

Publisher: Parliament
Type of act: the law
Type of text: full text
Entry into force of the revision: 01.07.2023
Expiry of revision: Currently valid
Disclosure notice: RT I, 21.09.2023, 2

Environmental Liability Act¹

Adopted on 14.11.2007
RT I 2007, 62, 396
entered into force on 16.12.2007, partly in accordance with § 46.

Amended by the following acts

Reception	Publication	Enforcement
18.12.2008	RT I 2009, 3, 15	01.02.2009
30.09.2009	RT I 2009, 49, 331	01.01.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011 shall enter into force on the day specified in the decision of the Council of the European Union on the annulment of the exception established for the Republic of Estonia on the basis of Article 140(2) of the Treaty on the Functioning of the European Union, Council of the European Union 13.07.2010. a decision No. 2010/416/EU (OJ L 196, 28.07.2010, pp. 24–26).
06.12.2011	RT I, 21.12.2011, 1	31.12.2011
24/04/2013	RT I, 16.05.2013, 1	01.06.2013
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
20.06.2014	RT I, 08.07.2014, 3	01.08.2014
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, titles of ministers replaced on the basis of § 107 ³ subsection 4 of the Government of the Republic Act.
19.02.2015	RT I, 17.03.2015, 1	01.07.2015
29.10.2015	RT I, 10.11.2015, 2	01.12.2015
15.06.2016	RT I, 05.07.2016, 1	01.01.2017
27.10.2016	RT I, 10.11.2016, 1	01.01.2017
30.01.2019	RT I, 22.02.2019, 1	01.10.2019
04.12.2019	RT I, 21.12.2019, 1	01.01.2020
17.06.2020	RT I, 10.07.2020, 2	01.01.2021
15.10.2020	RT I, 30.10.2020, 1	31.10.2020
22.02.2023	RT I, 17.03.2023, 3	01.04.2023
20.06.2023	RT I, 30.06.2023, 1	01.07.2023; On the basis of § 105.19 subsection 6 of the Government of the Republic Act, the word "Environment Ministry" has been replaced throughout the text with the word "Climate Ministry" in the corresponding case

Chapter 1 general settings

§ 1. Scope of the Act

(1) The law regulates the prevention and remediation of damage caused to the environment, based on the principle that the polluter pays.

(2) This Act does not apply to environmental damage or the threat of environmental damage caused by:

1) armed conflict, military action, civil war or uprising or an exceptional, unavoidable and force majeure natural phenomenon;
2) an event or activity related to which liability for environmental damage is regulated by the 1992 International Convention on Civil Liability for Damage Caused by Oil Pollution, the 1992 Convention on the Establishment of an International Oil Pollution Compensation Fund or the 2001 International Convention on Civil Liability for Damage Caused by Bunker Fuel Pollution, and 1992 2003 Protocol of the International Convention on the Establishment of the International Oil Spill Compensation Fund;
[RT I, 08.07.2014, 3 - enters into force. 01.08.2014]

3) an activity that falls within the scope of the Treaty establishing the European Atomic Energy Community, or an event or activity related to which liability is regulated by the Vienna Convention on Civil Liability for Nuclear Damage or the Joint Protocol for the Implementation of the Vienna Convention and the Paris Convention;

4) activities whose main purpose is international security, or activities whose sole purpose is protection against natural disasters;
5) national defense activities in the territory and scope provided for this purpose.

(3) This Act applies to environmental damage or the threat of environmental damage caused by diffuse pollution, if it is possible to establish a causal connection between the environmental damage or the threat thereof and the action or inaction of a person or persons.

(4) This Act applies to environmental damage or the risk of environmental damage arising from an event, activity or inaction that took place after the entry into force of this Act, if no more than 30 years have passed since the event, activity or inaction that caused it.

(5) This Act does not apply to environmental damage caused by an event, activity or inaction that occurred after the entry into force of this Act, if it is caused by an activity that took place and ended before the entry into force of this Act.

(6) The provisions of the Administrative Procedure Act apply to the administrative procedure prescribed in this Act, taking into account the specifics of this Act.

§ 2. Environmental damage and risk of environmental damage

(1) Environmental damage within the meaning of this Act is:

1) a significant adverse effect on the achievement or maintenance of a favorable condition of a habitat or species (henceforth *damage caused to a habitat or species*);

2) a significant adverse effect on the protected area, storage area, permanent habitat, protected individual object of nature (henceforth *damage caused to the protected area*);

3) significant adverse impact on the sea area, surface or ground water (hereinafter *damage caused to water*);

[RT I, 10.11.2015, 2 - enters into force. 01.12.2015]

4) soil damage caused by the direct or indirect release of substances, preparations, organisms or microorganisms into the environment, which entails a significant risk that it may affect human health (hereinafter *soil damage*).

(2) A significant adverse effect is a directly or indirectly measurable adverse change in the quality or quantity of a habitat, species, protected area, water or soil (hereinafter referred to as *a natural resource*) or the quality or quantity of another natural resource or a task performed by a natural resource for the benefit of the public (hereinafter *the benefit provided*) measurable deterioration.

(3) Clauses 1 and 2 of subsection 1 of this section do not include pre-determined adverse effects caused by activities for which the administrative body has given permission taking into account the results of the environmental impact assessment and based on § 29 of the Environmental Impact Assessment and Environmental Management System Act, or which the administrative body has permitted under the law.

