

## Energy Act

Passed 11 June 1997

(RT<sup>1</sup> I 1997, 52, 833; consolidated text RT I 2001, 52, 303),

entered into force 1 January 1998,

amended by the following Acts:

24.09.2002 entered into force 24.10.2002 - RT I 2002, 82, 482;

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

22.05.2002 entered into force 01.07.2002 - RT I 2002, 49, 311;

24.04.2001 entered into force 27.05.2002 - RT I 2002, 41, 251;

21.02.2002 entered into force 12.03.2002 - RT I 2002, 25, 145;

14.11.2001 entered into force 01.02.2002 - RT I 2001, 93, 565;

17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531.

## Chapter 1

### General Provisions

#### § 1. Scope of application of Act

(1) This Act regulates the fuel and energy markets, and state supervision over the fuel and energy sector.

(2) This Act provides specific provisions for state supervision over extraction of earth deposits used for fuel. Extraction of earth deposits is regulated by the Earth Deposits Act (RT I 1994, 86/87, 1488; 1995, 75, 1321; 1996, 49, 953; 1997, 52, 833; 86, 1461; 93, 1562; 1998, 64/65, 1005; 71, 1201; 1999, 10, 155; 54, 583; 95, 843; 2000, 54, 348; 102, 670; 2001, 24, 133; 52, 303; 2002, 53, 336; 61, 375; 63, 387).

(3) This Act does not apply to pressure and lifting equipment used in the fuel and energy sector. Such pressure and lifting equipment shall be regulated by a separate Act.

(09.12.98 entered into force 01.04.99 - RT I 1998, 113/114, 1873)

(4) This Act shall not be implemented to ensure electrical safety in the fuel and energy sector. The regulation of electrical safety shall be established by Electrical Safety Act.

(23.02.99 entered into force 01.05.99 - RT I 1999, 29, 403)

(5) This Act does not regulate the sale of thermal energy in the amount of less than 50 000 MWh in a financial year.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

## § 2. Fuel and energy

(1) In this Act, “fuel” includes gaseous, solid and liquid fuels which, upon combustion, release heat used as a source of energy.

(2) In this Act, “energy” means comprehensive designation for both electric power and heat.

(3) In this Act, “network gas” is a gaseous fuel which is transported to users by means of a system of pipelines.

(4) The provisions concerning fuel in this Act do not apply to peat and biofuel.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(5) For the purposes of this Act, ‘biofuel’ means wood and wood processing waste, energy crops, waste used as a source of energy and biogas (including landfill gas).

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(6) For the purposes of this Act, “import of fuel” means importation of fuel under the customs procedure of release for free circulation within the meaning of the Customs Code.

(17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531)

## § 3. Fuel and energy undertakings

(1) “Fuel undertaking” means an undertaking engaged in the production, processing, storage, sale, export, import of fuel or transport or distribution of liquid fuel or gas through appropriate networks.

(17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531)

(2) “Energy undertaking” means an undertaking engaged in the production, conversion, storage, transmission, distribution, sale, export, import or transit of energy.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

## § 4. Fuel and energy equipment

(1) In this Act, “fuel equipment and structures” means equipment for the production, refining, storage, transport, distribution, metering, sale or use of fuel.

(10.06.98 entered into force 16.07.98 - RT I 1998, 60, 951)

(2) In this Act, “energy equipment and structures” means equipment for the production, storage, conversion (including combustion of fuel), transformation, transmission, distribution, metering, sale or use of energy.

(10.06.98 entered into force 16.07.98 - RT I 1998, 60, 951)

(3) In this Act, the definition of a structure (building or construction) provided for in the Planning and Building Act (RT I 1995, 59, 1006; 1996, 36, 738; 49, 953; 1999, 27, 380; 29, 398; 399; 95, 843; 2000, 54, 348; 2001, 42, 234; 50, 283; 65, 377; 2002, 47, 297) includes indoor installations which are defined as a system of inter-connected equipment installed within a building.

(4) Operational fuel and energy equipment and structures shall comply with technical and safety requirements provided for in legislation.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

## Chapter 2

### General Organisation of Fuel and Energy Sector

§ 5. (Repealed - 11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

§ 5<sup>1</sup>. Quality requirements for and certification of conformity of liquid fuels

(1) Quality requirements for liquid fuels shall be established by a regulation of the Minister of Economic Affairs. Quality requirements shall be established only for fuels specified in the regulation.

(2) Conformity of liquid fuel with the established quality requirements shall be attested by a certificate of conformity of liquid fuel issued by an approved body. The format of and procedure for the issue of certificates of conformity shall be established by the Minister of Economic Affairs.

(3) For the purposes of this Act, “approved body” means a person who is granted, pursuant to the procedure provided for in subsection (4) of this section, the right to operate as a body approved to certify liquid fuel. The right to operate as an approved body may be granted to bodies accredited to certify liquid fuel.

(4) Provisions of the Product Conformity Attestation Act (RT I 1999, 92, 825; RT I 2002, 6, 20; 44, 282) apply to the grant of the right to operate as a body approved to certify liquid fuel to persons, operation as an approved body, organisation of state supervision over approved bodies and deprivation of the right to operate as an approved body.

(5) The right to operate as a body approved to certify liquid fuel is granted for a term of up to five years. An approved body shall guarantee compensation for damage caused by the approved body.

