

Republic of Latvia
Cabinet
Regulation No. 204
Adopted 15 March 2011

Procedures for the Determination of Equitable Compensation for Immovable Property to be Alienated for Public Needs

*Issued pursuant to
Section 20, Paragraph two of the Law on the Alienation of Immovable Property Necessary for
Public Needs and Section 24, Paragraph 1.² of the Energy Law*

I. General Provisions

1. This Regulation prescribes the procedures by which equitable compensation shall be determined for immovable property to be alienated for public needs (hereinafter – the compensation).
2. The State administration institution or local government the competence of which includes ensuring of the relevant public needs (hereinafter – the institution) shall reimburse the losses which have been incurred by the former owner of the alienated immovable property in the process of alienation of the immovable property and which have not been included in the compensation or have occurred after alienation of the immovable property, without applying the procedures provided for in this Regulation. The abovementioned losses shall be reimbursed on the basis of a submission by the former owner of the alienated immovable property, to which documents certifying the amount of the losses have been appended. If the institution does not reimburse the losses referred to in this Paragraph or reimburses them partly, the former owner of the alienated immovable property has the right to apply to the court in accordance with the procedures laid down in the Civil Procedure Law.

II. Commission for the Determination of Compensation

3. The institution shall establish the Commission for the Determination of Compensation (hereinafter – the Commission) for the determination of compensation, consisting of not less than five members.
4. If the institution alienates immovable property for public needs on a regular basis, the institution has the right to establish a permanent commission.
5. The composition of the Commission shall include representatives of the institution, of the institutions subordinate thereto, of the State agencies or of agencies of the relevant local government, representatives of such capital companies in which the institution is the holder of capital shares, or representatives of such persons to whom the institution has delegated the performance of its tasks.
6. The composition of the Commission shall include at least one member of the Commission who has higher legal education (has acquired a programme of academic studies in law

sciences or a second level higher education study programme in law sciences, obtaining the qualification of a legal adviser or lawyer), and at least one member who has second level higher education in the financial or accounting field.

7. The work of the Commission shall be led by the Chairperson of the Commission. During the absence of the Chairperson of the Commission the work of the Commission shall be led by the Deputy Chairperson. The Chairperson of the Commission and the Deputy Chairperson of the Commission shall be appointed by the institution from among members of the Commission.

8. The Commission shall have quorum if more than half of members of the Commission participate in the meeting of the Commission, including members of the Commission referred to in Paragraph 6 of this Regulation. The Commission shall take all decisions by voting. A decision shall be taken if the majority of members of the Commission votes to this effect. If the number of votes is split equally, the vote of the Chairperson of the Commission or in the absence of the Chairperson of the Commission the vote of the Deputy Chairperson of the Commission shall be the deciding vote.

9. Minutes shall be taken of Commission meetings.

10. The procedural actions and decisions of the Commission shall not be subject to individual contesting or appeal. The owner of the immovable property to be alienated may contest the compensation specified in the decision of the institution and its amount in the court by way of a claim. The court shall examine the dispute regarding the compensation specified by the institution and its amount in accordance with the the procedures laid down in the Civil Procedure Law.

11. For determination of the compensation the Commission is entitled to invite experts and specialists to the meeting of the Commission. An expert and a specialist do not have the right to vote at the meetings of the Commission but have the right to express an independent professional opinion.

12. In order to ensure the acquisition of complete information, the Commission has the right to convene a Commission meeting at any stage of determining the compensation, inviting the owner of the immovable property to be alienated to the meeting.

III. Acquisition of the Information Necessary for Determination of the Compensation

13. In order to determine the compensation, the institution shall send or include in the notification referred to in Section 18, Paragraph two of the Law on the Alienation of Immovable Property Necessary for Public Needs an invitation to the owner of the immovable property to be alienated to submit the following information:

13.1. regarding the immovable property to be alienated, and documents which describe the immovable property to be alienated, including documents which describe its composition, condition, associated charges and encumbrances, profitability and other documents regarding the immovable property to be alienated which could affect the determination of the value of the immovable property to be alienated;

13.2. regarding losses that the owner of the immovable property might incur if the immovable property was to be alienated, and the amount of the potential losses, as well as documents justifying such losses and their potential amount;

13.3. regarding engineering structures and engineering communications which, in accordance with Section 24, Paragraph one of the Law on the Alienation of Immovable

Property Necessary for Public Needs, the owner of the immovable property to be alienated is requesting for the institution to build.

14. In the invitation referred to in Paragraph 13 of this Regulation the institution shall indicate the time period for the submission of information and documents which may not be less than 30 days from the date of receipt of the notification or, if the place of residence of the owner of the immovable property to be alienated is not known, from the publication of the notification in the official gazette *Latvijas Vēstnesis*.

15. If the owner of the immovable property to be alienated has not submitted the information and documents referred to in Paragraph 13 of this Regulation within the specified time period or the institution establishes that the submitted information is incomplete, the institution shall acquire information regarding the composition and use of the immovable property to be alienated from other institutions in accordance with Section 8, Paragraph two, Clause 1 of the Law on the Alienation of Immovable Property Necessary for Public Needs.