(4) A significant adverse effect within the meaning of subsection 1, point 3 of this section is an effect that worsens:

1) the condition of a surface water body in such a way that the condition class of the surface water body determined in accordance with the procedure established on the basis of subsection 2 of § 61 of the Water Act changes;

2) the condition of the groundwater body in such a way that, in accordance with the procedure established on the basis of § 66 (6) of the Water Act, the condition class of the groundwater body is determined to be bad;

3) characteristics of surface water or ground water that is not part of the body of water in such a way that the quality limit value established on the basis of § 76 (1) or § 79 (3) of the Water Act is exceeded in the water, bottom sediments of the water body or organisms;

4) the condition of the bathing water of the bathing place so that the bathing water is considered polluted in accordance with the regulation established on the basis of § 91 (2) of the Water Act;

5) the quality of the water body or aquifer used for taking drinking water or intended for that purpose reaches the limit, which leads to a significant increase in the costs of processing it into drinking water;

6) the condition of the water in the area designated for the protection of habitat or species under the Nature Conservation Act, as specified in § 36 (1) point 5 of the Water Act, or in the area designated for the protection of economically important aquatic species designated under § 36 (6) of the Water Act, in such a way that it no longer meets the established quality requirements;

7) the state of surface and groundwater in such a way that it becomes impossible to achieve the environmental goals specified in the water management plan established on the basis of the Water Act;

8) the characteristics of water in the sea area in such a way that the limit values of surface water quality established on the basis of § 76 (1) of the Water Act are exceeded.

[RT I, 22.02.2019, 1 - enters into force. 01.10.2019]

(5) A significant adverse effect within the meaning of subsection 1, point 3 of this section shall not be considered to be an effect that has occurred under the conditions set forth in § 42, subsection 1 of the Water Act.

[RT I, 22.02.2019, 1 - enters into force. 01.10.2019]

(6) When assessing the risk within the meaning of paragraph 1, point 4 of this section, the purpose of using the land on which the soil damage has occurred must be taken into account. The risk must be assessed using a risk assessment method that takes into account the properties and functions of the soil, the type and concentration of harmful substances, preparations, organisms or microorganisms, the risk of their occurrence and the possibility of their spread.

(7) Risk of environmental damage (hereinafter *risk of damage*) in the sense of this Act is a sufficient probability that environmental damage will occur in the near future.

§ 3. Identification of environmental damage and threat of damage and initial situation

(1) When detecting environmental damage, the original situation and the provisions of § 2 of this Act and subsections 3 and 4 of this section are taken into account.

(2) The original situation is the state of the natural resource and the benefits it provides, which would exist if environmental damage had not been caused.

(3) The detection of environmental damage specified in points 1 and 2 of § 2 (1) of this Act is based on the number of individuals, the size of the population and its range, the importance of the individuals or the damaged area to the population, species, habitat or protected area, the threat of the species or habitat at local, national or European Union level. level, the reproductive capacity and viability of the species, the natural self-regeneration capacity of the habitat, species and protected area, the protection objective and protection regime or protection category of the habitat, species and protected area, and the benefits offered by the habitat, species or protected area. Damage that has a negative impact on human health is considered environmental damage.

(4) Environmental damage within the meaning of clauses 1 and 2 of § 2 (1) of this Act may not be considered an adverse effect that is less than a natural change that is considered normal for a specific habitat, species or protected area, which has occurred due to natural causes or during normal management, or if the habitat, species or protected area achieves, within a short period of time and without

intervention, either the original situation or a situation that makes it possible to achieve a situation equal to or better than the original situation.

(5) Environmental damage and risk of damage is identified by the Environmental Board (hereinafter *the Board*).
[RT I 2009, 3, 15 - entry into force. 01.02.2009]

§ 4. Habitat and species

(1) Habitat within the meaning of this Act is:

- 1) the habitat of the species specified in subsection 2 of this section;
- 2) the habitat type specified in the regulation established on the basis of subsection 3 of this section.

(2) A species within the meaning of this Act is:

- 1) a species belonging to protection category I, II or III based on the Nature Conservation Act;
- 2) the species specified in the regulation established on the basis of subsection 3 of this section.

(3) An additional list of habitat types and species, which are understood as habitat and species within the meaning of this Act, shall be established by the minister responsible for the field by regulation, based on the European Parliament and Council Directive 2004/35/EC on environmental responsibility on the prevention and repair of environmental damage (OJ L 143, 30.04.2004 , pp. 56–75) from points a and b of Article 2, paragraph 3.

§ 5. Favorable condition of habitat and species

(1) The concept of favorable condition of the habitat is used in the meaning of § 3 subsection 1 of the Nature Conservation Act.

(2) The concept of favorable status of the species is used in the sense of § 3 (2) of the Nature Conservation Act.

§ 6. Identification of the cause of environmental damage and the cause of environmental damage

(1) The causer of environmental damage (hereinafter *the causer of damage*) is a person whose action or inaction causes environmental damage or the risk of damage.

(2) If it is likely that environmental damage or the risk of damage has been caused during the activity specified in subsection 2 of § 8 of this Act, then a causal connection between the activity or inaction and the resulting damage or threat of damage is assumed, and the cause of the damage is the operator engaged in this activity. When assessing the probability of a causal relationship, the course of the activity, the premises, buildings and equipment used, the nature and concentration of substances and organisms related to the damage, weather conditions, the time, place and circumstances of the damage and the general characteristics of the damage must be taken into account.