(6) Upon importation of liquid fuel, the importer is required to submit the certificate of conformity of liquid fuel to the customs authorities. Import, storage and sale of liquid fuel which does not comply with quality requirements is prohibited. Fuel without a certificate of conformity may be imported in the tax-free quantity established in the Fuel Excise Duty Act (RT I 1993, 38, 563; RT I 1996, 90, 1613; 1997, 73, 1201; 77, 1314; 86, 1464; 1998, 57, 862; 1999, 10, 158; 2000, 33, 199; 59, 380; 2001, 88, 531).

(17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531)

(7) Producers, refiners, storers and sellers of liquid fuel are required to present the certificate of conformity of liquid fuel in their possession at the request of the supervisory agency and to allow verification of conformity of liquid fuel with the established quality requirements.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

§ 6. (Repealed - 11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

§ 7. (Repealed - 10.06.98 entered into force 16.07.98 - RT I 1998, 60, 951)

§ 8. (Repealed - 11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

§ 9. Activity licence

(1) **Undertakings with a valid activity licence have** the right to operate in the areas of activity specified in subsection (2) of this section.

(2) An activity licence is required in the following areas of activity:

- 1) import and sale of fuel;
- 2) export, import and sale of electric power;
- 3) sale of thermal power;
- 4) sale of transmission or transport and distribution services for energy, liquid fuel and gas through networks;
- 5) sale of operational management services for electric power, heat, and network gas systems.

(3) An activity licence is a market licence issued for a specified term. Market licences are issued for a term of up to five years for activities specified in clause (2) 1) and for a term of up to twelve years for activities specified in clauses (2) 2)-5) of this section.

(3<sup>1</sup>) Fuel may be imported without a market licence in the tax-free quantity established in the Fuel Excise Duty Act.

(17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531)

(4) Natural or legal persons, who do not perform the functions of energy production, transmission or distribution and who, using the equipment, power lines or pipelines specified in subsection 14 (1<sup>1</sup>) of this Act, only buy energy for and sell it to their shareholders, members, commercial lessees or tenants, do not need a market licence if the sale of energy is not the principal activity of the person.

(5) A market licence is issued by the Energy Market Inspectorate on the basis of an application from an undertaking applying for a market licence (hereinafter applicant).

(6) A market licence shall be issued to a company entered in the commercial register or being founded or to the branch of a foreign company entered in the commercial register if the company has the technical capability and personnel with the necessary skills to operate in the area of activity indicated in the application and if its activities comply with the environmental protection and occupational safety requirements and other requirements prescribed by legislation.

(7) The format of the market licence shall be established by the Minister of Economic Affairs.

(8) A state fee is charged for the issue of a market licence pursuant to the State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 9, 45; 13, 78; 79; 81; 18, 97; 23, 131; 24, 135; 27, 151; 153; 30, 178; 35, 214; 44, 281; 47, 297; 51, 316; 57, 358; 58, 361; 61, 375; 62, 377).

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

§ 9<sup>1</sup>. Application for market licence

(1) In order to be issued a market licence, the applicant shall submit an application to the Energy Market Inspectorate containing at least the following information:

- 1) the business name of the undertaking;
- 2) the address of the seat and place of business;
- 3) the telecommunications numbers;
- 4) the commercial registry code;
- 5) areas of activity according to subsection 9 (2) of this Act.

(2) The following shall be appended to an application specified in subsection (1) of this section:

- 1) a copy of the registry card from the commercial register;
- 2) (Repealed - 14.11.2001 entered into force 01.02.2002 - RT I 2001, 93, 565)
- 3) a statement from the local Tax Board Office certifying the absence of tax arrears;
- 4) the approved annual report for the previous year;
- 5) a list of goods and services which the applicant for a licence intends to sell, export or import or which the applicant sells, exports or imports, and turn-over of the previous financial year;
- 6) a schematic plan and a description of the licensed territory of the network operator;
- 7) a certificate from the Customs Board confirming the absence of tax arrears if the activity licence is applied for to engage in import;

8) written confirmation from the applicant that the applicant has the technical capability and personnel with the necessary skills to operate in the area of activity indicated in the application and that the applicant's activities comply with the environmental protection and occupational safety requirements and other requirements prescribed by legislation.

(3) A company which is being founded shall be issued a market licence for up to two years and the following shall be appended to the application:

1) a certified copy of the memorandum of association, foundation resolution or partnership agreement;

(14.11.2001 entered into force 01.02.2002 - RT I 2001, 93, 565)

2) (Repealed - 14.11.2001 entered into force 01.02.2002 - RT I 2001, 93, 565)

3) a list of goods and services which the applicant for a licence intends to sell, export or import;

4) a schematic plan and a description of the licensed territory of the network operator;

5) written confirmation from the applicant that the applicant has the technical capability and personnel with the necessary skills to operate in the area of activity indicated in the application and that the applicant's activities comply with the environmental protection and occupational safety requirements and other requirements prescribed by legislation.

(4) Documents provided upon application for a market licence shall not be returned to the applicant.

(5) A market licence for the import of liquid fuel (except liquefied gas) may be applied for and held by an undertaking whose share capital is at least ten million kroons and who undertakes to store minimum stocks of liquid fuel if such obligation is prescribed by law.