16. The institution shall submit the information and documents acquired in accordance with Paragraphs 14 and 15 of this Regulation to the Commission for evaluation. If the documents submitted by the institution are not sufficient for determination of the compensation, the Commission shall request that the institution acquires additional documents from the owner of the immovable property to be alienated or from other institutions in accordance with Section 8, Paragraph two, Clause 1 of the Law on the Alienation of Immovable Property Necessary for Public Needs and submits them to the Commission, or organise a meeting of the Commission for the acquisition of additional information to which the owner of the immovable property to be alienated shall be invited.

IV. Evaluation of the Immovable Property to be Alienated

17. After evaluating the information regarding the immovable property to be alienated and the documents describing the immovable property to be alienated, the Commission shall take a decision giving a work assignment to a certified valuer of immovable property. The Commission shall submit the abovementioned decision to the institution, adding information regarding the immovable property to be alienated and copies of the documents describing the immovable property to be alienated.

18. For valuation of the immovable property to be alienated the institution shall select a certified valuer of immovable property in accordance with the procedures laid down in the Public Procurement Law.

19. The institution shall submit to the certified valuer of immovable property the work assignment prepared by the Commission, the information at its disposal regarding the immovable property to be alienated and copies of the documents describing the immovable property to be alienated, as well as determine a time period by which the certified valuer of immovable property shall submit the valuation of the immovable property to be alienated to the institution. The abovementioned time period may not exceed 30 days from the day on which the institution has issued copies of the documents necessary for the valuation of the immovable property to be alienated to the certified valuer of immovable property.

20. The owner of the immovable property to be alienated shall be invited to participate in the survey of the immovable property to be alienated.

V. Determination of the Amount of Losses

21. After evaluating the information and documents regarding losses that could be incurred by the owner of the immovable property to be alienated if the immovable property was to be alienated, the Commission shall take a decision. The decision shall indicate losses the amount of which shall be determined by the Commission itself and losses the amount of which is proposed to be determined by a certified valuer of immovable property or other experts or specialists. The Commission shall submit the abovementioned decision to the institution. Information regarding such losses the amount of which is proposed to be determined by a certified valuer of immovable property or other experts or specialists, and copies of the documents necessary for determination of the amount of losses shall be appended to the decision.

22. If the institution supports the proposal included in the decision referred to in Paragraph 21 of this Regulation to request that the Commission and a certified valuer of immovable property or other experts or specialists determine the amount of losses, the compensation for losses that may be incurred by the owner of the immovable property to be alienated in respect of the alienation of the immovable property shall be determined by the Commission or a certified valuer of immovable property, or another expert or specialist. If the institution does not support the proposal included in the decision referred to in Paragraph 21 of this Regulation to request that a certified valuer of immovable property or other experts or specialists determine the amount of losses, the compensation for losses that may be incurred by the owner of the immovable property to be alienated in respect of the alienation of the immovable property shall be determined by the Commission.

23. If a part of immovable property is alienated for public needs, the losses which consist of reduction in the value of the remaining part of the immovable property or increase in the value of the remaining part of the immovable property shall be determined by a certified valuer of immovable property selected in accordance with the procedures laid down in Paragraph 18 of this Regulation.

24. Upon assigning determination of the amount of losses to a certified valuer of immovable property or another expert or specialist, the institution shall determine the time period by which the amount of losses shall be determined. The abovementioned period may not exceed 30 days from the date on which the institution has issued information to the certified valuer of immovable property or another expert or specialist regarding the relevant losses and copies of the documents necessary for determining the amount of losses.

VI. Evaluation of the Compensation

25. After submission to the institution of the valuation of immovable property to be alienated prepared by a certified valuer of immovable property and the estimate of the losses thereof the determination of the amount of which has been assigned to a certified valuer or other experts or specialists, the Commission shall evaluate the abovementioned documents and calculate the compensation.

26. After calculating the compensation, the Commission shall convene a meeting to evaluate the calculated compensation. The following shall be invited to the meeting of the Commission:

26.1. the owner of the immovable property to be alienated;

26.2. where necessary – the certified valuer of immovable property who has prepared the valuation of the immovable property to be alienated or determined the amount of losses;

26.3. where necessary – other experts or specialists who have determined the amount of losses.

27. The invitation to participate in the meeting referred to in Paragraph 26 of this Regulation shall be sent to the owner of the immovable property to be alienated at least 30 days in advance. The invitation shall indicate the calculated compensation, the information as to which civil engineering and engineering communications the institution shall build with its funds in accordance with Section 24 of the Law on the Alienation of Immovable Property Necessary for Public Needs, a request for the owner of the immovable property to be alienated to submit a written opinion and objections regarding the amount of the compensation, as well as to inform if he or she does not wish to participate in the meeting of the Commission for the evaluation of the compensation. A copy of the valuation of the immovable property to be alienated, a copy of the estimate of the losses, and the documents supporting the amount of the losses shall be appended to the invitation.