[RT I, 08.07.2014, 3 - enters into force. 01.08.2014]

(3) The agency must prove the causal connection between the action or inaction not mentioned in subsection 2 of § 8 of this Act and the damage, based on the criteria provided in subsection 2 of this section.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(4) The agency shall identify the person causing the damage.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

Chapter 2 PREVENTION AND REMEDY OF ENVIRONMENTAL DAMAGE

Section 1 General settings

§ 7. Concept of prevention and remediation of environmental damage

(1) Preventing environmental damage is the implementation of measures to eliminate the risk of damage caused by an event, activity or inaction, or to reduce the extent of possible environmental damage, or to control, prevent the spread of, eliminate, or otherwise influence pollutants or other damaging factors in order to limit or prevent additional environmental damage and damage to human health or the further deterioration of the quality of the habitat, species, protected area or the benefit provided by the water (hereinafter *preventive measures*).

(2) Remediation of environmental damage is the implementation of measures to restore, replace or compensate the damaged natural resource or the benefit it provides, and to eliminate significant risks that threaten human health (hereinafter *remedial measures*).

(3) Restoration is the restoration of the original state of the damaged habitat, species, protected area or water and the benefits provided by them in the case of environmental damage specified in clauses 1-3 of § 2 (1) of this Act. Recovery also includes natural recovery.

(4) In case of soil damage, restoration is the elimination of the risk that may affect human health.

§ 8. Obligation of prevention and reparation of the causer of damage

(1) The person causing the damage must implement the necessary prevention and remedial measures if he is responsible for causing environmental damage or the threat of damage. The person causing the damage is responsible for causing the environmental damage or the risk of damage if he is guilty of causing the environmental damage or the risk of damage.

(2) The person causing the damage is responsible, regardless of whether he is guilty or not, if environmental damage or the risk of damage is caused by the following activities:

- 1) operation of facilities that require an environmental complex permit according to the Industrial Emissions Act;

[RT I, 16.05.2013, 1 - enters into force. 01.06.2013]

- 2) [invalid - RT I, 21.12.2019, 1 - entry into force. 01.01.2020] 2¹) activities requiring an environmental permit specified in clauses 1

and 3 of § 41 (1) of the General Part of the Environmental Code Act; [RT I, 21.12.2019, 1 - enters into force. 01.01.2020] 2²) activities with a registered water environmental risk specified in subsection 2 of § 196 of the Water Act; [RT I, 17.03.2023, 3 - enters into force. 01.04.2023] 2³) the activities of the registered waste handler specified in subsection 2 of § 98⁷ of the Waste Act . [RT I, 21.12.2019, 1 - enters into force. 01.01.2020] 3) [invalid - RT I, 21.12.2019, 1 - entry into force. 01.01.2020] 4) manufacture, use, storage, processing, release into the environment and on-site transportation of hazardous chemicals specified in the Chemicals Act, plant protection products specified in the Plant Protection Act and biocides specified in the Biocides Act; 5) transport of dangerous goods by road, railway, inland waterways, sea or air as prescribed by the agreement on the international carriage of dangerous goods by road, in § 111 subsection 2 of the Railway Act, § 42 subsection 1 of the Maritime Safety Act or § 54 of the Aviation Act; [RT I, 30.10.2020, 1 - enters into force. 31.10.2020] 6) use of genetically modified microorganisms in a closed environment within the meaning of the Act on the Use of Genetically Modified Microorganisms in a Closed Environment; 7) deliberate release of genetically modified organisms into the environment and marketing of a genetically modified organism and product within the meaning of the Act on the Release of Genetically Modified Organisms into the Environment; 8) Interstate transportation of waste transported to the European Union or transported out of the European Union, for which a permit is required or which is prohibited in accordance with Regulation (EC) No. 1013/2006 of the European Parliament and of the Council on waste shipments (OJ L 190, 12.07.2006, pp. 1–98); 9) according to the Atmospheric Air Protection Act, activities related to the storage of carbon dioxide in the ground. [RT I, 05.07.2016, 1 - enters into force. 01.01.2017]

(3) § 140 and 141 of the Act on the General Part of the Civil Code and § 104, 137, 138 and 1052–1054 of the Law of Obligations Act shall apply to the prevention of environmental damage and the threat of damage and the remediation of environmental damage, taking into account the specifics of this Act.

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(3) § 140 and 141 of the General Civil Code Act specified in subsection 3 of this section do not apply if environmental damage or the threat of damage is caused by the activities specified in subsection 8 of this Act.
[RT I, 08.07.2014, 3 - enters into force. 01.08.2014]

(4) The liability of the tortfeasor in relation to maritime claims is limited by the provisions implementing the 1976 Convention on the Limitation of Liability for Maritime Claims of the Commercial Shipping Act.

§ 9. Notification obligation

(1) In the event of environmental damage or the threat of damage, or in the event that the threat of damage persists, regardless of the prevention measures implemented, the person causing the damage is obliged to immediately notify the agency of all circumstances related to environmental damage and the threat of damage and to submit the information specified in the regulation established on the basis of subsection 2 of this section. If environmental damage or the threat of damage may affect human health, the Agency also informs the Health Board.
[RT I, 10.07.2020, 2 - enters into force. 01.01.2021]

(2) The list of data concerning environmental damage and risk of damage shall be established by regulation of the minister responsible for the field .