(6) A market licence for the sale of liquid fuel (except liquefied gas) may be applied for and held by an undertaking whose share capital is at least 500 000 kroons or who has entered into a liability insurance contract with the minimum amount of insurance coverage of at least 500 000 kroons to ensure compensation for proprietary damage caused by fuel not in compliance with the quality requirements which is sold by the fuel undertaking.

(24.09.2002 entered into force 24.10.2002 - RT I 2002, 82, 482)

(7) A market licence for the import of liquid fuel may be applied for by a company entered in the commercial register which has been engaged in the sale of liquid fuel in Estonia for at least two years.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

§ 9<sup>2</sup>. Issue of market licence

(1) The Energy Market Inspectorate shall make a decision to issue a market licence or to refuse to issue a market licence within sixty days as of the receipt of an application which

complies with the requirements specified in this Act and of all documents appended thereto. In the case of an application which is submitted to commence activities and to be entered in the commercial register, the Energy Market Inspectorate shall make a decision to issue a market licence or to refuse to issue a market licence within thirty days.

(2) In order to decide the matter of issuing a market licence, a competent official of the Energy Market Inspectorate may ask the applicant or a representative of the applicant and state or local government agencies for more specific additional information concerning the information submitted upon application and verify the correctness of information submitted.

(3) A market licence is issued to an energy undertaking or network operator on the condition that the energy undertaking or network operator has entered into a contract with the state to ensure performance of the obligations specified in subsections 11 (1), 14 (3), 14 (4) and 15 (1) of this Act even if a market licence is revoked or expires. Among other matters, such contract may prescribe the transfer of assets necessary for the management of the energy or network enterprise to the state, or the whole or partial transfer to the state of the shares of the energy undertaking or network operator together with payment of appropriate compensation, to ensure performance of the obligations of the energy undertaking or network operator.

(4) Until the state obtains control of an energy or network enterprise pursuant to subsection (3) of this section or exercises other contractual remedies, the energy undertaking or network operator is required to continue its activities to ensure performance of the obligations provided for in subsection (3) of this section.

(5) The contract specified in subsection (3) of this section shall be binding as of the issue of a market licence, and on behalf of the state, the contract shall be signed by the Director General of the Energy Market Inspectorate .

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

§ 9<sup>3</sup>. Information to be entered on market licence

The following information shall be entered on a market licence:

- 1) the number of the market licence;
- 2) the date of issue of the market licence;
- 3) the business name of the undertaking;
- 4) the registry code;
- 5) the address of the seat and other details;
- 6) areas of activity for which the market licence is issued;
- 7) the licensed territory;
- 8) the signature, name and official title of an official of the issuer of the market licence.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

§ 9<sup>4</sup>. Refusal to issue market licence

(1) The issue of a market licence shall be refused if the undertaking applying for the market licence fails to submit documents in compliance with the requirements or submits misleading or inaccurate information or falsified documents.

(2) An undertaking whose market licence is revoked on the basis of § 9<sup>5</sup> of this Act shall not be issued a new market licence during three years as of the date of revocation of the licence.

(3) The issue of a market licence may be refused if:

1) the Energy Market Inspectorate has reason to doubt the applicant's capability to meet the requirements provided for in subsection 9 (6) of this Act;

2) the Energy Market Inspectorate has reason to doubt the reliability of the financial status of the applicant, or

3) the refusal derives from national economic policy interests which are based on the resolutions of the Riigikogu<sup>2</sup> or the Government of the Republic.

(4) An applicant shall be notified of a refusal to issue a market licence in writing within three working days as of the date on which the corresponding decision is made.

(5) A refusal to issue a market licence does not deprive the applicant of the right to apply for a market licence again.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

§ 9<sup>5</sup>. Revocation of market licence

(1) Supervision over compliance with this Act and the conditions of the market licence of an undertaking is exercised by the Energy Market Inspectorate and, if necessary, the Energy Market Inspectorate revokes the market licence.

(2) The Energy Market Inspectorate has the right to revoke a market licence if:

1) the holder of the licence violates this Act or legislation established on the basis thereof;

2) according to tax authorities, the holder of the licence has repeatedly violated tax laws or the customs rules specified in clauses 65 (1) 2) and 3) of the Customs Act;

3) the holder of the licence fails to commence activities in the area of activity specified in the licence within twelve months after the term specified in the licence;

4) so requested by the holder of the licence.



(3) If an undertaking terminates its activities, the market licence issued thereto becomes invalid.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

#### § 10. Energy conservation and environmental protection

(1) Fuel and energy enterprises are required to promote conservation of fuel and energy by users.

(2) The production, transport or transmission, conversion and distribution of fuel and energy shall be organised such that environmental damage arising therefrom does not exceed the limits established by international agreements and environmental legislation.

(3) In order to increase energy efficiency, preserve the quality of the environment and to use natural resources rationally, the Government of the Republic shall approve an energy conservation programme.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

#### § 11. Supply of energy, liquid fuel and network gas to users

(1) Users shall have an uninterrupted supply of energy, liquid fuel and network gas, unless otherwise agreed.

(2) (Repealed - 11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

#### § 12. Activity and development obligations of fuel and energy undertakings

(1) The Energy Market Inspectorate shall impose activity and development obligations on fuel and energy undertakings whose activity or failure to act could cause a reduction or interruption of the fuel or energy supply to users, or decrease the reliability of Estonia's power system.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(2) In this Act, activity and development obligations are supplementary conditions of a market licence, which are formalised in a contract between the Energy Market Inspectorate and the market licensee or undertaking applying for a market licence.

