of products or substances which are prohibited in order to protect ambient air

(1) The production or use of products or substances which are prohibited in order to protect ambient air 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.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 28<sup>2</sup>. Violation of requirements of ambient air protection

(1) Emission of pollutants into ambient air without a pollution permit or in quantities larger than permitted by the pollution permit 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.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 28<sup>3</sup>. Procedure

(1) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 44, 284; 56, 350) and of the Code of Misdemeanour Procedure (RT I 2002, 50, 313) apply to the misdemeanours provided for in §§ 28<sup>1</sup> and 28<sup>2</sup> of this Act.

(2) The Environmental Inspectorate is the extra-judicial body which conducts proceedings in matters of misdemeanours provided for in §§ 28<sup>1</sup> and 28<sup>2</sup> of this Act.

(19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

Chapter 6

Implementing Provisions

### **§ 29. Term of pollution permits**

Pollution permits issued prior to the entry into force of this Act shall remain valid until their replacement with permits which comply with the requirements of this Act. The deadline for receipt of applications for the replacement of pollution permits is 31 December 2000.

### **§ 30. Repeal of Act**

The Estonian SSR Act on the Protection of the Atmospheric Air (ENSV ÜVT<sup>3</sup> 1981, 21, 291; 1984, 49, 577) is repealed.

### **§ 31. Entry into force of Act**

This Act enters into force on 1 January 1999.

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

<sup>2</sup> *Ametlikud Teadaanded* = *Official Notices*

<sup>3</sup> ENSV ÜVT = *ENSV Ülemnõukogu ja Valitsuse Teataja* = *ESSR Supreme Council and Government Gazette*