(3) The Board and the Board of Health have the right to request other relevant information from the person causing the damage, which is not specified in the regulation established on the basis of subsection 2 of this section. The Board and the Board of Health have the right to demand information from the possible cause of damage even in case of suspicion of a risk of damage.
[RT I 2009, 49, 331 - entry into force. 01.01.2010]

(4) The owner of the immovable property is obliged to notify the agency of the occurrence of environmental damage or the threat of damage to his immovable property, if their occurrence is obvious. If environmental damage or the threat of damage may affect human health, the Agency also informs the Health Board.
[RT I, 10.07.2020, 2 - enters into force. 01.01.2021]

§ 10. Involvement of an expert

[Repealed - RT I, 08.07.2014, 3 - entered into force. 01.08.2014]

§ 11. Selection of an expert in the event of environmental damage and risk of damage that may affect human health

[Repealed - RT I, 08.07.2014, 3 - entered into force. 01.08.2014]

Section 2 Avoiding environmental damage

§ 12. Obligation to implement prevention measures

(1) The person causing the damage is obliged to immediately implement preventive measures if environmental damage or a risk of damage occurs, and to inform the agency about them.

(2) When fulfilling the obligation provided for in subsection 1 of this section, the person causing the damage has the right to contact the agency to assess the suitability of the preventive measures to be implemented.

(3) The Board has the right to demand the implementation of prevention measures from the person causing the damage and to issue mandatory instructions for their implementation.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

§ 13. Implementation of prevention measures by the agency

(1) If the person causing the damage does not fulfill the obligations arising from § 12 of this Act, if the person causing the damage has not been identified or if he is not obliged to bear the costs associated with the prevention measures in accordance with § 26 subsection 4 of this Act, the agency may implement prevention measures. The Agency has the right to apply preventive measures in case of environmental damage or threat of damage, regardless of the cause of the damage, also in cases not previously mentioned, unless another state or local government agency has a legal obligation to act.

(2) The implementation of prevention measures by the agency does not release the person causing the damage from responsibility.

(3) The Agency implements prevention measures in accordance with the Act on Substitute Enforcement and Extortion, taking into account the specifics provided in this Act.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

Section 3 Remediation of environmental damage

§ 14. Obligation to implement remedial measures

(1) The person causing the damage implements remedial measures, based on the plan of remedial measures, at his own expense, except for the cases provided for in subsections 4 and 5 of § 26 of this Act.

(2) Before the remedial measures plan is completed, the person who caused the damage implements the remedial measures in coordination with the agency.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(3) The Board has the right to demand the implementation of remedial measures from the person causing the damage and to issue mandatory instructions for their implementation.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

§ 15. Implementation of remedial measures by the agency

(1) If the person causing the damage does not fulfill the obligations arising from § 14 of this Act, if the person causing the damage is not known or if he is not obliged to bear the costs associated with remedial measures in accordance with subsection 4 or 5 of § 26 of this Act, the Agency may implement remedial measures. The Agency has the right to implement remedial measures independently of the cause of damage also in cases not previously mentioned.

(2) Implementation of remedial measures by the agency does not release the person who caused the damage from responsibility.

(3) The Agency implements remedial measures in accordance with the Substitute Enforcement and Extortion Act, taking into account the specifics provided in this Act.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

§ 16. Remedial measures for damage caused to the habitat, species, protected area and water

(1) If it is not possible to achieve the original situation of the habitat, species, protected area or water or the benefits they offer with the implementation of restorative remedial measures, then substitute remedial measures shall be implemented. In addition, compensatory remedial measures are implemented to remedy the consequential damage.

(2) Restorative remedial measures are remedies that achieve the original state of the damaged habitat, species, protected area or water or the damaged benefits they provide, or change their state towards the original state.

(3) Substitute remedial measures are measures that are applied in the event that it is not possible to restore the original situation of the habitat, species, protected area or water or the benefits they provide. The purpose of the implementation of replacement remedial measures is to achieve the level of the habitat, species, protected area or water and the benefits they provide analogous to what would have been if the original situation of the habitat, species, protected area or water and the benefits they provided had been restored at the site of the environmental damage, or in case, if this is not possible, replace it with an equivalent. If possible and practical, replacement remedial measures are implemented at a location that is geographically related to the location of the environmental damage.

(4) Compensatory remedial measures are measures that are applied to compensate for the indirect damage to the habitat, species, protected area or water or the benefits they provide, which have been accompanied by the environmental damage since its occurrence until the restorative or replacement remedial measures take full effect. This includes measures to improve the condition of the habitat, species, protected area or water at the site of the environmental damage or on an alternative land area. The remedies do not include financial compensation directed at the public.

§ 17. Consequential damage

Intermediate damage is environmental damage that is caused by the fact that the damaged natural resource or the benefit it provides cannot fulfill its ecological function or provide public benefits or does not support the natural functioning of other natural resources as long as restorative or replacement remedial measures have taken effect.