(3) Undertakings shall maintain or alter the production capacity or reliability of fuel and energy equipment and constructions within their licensed territory, to the extent and within the time period prescribed in the contract.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(4) In approving product prices and conditions of sale, the Energy Market Inspectorate shall take into account the legitimate and substantiated expenses incurred by the undertaking in order to comply with the contract specified in subsection (2) of this section.

### § 13. Development plan for fuel and energy sector

(1) The Government of the Republic shall submit a long-term national development plan for the fuel and energy sector to the Riigikogu for approval as an essential national issue. The development plan shall provide for the synchronisation and co-operation of the Estonian power system with the power systems of the Member States of the European Union.

(2) Fuel and energy undertakings who hold market licences are required upon request to submit information to the Ministry of Economic Affairs which is necessary for preparation of a long-term national development plan.

### § 14. Network operators

(1) In this Act, “network operator” means an undertaking which owns or possesses a power line or network, a heat pipeline or network, a gas pipeline or network, or a liquid fuel pipeline or network through which electric power, heat, network gas or liquid fuel is transmitted, transported or distributed.

(1<sup>1</sup>) For the purposes of this Act, inter-connected equipment, power lines or pipelines installed in a structure (and equipment connected thereto) through which energy or network gas is distributed within the structure which is an immovable or a movable and land necessary for servicing the structure are not deemed to be a network.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(2) The licensed territory of a network operator is an area specified by the market licence where the energy, gas or liquid fuel networks owned or possessed by the undertaking are located, or an area in respect of which the undertaking has activity and development obligations. A network operator may have several licensed territories.

(10.06.98 entered into force 16.07.98 - RT I 1998, 60, 951)

(3) Network operators are responsible for the functioning, maintenance and development of the networks which they own or possess.

(4) Network operators shall develop the energy, liquid fuel and gas networks which they own or possess such that connection to the networks pursuant to § 16 of this Act and the supply of energy, liquid fuel or network gas are guaranteed to all users and energy undertakings in the network operator’s licensed territory.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(5) Equipment and networks connected to energy, liquid fuel or gas networks shall not disturb other networks or users.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

### § 15. Rights, obligations and liabilities of network operators

(1) Network operators are required to ensure supply to users who are connected to the network which they own or possess, by selling energy, liquid fuel or network gas, or by selling services for the transmission, transport or distribution of energy, liquid fuel or network gas to users who purchase energy, liquid fuel or network gas from other sellers from whom such purchase is economically justified and technically possible.

(2) Network operators are required to develop energy networks within their licensed territories in accordance with § 12 of this Act.

(3) For the purposes of this Act, “network service” means the provision of transmission or transport and distribution services using a network connection and the existence of such connection. Insofar as technically possible, network operators are required to provide transmission, transport or distribution services to all other network operators and large users.

(4) Network operators are required to obtain the approval of the Energy Market Inspectorate to the rates for network services prior to the establishment thereof. Network operators are required to observe the provisions of subsections 19 (4) and (5) of this Act upon the formation of the rates for network services.

(5) Within the licensed territory of one network operator, the transmission, transport or distribution rates set out in subsection (4) of this section shall not be dependent on the distance of transmission, transport or distribution. Transmission, transport or distribution rates may depend on the amount of fuel and energy to be transported, transmitted or distributed, voltage schedules, system-wide peak hours, voltage levels and the reliability of energy supplied.

(6) Depending on the extent of the obligation to purchase alternatively produced energy specified in § 28<sup>1</sup> of this Act, a distribution network operator has the right to apply to the Energy Market Inspectorate for a reduction in the transmission or transport rate applied by a transmission network operator.

(7) A transmission network operator shall differentiate the transmission and transport rates valid in the operator’s licensed territory pursuant to a precept of the Energy Market Inspectorate.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

§ 15<sup>1</sup>. (Repealed - 22.05.2002 entered into force 01.07.2002 - RT I 2002, 49, 311)

#### § 16. Connection to energy or gas networks

(1) A network operator shall allow connection to a network owned or possessed by the network operator (including the use of a network connection) to all users, producers and energy or gas network operators that are within the network operator’s licensed territory and comply with requirements established by this Act and other legislation

(2) Network operators have the right to collect, from connected parties, justified connection charges calculated pursuant to the procedure specified in subsection (3) of this section.

(3) The procedure for connection to a power network and the calculation of connection charges, the procedure for connection to a heat network and the calculation of connection charges and the procedure for connection to a gas network and the calculation of connection charges shall be established by the Government of the Republic.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(4) A supply point is the connection point between energy equipment and the network which also marks the boundary of network services and delimits the corresponding liability of the persons connected to the network (consumers and energy undertakings) and the network operator, unless otherwise provided by the contract.

(22.05.2002 entered into force 01.07.2002 - RT I 2002, 49, 311)

(5) A network operator has the right to disconnect a network connection at a supply point or suspend the forwarding or distribution of energy without giving prior notice if there is danger to the life or health of persons or to property or the environment.