28. If the owner of the immovable property to be alienated informs the institution, until the meeting referred to in Paragraph 26 of this Regulation, that he or she agrees with the compensation specified in the invitation referred to in Paragraph 27 of this Regulation, or declares in writing that he or she shall not participate in the meeting of the Commission, the Commission has the right, informing the persons invited, to convene a meeting of the Commission for the evaluation and approval of the compensation prior to the end of the time period indicated.

29. At the meeting referred to in Paragraph 26 of this Regulation, the Commission shall present the owner of the immovable property to be alienated with the information and documents justifying the determined compensation, hear the opinion of the owner of the immovable property to be alienated regarding the compensation and its amount, answer his or her questions regarding the valuation, losses, their amount and estimate, or request an explanation regarding such matters from the invited persons.

30. If the owner of the immovable property to be alienated submits a valuation prepared by a certified valuer of immovable property or an estimate of the losses thereof until taking of the decision of the Commission on approval of the amount of the compensation which the institution has assigned the certified valuer of immovable property to determine, and it is different from the valuation of the immovable property to be alienated prepared by the certified valuer of immovable property or the estimate of the losses, the institution shall send both valuations of the immovable property to be alienated or the estimate of the losses to the association “Latvian Association of Property Appraisers” for the provision of an opinion.

31. Within 30 days after receipt of the valuation or estimate of the losses of the immovable property to be alienated the association "Latvian Association of Property Appraisers" shall evaluate them and provide an opinion on the conformity thereof with laws and regulations and the work assignment given by the institution.

32. If the association “Latvian Association of Property Appraisers” has indicated in its opinion that the valuation or estimate of the losses prepared by a certified valuer of immovable property selected by the institution or the valuations and estimates of the losses prepared by both certified valuers of immovable property conform to the requirements of laws and regulations and the work assignment given by the institution, the Commission shall decide on approval of the amount of the compensation, taking into account the valuation of the immovable property to be alienated and the estimate of the losses prepared by the certified valuer of immovable property selected by the institution.

33. If the association “Latvian Association of Property Appraisers” has indicated in its opinion that the valuations of immovable property to be alienated or estimates of the losses prepared by both certified valuers of immovable property do not conform to the requirements of laws and regulations or the work assignment given by the institution, the institution shall perform one of the following activities in evaluating the usefulness:

33.1. ask the certified valuer of immovable property selected by the institution to rectify the deficiencies specified in the opinion of the association “Latvian Association of Property Appraisers”;

33.2. select another certified valuer of immovable property in accordance with the procedures laid down in Paragraph 18 of this Regulation and repeat the valuation of the immovable property to be alienated in accordance with the procedures laid down in Chapter IV of this Regulation or the determination of the amount of the losses included in the estimate of the losses prepared by the certified valuer of immovable property in accordance with the procedures laid down in Chapter V of this Regulation.

34. If the association “Latvian Association of Property Appraisers” has indicated in its opinion that the valuation or estimate of the losses of immovable property to be alienated prepared by a certified valuer of immovable property does not conform to the requirements of laws and regulations or the work assignment given by the institution, but the valuation of the immovable property to be alienated and the estimate of the losses of the certified valuer of immovable property selected by the owner of the immovable property conform to the requirements of laws and regulations and the work assignment given by the institution, the institution shall perform one of the following activities upon evaluating the usefulness:

34.1. ask the Commission to decide on approval of the amount of the compensation, taking into account the valuation and the estimate of the losses of immovable property to be alienated prepared by the certified valuer of immovable property selected by the owner of the immovable property;

34.2. ask the certified valuer of immovable property selected by the institution to rectify the deficiencies established in the opinion of the association “Latvian Association of Property Appraisers”;

34.3. select another certified valuer of immovable property in accordance with the procedures laid down in Paragraph 18 of this Regulation and repeat the valuation of the immovable property to be alienated in accordance with the procedures laid down in Chapter IV of this Regulation or the determination of the amount of losses included in the estimate of the losses prepared by the certified valuer of immovable property in accordance with the procedures laid down in Chapter V of this Regulation.

VII. Approval of the Compensation

35. The Commission shall take a decision to approve the compensation in a closed meeting.

36. After the Commission has taken a decision on the compensation, the institution shall evaluate the amount of the compensation approved by the Commission and:

36.1. if deficiencies have not been established in determination of the compensation – shall approve the compensation specified by the Commission, taking the decision on the amount of the compensation referred to in Section 9, Paragraph one of the Law on the Alienation of Immovable Property Necessary for Public Needs;

36.2. if deficiencies have been established in determination of the compensation – shall ask the Commission to rectify the deficiencies or to re-determine the compensation.

Prime Minister

V. Dombrovskis

Acting for the Minister for Justice – Minister for the Interior

L. Mūrniece