§ 18. Drawing up a plan for remedial measures

- (1) The Agency sets a reasonable deadline for drawing up a plan of remedial measures.
- (2) The remedial measures plan is drawn up by the person who caused the damage and submits it to the agency for approval electronically with a digital signature or on paper immediately after its completion, but no later than by the deadline set by the agency.
- (3) The person who caused the damage and the agency must cooperate to draw up a plan of remedial measures even before submitting it to the agency for approval.
- (4) If the agency implements remedial measures in accordance with § 15 of this Act, the agency prepares a plan of remedial measures.
- (5) [Repealed - RT I, 08.07.2014, 3 - entered into force. 01.08.2014]

§ 19. Selection of remedial measures in the remediation of damage caused to the habitat, species, protected area and water

(1) When selecting remedial measures, the agency and the person causing the damage shall take into account the following circumstances:

- 1) the impact of the measures on human health and safety;
- 2) geographical connections with the area where environmental damage has been caused;
- 3) the probability of success in the implementation of the measures;
- 4) the extent to which the implementation of the remedial measure makes it possible to avoid future damage or accompanying damage;
- 5) to what extent the remedial measure contributes to the recovery of the natural resource and the benefit provided;
- 6) the impact of measures on social, economic, cultural and other important factors;
- 7) the time required to eliminate environmental damage;
- 8) to what extent it is possible to restore the environmentally damaged area;
- 9) the amount of costs associated with the measures.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(2) When preparing a plan of remedial measures, the drafter of the plan of remedial measures must consider the implementation of such measures, by means of which the original state of the natural resource and the benefit provided by the natural resource will be achieved directly and in an accelerated manner or through natural recovery.

(3) When planning replacement and compensatory remedial measures, the plan of remedial measures must first consider the replacement of the damaged natural resource or the benefit provided by it with an equivalent natural resource or benefit provided. First, it is considered whether it is possible to implement measures that ensure the existence of the same type and quality and quantity of natural resources and the benefit it provides, if the natural resource and the benefit it provides were damaged. If replacement with an equivalent natural resource or offered benefit is not possible, the natural resource or offered benefit may be replaced with an alternative natural resource or offered benefit.

(4) If it is not possible to replace the damaged natural resource or the benefit offered with an equivalent one, remedial measures must be found based on the method determined by the agency.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(5) If the person causing the damage has caused several cases of environmental damage and the Agency finds that it is not possible to ensure the simultaneous implementation of the necessary remedial measures, the Agency may determine which case of environmental damage must be implemented in the first place. In doing so, the agency takes into account the nature and extent of environmental damage, the possibilities of natural recovery of the environment and the risk that environmental damage may affect human health.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

§ 20. Selection of remedial measures in the remediation of soil damage

In order to repair soil damage, measures are chosen that allow the pollutants that caused the damage to be removed, isolated, their spread limited, or their effects reduced so that the contaminated soil does not pose a threat to human health.

§ 21. Approval of the remedial measures plan

(1) The Board approves a plan of remedial measures for the remediation of damage caused to the habitat, species, protected area or water or the benefits provided by them by its prescription, if the implementation of the measures planned in it makes it possible to remediate the environmental damage and the remedial measures have been selected and justified in accordance with § 19 of this Act.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(2) The Agency approves the plan of remedial measures for the remediation of soil damage with its prescription, if it provides suitable and sufficient measures to remove, isolate, limit the spread or reduce the effect of pollutants, so that the contaminated soil does not endanger human health.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(3) Before approving the remedial measures plan, the agency shall hear the affected person specified in § 23 subsection 1 of this Act and the person whose property is affected by the implementation of the remedial measures.

(4) If the plan of remedial measures does not meet the conditions set forth in subsection 1 or 2 of this section, the agency may refuse to approve it and give the person causing the damage a deadline to submit an updated plan of remedial measures.

(5) The Board has the right to make changes to the plan of remedial measures before its approval, taking into account the provisions of §§ 19 and 20 of this Act.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(6) Based on § 19 subsection 3 of this Act, the Agency may approve restorative remedial measures that do not fully achieve the original situation of the habitat, species, protected area, water or the benefits provided by them, if the habitat, species, protected area,

water or the benefits provided by them have been full reparation of the damage is ensured by means of substitute and compensatory measures.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

§ 22. Completion of the remedial action plan

(1) Remedial measures are implemented in accordance with the plan of remedial measures approved in § 21 of this Act.

(2) If, during the implementation of the remedial measures, it turns out that the extent of the environmental damage is greater than the originally identified damage, or when selecting the measures prescribed in the remedial measures plan, the circumstances specified in § 19 or 20 of this Act, which were the basis for the selection of the remedial measures, have been incorrectly assessed, or these circumstances have changed, the office shall be liable on the basis of the proposal of the originator or on his own initiative, the right to make changes in the plan of remedial measures, taking into account the provisions of §§ 19 and 20 of this Act.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(3) If the measures prescribed in the plan of remedial measures have been implemented and the damaged natural resource or the benefit provided by it has been restored, replaced or compensated, and the risks threatening human health have been eliminated, the agency shall consider the plan of remedial measures fulfilled and the environmental damage remedied by its administrative act.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(4) The Agency may decide that the implementation of further remedial measures is not necessary if the already implemented remedial measures ensure that there is no significant risk to human health and no significant adverse impact on the habitat, species, protected area or water and the costs of the remedial measures implemented to achieve the original state or a situation equivalent to it would be disproportionately large compared to the improvement of the environmental condition to be achieved.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

Section 4

Rights and obligations of individuals in preventing and remediating environmental damage

[RT I, 08.07.2014, 3 - enters into force. 01.08.2014]

§ 23. Rights of the affected person

(1) A person who is affected or may be affected by environmental damage or who has a justified interest in the processing of environmental damage or whose rights are violated by the creation of environmental damage or the risk of damage (hereinafter *affected person*), and the non-governmental environmental organization specified in § 31 of the General Part of the Environmental Code Act, whose environmental protection goals or current environmental protection activities are affected by the creation of environmental damage or the threat of damage, have the right to request the agency to implement prevention or remedial measures or to oblige the person causing the damage to implement prevention or remedial measures. For this purpose, relevant information related to environmental damage or its threat must be submitted to the agency.