(22.05.2002 entered into force 01.07.2002 - RT I 2002, 49, 311)

(6) A network operator has the right to disconnect a network connection at a supply point or suspend the forwarding or distribution of energy by giving written notice thereof at least seven days in advance if:

1) the consumer or energy undertaking uses energy equipment which adversely affects the quality of the energy or the reliability of the energy supply in the operator's network;

2) the network operator is prevented from accessing a measurement system located within territory in the ownership or possession of a consumer or energy undertaking for the inspection or replacement of such system, or for the operation of energy equipment belonging to the network operator for the performance of necessary work;

3) the consumer or energy undertaking is in debt for the use of energy or network services.

(22.05.2002 entered into force 01.07.2002 - RT I 2002, 49, 311)

(7) Network connection at a supply point shall be restored after payment of the costs of disconnection and reconnection unless the contract has been terminated.

(22.05.2002 entered into force 01.07.2002 - RT I 2002, 49, 311)

## Chapter 3

### Fuel and Energy Sector

#### § 17. Sale of fuel and energy and provision of network services

Energy or fuel is sold and network services are provided on the basis of a contract which determines the amount, quality, reliability of supply, price or principles of pricing of the fuel or energy to be sold or network services to be provided, the obligations of the parties, liabilities and other contractual terms.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

## § 18. Sale of energy or gas through networks

(1) In this Act, large users are defined as follows:

1) the definition of “large user of electrical power and heat” shall be established by the Government of the Republic based on the usage capacity of the user and the amount of energy used by the user per year;

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

2) (Repealed - 10.06.98 entered into force 16.07.98 - RT I 1998, 60, 951)

3) “large user of gas” means a user who uses gas in industry or in a district heating power station;

4) for the purpose of this Act, “large user of liquid fuel” means any user of liquid fuel from a network.

(2) Users who are not specified in clauses (1) 1) and 3) of this section are small users.

(10.06.98 entered into force 16.07.98 - RT I 1998, 60, 951)

(3) Large users who are connected to a network have the right, within the limits of the network’s technical possibilities, to purchase energy or gas from any energy or network operator operating within the territory of the Republic of Estonia.

(4) Small users shall purchase energy or network gas from the network operator who services them or from an energy producer specified in subsection (6) of this section. On the proposal of the local government council, a network operator may form several sales territories within a licensed territory. The same tariffs are established throughout one sales territory for users belonging to the same user group.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(5) Within the limits of the technical possibilities of the network, energy producers have the right to sell energy to every large user and network operator within the territory of the Republic of Estonia if the large user or network operator resells the energy to other large users connected to the network of the large user or network operator.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(6) If the electric capacity of energy equipment installed by an energy producer does not exceed 10 MW per energy producer and if electric power is produced in the process of combined heat and power production or alternatively within the meaning of § 28<sup>1</sup> of this

Act, the energy producer has the right to sell electric power directly or, within the limits of the network's technical possibilities, through a network to every user on the basis of a contract entered into with the user.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(7) Energy undertakings and large users must ensure that their energy production and procurement equal their energy sales and consumption at all times.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

#### § 19. Fuel or energy undertakings dominating the market

(1) The definition of a fuel or energy undertaking dominating the market complies with the definition of undertaking in a dominant position provided for in section 13 of the Competition Act (RT I 2001, 56, 332; 93, 565; 2002, 61, 375; 63, 387).

(24.04.2001 entered into force 27.05.2002 - RT I 2002, 41, 251)

(1<sup>1</sup>) An energy producer who dominates the market may simultaneously be a network operator and sell energy produced by the energy producer through the network which is in the possession of the energy producer only if there are no other energy producers who wish to sell energy through the same network, or if there are no large users who wish to purchase energy through the same network from another energy producer.

(10.06.98 entered into force 16.07.98 - RT I 1998, 60, 951; 11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(1<sup>2</sup>) (Repealed - 11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(2) A fuel or energy undertaking dominating the market shall sell fuel, energy and related services at prices and rates approved by the Energy Market Inspectorate. The prices and rates approved by the Energy Market Inspectorate together with applicable taxes shall be made public not later than six months prior to entry into force thereof, also by publication in at least one national daily newspaper. The requirement to disclose information six months in advance does not apply in the case of reduction of prices and rates. The requirement of approval and publication of prices and rates does not apply to the sale of energy and gas to large users except if energy is sold on the basis of a contract with a term exceeding five years.

(21.02.2002 entered into force 12.03.2002 - RT I 2002, 25, 145)

(3) At the request of the Energy Market Inspectorate, a fuel or energy undertaking dominating the market shall justify the principles applied in setting prices and rates.

(4) Prices and rates for products and services and other conditions of sale are deemed to be justified if they correspond to the rational use of resources, do not contain cross-subsidisation between areas of activity, and ensure the necessary development of the energy enterprise, reasonable profits and the legal rights of users to use fuel and energy.

(5) The prices for the products and rates for the services of a fuel or energy undertaking dominating the market shall be established in a manner which ensures:

- 1) production costs necessary for activities;
- 2) investments for performance of activity and development obligations;
- 3) compliance with environmental protection requirements;
- 4) compliance with quality and safety requirements;
- 5) justified profitability.

(6) A fuel and energy undertaking dominating the market shall keep separate accounts for the production, transport or transmission, distribution or sale of fuel or energy, and provision of related services.

(7) At the request of the Energy Market Inspectorate, a fuel or energy undertaking dominating the market shall permit inspection of its accounting and provide necessary explanations regarding its financial and economic activities.

(8) A fuel or energy undertaking dominating the market shall submit its audited annual report to the Energy Market Inspectorate within six months after the end of each financial year.