[RT I, 08.07.2014, 3 - enters into force. 01.08.2014]

(2) The Agency decides on the need to implement prevention or remedial measures within 30 days from the receipt of the request specified in subsection 1 of this section. The Agency informs the applicant of its motivated decision without delay, sending a copy of the decision to the applicant.

(3) If the information specified in subsection 2 of this section cannot be forwarded to the applicant for the reason that it is not possible to take a position on the application before the expert's opinion is completed, or for any other such reason, the agency shall inform the applicant of what actions have been taken in processing the application and when it is possible to transmit the decision specified in subsection 2 of this section.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

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§ 23 . Obligation to endure prevention and remedial measures

(1) The owner of an immovable property is obliged to bear the actions of detecting environmental damage or risk of damage to his immovable property, or the implementation of prevention or remedial measures, if this is done on the basis of an administrative act.

(2) When issuing the administrative act specified in subsection 1 of this section, the Board must take into account the justified interests of the owner of the immovable property and find out the position of the owner of the immovable property.

(3) If damage is caused to the owner of the immovable property as a result of measures to prevent or remedy environmental damage, the person causing the damage is obliged to eliminate the consequences of the damage or to compensate the owner of the immovable property in accordance with the provisions on compensation for damage in the Law of Obligations Act.

[RT I, 08.07.2014, 3 - enters into force. 01.08.2014]

§ 24. Non-governmental environmental protection organization

[Repealed - RT I, 08.07.2014, 3 - entered into force. 01.08.2014]

Section 5

Costs of preventing and remediating environmental damage

§ 25. Costs related to the prevention and remediation of environmental damage

The costs related to the prevention or remediation of environmental damage (hereinafter referred to as *costs*) are the costs of identifying, preventing and remediating environmental damage and the risk of damage, including the implementation of prevention and remedial measures, the involvement of an expert, the evaluation of alternative measures, the collection of information and the costs of monitoring and supervision, organizational, legal aid and other justified expenses of the administrative body related to the implementation of this Act.

§ 26. Person obliged to bear costs

(1) The costs shall be borne by the person causing the damage if he is responsible for causing environmental damage or the risk of damage.

(2) The costs shall be borne by the agency if:

- 1) the person causing the damage does not fulfill the obligation stipulated in subsection 1 of this section;
- 2) the person who caused the damage is released from the obligation to bear costs in accordance with subsections 4 and 5 of this section;
- 3) the cause of the damage is unknown.

(3) If the person who caused the damage has been identified, the agency shall collect from him the costs incurred on the basis of subsection 2 of this section, unless the person who caused the damage is exempted from the obligation to bear the costs in accordance with subsections 4 and 5 of this section.

(4) The Agency releases the person causing the damage from the obligation to bear the costs of implementing prevention and remedial measures, if the person causing the damage proves that:

- 1) the environmental damage or threat of damage was caused by a third party and despite the fact that appropriate safety measures were implemented;
- 2) the environmental damage or threat of damage was caused by the execution of an order or instruction given by a public authority, unless the order or instruction was given due to previous illegal activity or inactivity of the person causing the damage.

(5) The Agency releases the person who caused the damage from the obligation to bear the costs of implementing remedial measures, if the person who caused the damage proves that the environmental damage was caused by:

- 1) emissions or an event that meets the conditions established in the permit, if the permit has been granted for the activity specified in § 8 subsection 2 of this Act and the person who caused the damage complied with the obligations imposed on him by law and on the basis of law;
- 2) from emissions or activities or the way the product is used, for which the person who caused the damage proves that at the time of the emission or activity, there was no reason to consider the occurrence of environmental damage likely based on available scientific and technical knowledge, and that he took all necessary measures to find out the possible impact of the activity.

(6) Subsection 5 of this section does not apply to the costs of implementing measures to remedy environmental damage caused by the intentional release of genetically modified organisms into the environment and the marketing of genetically modified organisms and products.

(7).

[RT I, 08.07.2014, 3 - enters into force. 01.08.2014]

§ 27. Payment notification for reimbursement of costs

(1) In the case specified in subsection 26 (3) of this Act, the Agency submits an estimate of costs to the person causing the damage and issues a payment notice. A payment notice is an administrative act for the fulfillment of a financial obligation under public law within the meaning of § 2 subsection 1 point 21 of the Enforcement Procedure Code.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(2) The amount of expenses that must be reimbursed, the work, service or thing, the purchase or manufacture of which the costs were incurred, and in the event that the expenditure was made on the basis of a plan of remedial measures, a reference to the provision of the plan of remedial measures, which provided for the procurement of the corresponding work, service or thing, shall be noted in the cost accounting ahead.

(3) The person causing the damage must pay the costs in the amount specified in the payment notice and by the due date. The deadline for payment of expenses cannot be shorter than 30 calendar days.

(4) In case of non-payment of costs by the due date, the person who caused the damage shall pay 0.06 percent of the late fee per day from the balance of the unpaid costs.

[RT I, 08.07.2014, 3 - enters into force. 01.08.2014]

(5) The Agency has the right to submit the cost calculation and payment notice to the person who caused the damage no later than five years after the day when the implementation of prevention or remedial measures was terminated, or from the day when the person who caused the damage was identified, depending on which event took place later.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

§ 28. Timing of payment of expenses

(1) The Board has the right to postpone the payment of expenses for up to ten years at the request of the person who caused the damage. In order to schedule the payment of expenses that significantly affect the revenues of the state budget, the agency coordinates the schedule in advance with the Ministry of Finance. Postponing the payment of costs does not release the person causing the damage from the obligation to pay current or future costs.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(2) When rescheduling the payment of expenses, an interest of 0.03 percent per calendar day is calculated on the balance of expenses. Interest calculation stops when the person causing the loss declares bankruptcy.