(9) Products and services in respect of which undertaking has a dominant position on the market shall be specified in the undertaking's market licence.

(10) Upon a change in price components which are independent of the seller, a fuel or energy undertaking dominating the market may revise the prices of products and rates for services pursuant to a formula approved by the Energy Market Inspectorate.

## Chapter 4

### Power Networks

#### § 20. Power system

(1) The power system is a technical system for the production, transmission and distribution of electric power comprised of power stations located within the territory of the state, the power network which connects the power stations to one another, users and the power systems of other states, and the corresponding control, protection and communication systems. The power network of the power system is comprised of a transmission network and distribution networks.

(2) The power system shall operate continuously as a unified system, comply with security and optimality requirements and ensure users an uninterrupted supply of electric power which complies with quality requirements.

(3) The control centre of the transmission network enterprise of the power system shall manage the technical operations of the power system.

## § 21. Power system control centre

- (1) The power system control centre operates on the basis of the authority arising from this Act and other legislation.
- (2) Orders issued by the power system control centre that are within the limits of authority prescribed by this Act are binding on all energy undertakings connected to the Estonian power system.
- (3) The principles to be applied to the calculation and division of income and expenditure accruing to energy enterprises due to compliance with the orders of the power system control centre shall be approved by a regulation of the Minister of Economic Affairs.
- (4) The power system control centre shall:
  - 1) manage and monitor the co-operation of the power stations, transmission network and distribution networks connected to the state power system, organise and supervise switching operations, and eliminate failures and accidents in the transmission network;
  - 2) co-ordinate technical co-operation with users connected to the state power system under special conditions and with the power systems of other states;
  - 3) co-ordinate the operation of security systems and automation systems for the power system in power stations and networks, and with regard to users supplied from the transmission network, and harmonise the protection and automation systems with the power systems of other states;
  - 4) issue orders to reduce consumption in emergency situations upon maintaining the energy balance pursuant to a schedule annually approved by a regulation of the Minister of Economic Affairs.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

- (5) The power system control centre has the right to obtain information from energy undertakings, large users connected to the transmission network and local governments which is necessary for performance of the duties prescribed by this Act and legislation arising therefrom.
- (6) The power system control centre has the right to collect a service charge which has been approved by the Energy Market Inspectorate and fixed by contract from undertakings whose power equipment (power stations, networks or parts thereof) is part of the power system.

## § 22. Transmission network

- (1) The transmission network is a high voltage network with a voltage of 110 kV or higher. A transmission network operator who owns the transmission network is required to connect larger power stations and substations into a unified power system which may be connected to the transmission networks of other states, and transmit electric power to distribution networks and users connected to the transmission network.



(2) Undertakings whose power equipment is connected to the transmission network shall enter into a contract with the transmission network operator.

(3) (Repealed - 10.06.98 entered into force 16.07.98 - RT I 1998, 60, 951)

### § 23. Distribution network

(1) A distribution network is a low or medium voltage network with a voltage of 110 kV or lower. A distribution network operator who owns a low or medium voltage network is required to distribute and sell electric power to users and to provide services related to the transmission of electric power.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(2) Persons whose power equipment is connected to a distribution network shall enter into a contract with the distribution network operator, which shall determine the rights and obligations of the parties, the principles for determining the price for electric power and rates for the supply of services, and the procedure for payment for services.

## Chapter 5

### State Supervision

#### § 24. Supervisory authorities

State supervision over the fuel and energy sector is exercised by:

- 1) the Technical Inspectorate;
- 2) the Energy Market Inspectorate;
- 3) the Customs Board, in the case of import of fuel;

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

- 4) the Consumer Protection Board, in the case of sale of liquid fuel.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

#### § 25. Technical Inspectorate

(1) The Technical Inspectorate is a government agency within the area of government of the Ministry of Economic Affairs, with competence in the energy sector to:

- 1) exercise technical and safety supervision over fuel and energy equipment and constructions;
- 2) (Repealed - 10.06.98 entered into force 16.07.98 - RT I 1998, 60, 951);
- 3) (Repealed - 10.06.98 entered into force 16.07.98 - RT I 1998, 60, 951);
- 4) draft technical rules and standards;

5) maintain a database of equipment which requires technical inspections;

6) (Repealed - 11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(2) In order to perform the functions provided for in subsection (1) of this section, the Technical Inspectorate has the right to:

1) obtain information which is necessary for performance of the functions provided for in this Act and legislation established on the basis thereof from energy and fuel undertakings and persons who design, manufacture, install, construct, maintain, repair or supply fuel and energy equipment;

2) issue mandatory precepts, within the limits of its competence, to cease a violation of this Act or legislation established on the basis thereof and to eliminate the consequences of such violation;

3) prohibit the installation or supply of energy and fuel equipment which is not in compliance with the safety requirements provided for in legislation, and the use of dangerous equipment;

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

4) impose the punishments prescribed by this Act and legislation established on the basis thereof;

5) represent the Republic of Estonia in international organisations pursuant to the procedure prescribed by legislation, and co-operate with the technical supervisory authorities of other states.