[RT I, 08.07.2014, 3 - enters into force. 01.08.2014]

(3).

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(4) When deciding whether to grant the request, the Agency takes into account the financial condition of the person causing the damage, economic indicators, previous fulfillment of the obligation to pay costs and environmental fees, the expediency of rescheduling the payment of costs, and the security provided in the event of a security request. The Agency has the right to demand the submission of documents necessary to determine these circumstances. The Agency makes a decision on the satisfaction of the application within

10 working days from the submission of the application, or if additional documents were requested, then from the submission of the documents.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(5) The Board has the right to reject a request for postponement of the payment of expenses if:

- 1) the request is not sufficiently substantiated;
- 2) the person causing the damage does not provide the required guarantee, or the agency does not consider the provided guarantee to be sufficient, reliable or easy to realize, or if formalizing the guarantee leads to excessive administrative costs;
- 3) when considering the compromise proposal made by the debtor in the bankruptcy proceedings, the office finds that the debtor's financial condition does not allow the fulfillment of the obligations assumed as a result of the compromise;
- 4) there are other circumstances or reasons due to which the Agency does not consider the postponement of the payment of costs to be justified.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(6) If the person who caused the damage does not fulfill the schedule for the payment of costs or the obligation stipulated in the Property Law Act to keep the thing encumbered by the pledge presented as security, or if the value or reliability of the security decreases, he does not provide a proper additional security or a replacement security by the deadline set by the office, the office has the right to declare the decision to reschedule the payment of costs invalid.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

§ 29. Security in timing the payment of expenses

(1) The Board has the right to demand the submission of a guarantee in case of postponement of the payment of expenses. Security is not required from a bankrupt tortfeasor whose debt is postponed for the purpose of compromise in bankruptcy proceedings.

[RT I, 08.07.2014, 3 - enters into force. 01.08.2014]

1

(1) The security for delaying the payment of costs can be:

- 1) a pledge, giving priority to a mortgage or registered pledge;
- 2) a guarantee from a credit or financial institution or an insurance provider;
- 3) security deposit;
- 4) notary deposit.

[RT I, 08.07.2014, 3 - enters into force. 01.08.2014]

(2) When establishing a mortgage, the owner of the immovable property undertakes to submit to immediate enforcement in order to satisfy the claim secured by the mortgage. The corresponding agreement is an enforcement document within the meaning of § 2 (1) point 19 of the Code of Enforcement Procedures.

(3) At the time of submitting the guarantee, the value of the guarantee must be at least 115 percent of the amount of the scheduled costs. If the agency determines that the guarantee no longer sufficiently or reliably guarantees the payment of costs, it has the right to demand an increase in the guarantee or the replacement of the original guarantee with a new one.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(4) The procedure for submitting, using, increasing, replacing and releasing the guarantee shall be established by a regulation of the minister responsible for the field .

§ 30. Order of payment of costs

In the case of payment of expenses, the first order is deemed to be paid in arrears, the second order is considered to be interest according to their time, starting from the earliest, and the last order is the costs.

Section 6

Cooperation with Member States

§ 31. Cooperation with member states

If environmental damage or the threat of damage concerns another member state of the European Union, the Ministry of Climate informs the relevant member state about the incident of environmental damage or threat of damage and organizes the implementation of cross-border prevention and remedial measures in cooperation with that member state, the agency and the cause of the damage.

[RT I, 30.06.2023, 1 - enters into force. 01.07.2023]

Section 7

Communication and dispute resolution

§ 32. Transmission of information and giving explanations

(1) The Agency informs the Climate Ministry about cases of environmental damage and threat of damage, as well as implemented prevention and remedial measures. Information related to environmental damage and the threat of damage is published on the website of the Ministry of Climate and the Agency.

[RT I, 30.06.2023, 1 - enters into force. 01.07.2023]

(2) The Ministry of Climate has the right to provide explanations for the assessment of intermediate damage and for the preparation and execution of a plan for remedial measures.

[RT I, 30.06.2023, 1 - enters into force. 01.07.2023]

(3) The minister responsible for the field may establish a procedure for notifying the public about incidents of environmental damage and threat of damage, as well as the implemented prevention and remedial measures.

§ 33. Settlement of disputes

(1) Disputes arising from the prevention of environmental damage or threat of damage or the remediation of environmental damage shall be resolved by the Ministry of Climate.

[RT I, 30.06.2023, 1 - enters into force. 01.07.2023]

(2) Before submitting a complaint to the administrative court, in the event of a dispute arising from the implementation of this Act, a dispute procedure must be completed under the conditions and procedure provided for in the Administrative Procedure Act.

(3) The Ministry of Climate will resolve the dispute within 30 working days from the submission of the dispute.

[RT I, 30.06.2023, 1 - enters into force. 01.07.2023]

(4) The Ministry of Climate and the complainant have the right to involve experts to resolve the complaint.

[RT I, 30.06.2023, 1 - enters into force. 01.07.2023]

(5) The costs related to the involvement of an expert shall be borne by the complainant, unless the complaint is upheld.

Chapter 3 STATE SUPERVISION

[RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

1

§ 33 . State supervision

State supervision over compliance with the requirements of this Act and legislation established on its basis is carried out by the Environmental Board.

[RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

2

§ 33 . Special measures of state supervision

The Environmental Board may apply the special measures of state supervision provided for in §§ 30, 31, 32, 49, 50 and 51 of the Law on Law and Order on the basis and according to the procedure provided for in the Law on Law and Order, to carry out the state supervision provided for in this Act.

[RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

3

§ 33 . Extortion rate

In the case of failure to comply with the injunction, the maximum amount of the fine to be applied in accordance with the procedure laid down in the Substitute Enforcement and Fines Act is 32,000 euros.

[RT I, 13.03.2014, 4 - enters into force. 01.07.2014]

§ 34. Injunction and application of coercive means

[Repealed - RT I, 13.03.2014, 4 - entered into force. 01.07.2014]

§ 35. Right of access

[Repealed - RT I, 13.03.2014, 4 - entered into force. 01.07.2014]

Chapter 4 LIABILITY FOR VIOLATIONS OF THIS LAW

§ 36. Failure to implement mandatory remedial measures before approving the plan of remedial measures, failure to submit a proper plan of remedial measures and disregarding obligations established in the plan of remedial measures

(1) Failure to implement mandatory remedial measures before approval of the remedial measures plan, failure to submit a proper remedial measures plan, or failure to comply with the obligation established by the remedial measures plan - shall be punished with a fine of up to 300 fine units.

(2) For the same act, if it has been committed by a legal entity, - shall be punished with a fine of up to 32,000 euros.

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

§ 37. Violation of the notification obligation

(1) Failure to notify the agency of environmental damage or threat of damage or refusal to provide the requested information - shall be punished with a fine of up to 200 fine units.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(2) For the same act, if it has been committed by a legal entity, - shall be punished with a fine of up to 20,000 euros.

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

§ 38. Failure to implement prevention measures

(1) For failure to implement avoidance measures - a fine of up to 300 fine units is imposed.

(2) For the same act, if it has been committed by a legal entity, - shall be punished with a fine of up to 32,000 euros.

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

§ 39. Procedure

(1) [Repealed - RT I, 22.02.2019, 1 - entry into force. 01.10.2019]

(2) The Environmental Board is the non-judicial processor of misdemeanors provided for in §§ 36–38 of this Act.
[RT I, 10.07.2020, 2 - enters into force. 01.01.2021]

Chapter 5 IMPLEMENTATION PROVISIONS

§ 40. Financial compensation for environmental damage

(1) If environmental damage is remedied on the basis of this Act, the person who caused the damage shall not pay financial compensation:

1) for habitat and species damage on the basis of § 67 of the Forestry Act, § 73 of the Fishing Act, § 77 of the Nature Conservation Act or § 48 of the Hunting Act;

[RT I, 17.03.2015, 1 - enters into force. 01.07.2015]

2) for damage to surface or groundwater in accordance with Chapter 4 of the Environmental Charges Act;

[RT I, 22.02.2019, 1 - enters into force. 01.10.2019]

3) for the introduction of pollutants into the soil on the basis of § 112 of the Subsoil Act or in accordance with Chapter 4 of the Environmental Charges Act.

[RT I, 10.11.2016, 1 - enters into force. 01.01.2017]

(2) If, in addition to the remediation of environmental damage in accordance with this Act, the person has also paid the financial compensation specified in subsection 1 of this section, the agency will deduct the amount of the financial compensation from the costs related to the prevention and remediation of environmental damage, which must be borne by the person who caused the damage, or compensate the person who caused the damage, if the person who caused the damage bears all the costs of preventing and remediating environmental damage yourself.

[RT I 2009, 3, 15 - entry into force. 01.02.2009]

(3) If the person who caused the damage has removed the damage specified in clause 1, point 3 of this section in accordance with § 128 of the Waste Act, he does not pay the environmental fee at an increased rate for the introduction of pollutants into the soil in accordance with the Environmental Fees Act.

§ 41. Assessment of damage caused to water, if the state class of the water body has not been assessed beforehand

If the state class of the water body has not been determined in advance, the assessment of the damage caused to the water is based on an expert opinion, taking into account the state of the reference water body typical of the corresponding surface water body, the presence of pressure factors and their expected effect, the general impression of the surface water body and the general description of the ecological state.

1

§ 41 . Assessment of the damage caused to water, if limit values for the environmental quality of substances have not been established

If the limit values of the environmental quality of substances have not been established in advance, the assessment of damage caused to water is based on the provisions of §§ 144–146 of the Water Act.

[RT I, 22.02.2019, 1 - enters into force. 01.10.2019]

§ 42. – § 45. [Omitted from this text.]

§ 46. Entry into force of the law

Clause 2 of § 1 of this Act shall enter into force on the day of the international entry into force of the 2001 International Convention on Civil Liability for Damage Caused by Bunker Fuel Pollution.

1

Directive 2004/35/EC of the European Parliament and of the Council on environmental liability for the prevention and remediation of environmental damage (OJ L 143, 30.04.2004, pp. 56–75)

Directive 2009/31/EC of the European Parliament and of the Council dealing with the geological storage of carbon dioxide and amending Council Directive 85/337/EEC and Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No. 1013/2006 (OJ L 140, 05.06.2009, pp. 114–135).

[RT I, 21.12.2011, 1 - enters into force. 31.12.2011]