## § 26. Energy Market Inspectorate

(1) The Energy Market Inspectorate formed on the basis of this Act is a government agency within the area of government of the Ministry of Economic Affairs, with competence to:

1) supervise the fuel and energy markets;

2) issue, supervise compliance with and revoke fuel and energy market licences;

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

3) review the financial performance of fuel and energy undertakings dominating the market;

4) foster competition;

5) review and approve the prices of fuel and energy sold and of related services provided by enterprises dominating the market;

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

6) review connection charges and the terms and conditions of connection contracts;

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

7) monitor compliance by fuel and energy undertakings with their activity and development obligations;

8) monitor the quality of fuel and energy being sold;

9) co-operate with consumer protection associations and facilitate exercise of the rights granted to such associations by the Consumer Protection Act (RT I 1994, 2, 13; 1999, 35, 450; 102, 907; 2000, 40, 252; 59, 379; 2001, 50, 283; 289; 56, 332; 2002, 13, 81; 18, 97; 35, 214; 53, 336; 61, 375; 63, 387) in the energy sector.

(2) In order to perform its functions, the Energy Market Inspectorate has the right to:

1) obtain information which is necessary for performance of the functions provided for in this Act and legislation established on the basis thereof from energy and fuel undertakings;

2) organise co-operation among energy undertakings for conservation of energy and the environment;

3) determine the pricing principles to be implemented by fuel and energy undertakings dominating the market in the circumstances provided for in subsection 42 (1) of this Act;

4) approve the prices and rates for fuel, energy and services sold by undertakings dominating the market in accordance with subsection 19 (2) of this Act and transmission and transport rates in accordance with subsection 15 (7) of this Act and confirm the prices of electric power in accordance with subsection 28<sup>1</sup> (2) of this Act;

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

4<sup>1</sup>) issue mandatory precepts within its competence;

(10.06.98 entered into force 16.07.98 - RT I 1998, 60, 951)

5) establish a temporary fee for fuel or energy transport, transmission or distribution for no longer than two months in the event that transport, transmission or distribution fees are not justified and the fuel or energy undertaking does not comply with precepts issued by the Energy Market Inspectorate;

6) represent Estonia in international organisations pursuant to the procedure prescribed by legislation and co-operate with the energy market authorities of other states;

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

§ 26<sup>1</sup>. Customs Board

Pursuant to this Act, the Customs Board is competent to:

- 1) examine the market licence upon the import of fuel;
- 2) examine the market licence and the certificate of conformity of liquid fuel and to verify conformity of liquid fuel with the established quality requirements upon the import of liquid fuel.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

#### § 26<sup>2</sup>. Consumer Protection Board

Pursuant to this Act, the Consumer Protection Board is competent to do the following upon the sale of liquid fuel:

- 1) examine the market licence;
- 2) examine the certificate of conformity of liquid fuel;
- 3) verify the conformity of liquid fuel with the established quality requirements.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

#### § 26<sup>3</sup>. Contestation of precept or other act of supervisory agency

(1) An undertaking which disagrees with a precept issued or an act performed by an official of the Technical Inspectorate or the Energy Market Inspectorate has the right to file a complaint with the Director General of the appropriate inspectorate within ten calendar days as of communication of the precept.

(2) The filing of a complaint does not relieve an undertaking of the duty to comply with a precept issued by an official of the Technical Inspectorate or the Energy Market Inspectorate.

(3) The Director General of the Technical Inspectorate or the Director General of the Energy Market Inspectorate shall review a complaint within one month as of the receipt thereof.

(4) Upon the review of a complaint, the Director General of the Technical Inspectorate or the Director General of the Energy Market Inspectorate shall make one of the following decisions:

- 1) to uphold the precept or other act;
- 2) to amend the precept or other act or to declare the precept invalid or the act unlawful.

(5) The complainant shall be notified of the decision and it shall be delivered to the complainant against a signature or by post with advice of delivery. In the event of disagreement, the decision may be appealed in an administrative court.

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

#### § 26<sup>4</sup>. Appeal in court

(1) An undertaking which disagrees with a precept issued or an act performed by an official of the Technical Inspectorate or the Energy Market Inspectorate has the right to file an appeal with an administrative court regardless of whether the undertaking has previously filed a complaint specified in § 25<sup>1</sup> of this Act.

(2) The filing of an appeal with a court does not relieve an undertaking of the duty to comply with a precept issued by an official of the Technical Inspectorate or Energy Market Inspectorate until such time as the court declares the precept to be partially or wholly unlawful.

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

§ 26<sup>5</sup>. Compensation for damage caused

(1) Any loss caused by the intentional destruction or damaging of fuel or energy equipment, indoor installations or fuel or energy constructions, by the unauthorised use of fuel or energy, by tampering with the corresponding meter readings, or by violation of the occupational health and safety rules shall be compensated for by the person who caused the loss.

(2) The following are deemed to be unauthorised use of energy or network gas:

- 1) damaging meters or tampering with the readings;
- 2) using an unmetered connection;
- 3) using energy or network gas without an appropriate contract;
- 4) removing seals from meters or metering systems.

(3) In assessing the extent of loss, the loss caused by failure to produce or use fuel or energy shall be taken into account in addition to proprietary damage (the costs of restoring equipment or constructions).

(4) A person who causes loss shall bear the costs of assessing the extent of such loss.

(5) The guidelines for determining the amount and cost of fuel and energy used without authorisation shall be approved by a regulation of the Minister of Economic Affairs.

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

## Chapter 6

### Special Rules

§ 27. State participation in fuel and energy sector

The state shall maintain at least 51 per cent ownership of the share capital of commercial undertakings which are founded on the basis of power stations entered on the list of commercial undertakings that are of strategic importance to the state.

§ 28. (Repealed - 11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

§ 28<sup>1</sup>. Obligation to purchase alternatively produced electric power

(1) An energy undertaking which dominates the market is required to purchase electricity power from traders connected to its network who produce the electricity power from water, wind or solar energy or from biofuel.

(22.05.2002 entered into force 01.07.2002 - RT I 2002, 49, 311)

(2) An energy undertaking obligated under subsection (1) of this section shall purchase alternatively produced electric power at a price which constitutes 90 per cent of the basic rate for residential customers provided that the sales volume of alternatively produced energy in the Republic of Estonia does not exceed 2 per cent of the amount of electric power utilised in the Republic of Estonia during the previous year. If the sales volume of alternatively produced electric power exceeds 2 per cent of the electric power utilised in the Republic of Estonia during the previous year, the Estonian Energy Market Inspectorate shall confirm a set sales price for the network operator of between 60–90 per cent of the basic rate for residential customers.

(3) The obligation to purchase alternatively produced electric power does not apply if:

1) a producer of alternative electric power sells the electric power pursuant to subsection 18 (6) of this Act;

2) the technical parameters of alternatively produced electric power do not allow the operation of the power system pursuant to the provisions of subsection 20 (2) of this Act.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

## Chapter 7

### Liability

§ 29. (Repealed - 11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

§ 30. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 31. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 32. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 33. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 34. (Repealed - 19.06.2002 entered into force 01.09.2002 - RT I 2002, 63, 387)

§ 34<sup>1</sup>. Handling of fuel or energy equipment not in compliance with technical or safety requirements

(1) Installation, import, use, sale or transfer in any other manner of fuel or energy equipment which is not in compliance with the technical or safety requirements for use as fuel or energy equipment 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)

#### § 34<sup>2</sup>. Illegal handling of liquid fuel not in compliance with quality requirements

(1) Illegal production, import, possession for commercial purposes or storage of or trade in liquid fuel not in compliance with the quality requirements 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)

#### § 34<sup>3</sup>. Violation of obligations of network operators

(1) Violation of the obligations of a network operator provided for in §§ 14–15 of this Act 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)

#### § 34<sup>4</sup>. Proceedings

(1) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 44, 284; 56, 350) and the Code of Misdemeanour Procedure (RT I 2002, 50, 313) apply to the misdemeanours provided for in §§ 34<sup>1</sup>–34<sup>3</sup> of this Act.

(2) Extra-judicial proceedings concerning the misdemeanours provided for in § 34<sup>2</sup> of this Act shall be conducted by police prefectures and extra-judicial proceedings concerning the misdemeanours provided for in §§ 34<sup>1</sup>–34<sup>3</sup> of this Act shall be conducted by:

- 1) the Energy Market Inspectorate;
- 2) the Technical Inspectorate;
- 3) the Consumer Protection Board.

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

## Chapter 8

### Amendment of Other Legislation

[§§ 35–42 omitted]<sup>3</sup>

## Chapter 9

### Implementation of Act

#### § 42. Implementation and entry into force of Act

(1) Until 31 December 1999, the Energy Market Inspectorate is authorised by the Government of the Republic to confirm the prices to be implemented by electric power undertakings dominating the market.

(10.06.98 entered into force 16.07.98 - RT I 1998, 60, 951)

(1<sup>1</sup>) Until 1 October 2001, the following agencies have the right to issue certificates of conformity of liquid fuel specified in § 5<sup>1</sup> of this Act:

- 1) approved testing laboratories which have been issued a valid certificate certifying approval in the given area by the Standards Board;
- 2) testing laboratories which have been issued a valid certificate certifying professional competence or an accreditation certificate in the given field by the Estonian Accreditation Centre;
- 3) certification bodies which have been issued a valid certificate certifying approval by the Standards Board or a valid certificate certifying professional competence or an accreditation certificate in the given field by the Estonian Accreditation Centre.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(2) (Repealed - 11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(2<sup>1</sup>) Energy undertakings shall bring their activities into accordance with the requirements of subsection 19 (1<sup>1</sup>) of this Act by 1 July 1999.

(10.06.98 entered into force 16.07.98 - RT I 1998, 60, 951)

(2<sup>2</sup>) Requirements provided for in subsections 9<sup>1</sup> (5) and (6) of this Act apply to undertakings which are issued market licences for the sale and import of liquid fuel on the basis of this Act as of 1 January 2003.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)

(2<sup>3</sup>) An undertaking which is issued a market licence for the sale and import of liquid fuel on the basis of this Act for a term expiring before 1 January 2003 and which does not meet the requirements provided for in subsection 9<sup>1</sup> (5) and (6) of this Act may, upon the expiry of the licence, submit an application to the Energy Market Inspectorate to be issued a market licence for a term expiring on 1 January 2003.

(11.04.2001 entered into force 17.05.2001 - RT I 2001, 43, 239)



(3) The Government of the Republic shall submit the development plan specified in subsection 13 (1) of this Act to the Riigikogu for approval by 1 November 1997.

(4) This Act enters into force on 1 January 1998.

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

<sup>2</sup> Riigikogu = the parliament of Estonia

<sup>3</sup> Omitted sections amend other legislation