DRAFT
LEGISLATION
xx.xx.2023

Act amending the Waste Act

§ 1 Amendments to the Waste Act

The following amendments shall be made to the Waste Act:

1) the words ‘financial security’ is replaced throughout by the words ‘monetary security’;

2) in subsection 1(3$_1$) the text ‘Chapters 3, 4, and 6 to 9’ shall be replaced by ‘Chapters 3, 4, 8, and 9’;

3) the following subsection 3^5 is added to section 1:
‘(3^5) Subsection 28(7) of this Act does not apply to the storage of extractive waste in a waste facility.’;

4) in subsection 2(5), the words ‘sampling and’ are added after the word ‘waste’;

5) subsection 23(1$_2$) is amended and worded as follows:
‘(1^2) For the purposes of this Act, a manufacturer of a motor vehicle is:
1) a natural or legal person whose place of business is in Estonia and who, regardless of the method of sale, including distance selling, places an economic or professional activity on the Estonian market Vehicles of categories M1, N1 and L2e;
2) any natural or legal person who according to distance contracts as defined in point (7) of Article 2 of Directive 2011/83/EU of the European Parliament and of the Council places on the Estonian market in the course of economic or professional activities vehicles of categories M1, N1, and L2e;
3) natural or legal person who sells directly to Estonian households or other users by means of distance communication vehicles of categories M1, N1, and L2e, however, it has its place of business in another Member State of the European Union or outside the European Union.’;

6) subsection 23(1$_5$) is amended and worded as follows:
‘(1^5) For the purposes of this Act, a tyre manufacturer is:
1) a natural or legal person whose place of business is in Estonia and who, regardless of the method of sale, including distance selling, places tyres on the Estonian market as part of an economic or professional activity, including a trailer as defined in subsection 2(9) of the Road Traffic Act, an off-road vehicle as defined in clause 36, a motor vehicle as defined in clause 40, a towed device as defined in clause 58, and an interchangeable towed device as defined in clause 91;
2) any natural or legal person who according to distance contracts as defined in point (7) of Article 2 of Directive 2011/83/EU of the European Parliament and of the Council places on the Estonian market in the course of economic or professional activities tyres, including a trailer as defined in clause 9 of section 2 of the Road Traffic Act, an off-road vehicle as defined in clause 36, a motor vehicle as defined in clause 40, a towed device as defined in clause 58, and

an interchangeable towed device as defined in clause 91;

3) natural or legal person who sells tyres directly to Estonian households or other users by means of distance communication, including a trailer as defined in clause 9 of section 2 of the Road Traffic Act, an off-road vehicle as defined in clause 36, a motor vehicle as defined in clause 40, a towed device as defined in clause 58, and an interchangeable towed device as defined in clause 91, however, it has its place of business in another Member State of the European Union or outside the European Union.';

7) subsections 23(1^6)–(1^7) are amended and worded as follows:

'(1^6) For the purposes of this Act, a producer of agricultural plastic is:

1) a natural or legal person whose place of business is in Estonia and who, regardless of the method of sale, including distance selling, places agricultural plastic as part of an economic or professional activity on the Estonian market;

2) any natural or legal person who according to distance contracts as defined in point (7) of Article 2 of Directive 2011/83/EU of the European Parliament and of the Council places agricultural plastic on the Estonian market in the course of economic or professional activities;

3) natural or legal person who sells directly to Estonian households or other users by means of distance communication agricultural plastic, however, it has its place of business in another Member State of the European Union or outside the European Union.

(1^7) For the purposes of this Act, a manufacturer of a part of a motor vehicle is:

1) a natural or legal person whose place of business is in Estonia and who, regardless of the method of sale, including distance selling, places components for motor vehicles of categories M1, N1, and L2e as part of an economic or professional activity on the Estonian market;

2) any natural or legal person who according to distance contracts as defined in point (7) of Article 2 of Directive 2011/83/EU of the European Parliament and of the Council places components for motor vehicles of categories M1, N1, and L2e on the Estonian market in the course of economic or professional activities;

3) natural or legal person who sells directly to Estonian households or other users by means of distance communication components for motor vehicles of categories M1, N1, and L2e, however, it has its place of business in another Member State of the European Union or outside the European Union';

8) subsection 23(1^9) is amended and worded as follows:

'(1^9) For the purposes of this Act, 'making available on the market' means the supply of a product on the Estonian market for distribution, consumption or use by other persons on the Estonian market in return for payment or free of charge. ';

9) in subsection 23(5), the following text is deleted: 'A distributor may also be a manufacturer within the meaning of subsections 1^1–1^7 of this section.';

10) clause 3 of subsection 25(3) is amended and worded as follows:

'3) "motor vehicle" means a motor vehicle of categories M1, N1, and L2e and part of a motor vehicle of M1, N1, and L2e;';

11) clause 5 of subsection 25(3) is amended and worded as follows:

'5) "tyre" means a trailer as defined in clause 9 of section 2 of the Road Traffic Act, an off-road vehicle as defined in clause 36, a motor vehicle as defined in clause 40, a towed device as defined in clause 58, and a tyre of interchangeable towed equipment as defined in clause 91;';

12) subsection 26(1^7) is amended and worded as follows:
'(1^7) A manufacturer of electrical and electronic equipment, motor vehicles, parts of motor vehicles, tyres, agricultural plastics, moistened tissue paper, balloons, filter tobacco products and filters for use with tobacco products and fishing gear containing plastic, who places his products on the market in another Member State of the European Union, in the course of his trade or profession, where he is not established, shall appoint an authorised representative, established or resident in that Member State,
who shall be either a natural or legal person and shall carry out on his behalf the obligations incumbent on the manufacturer. The authorised representative shall be appointed by written mandate.';

13) subsection 26(4^3) is repealed;

14) the text of section 26^4 is amended and worded as follows:
'(1) In the case of waste from problem products for which collective responsibility applies, any manufacturer of a problem product and manufacturers' association which has collected and properly recovered or disposed of more than a quantity of waste from a problem product in proportion to its market share on the market for that type of problem product shall be entitled to claim from another manufacturer of a problem product or manufacturers' association which has collected and properly recovered or disposed of less than a quantity of waste from a problem product in proportion to its market share on the market for that type of problem product, reimbursement of the costs of collection, recovery or disposal to an extent that ensures proportionate liability according to their market shares.

(2) The basis for calculating the sharing of the costs of collecting and recovering problem products is the data recorded in the register of problem products.

(3) Manufacturers and manufacturers' association of problem products are only entitled to claim reimbursement of the costs incurred in the collection and recovery of problem products if they have offered to hand over the waste generated by the problem products and the producer or association of producers concerned has refused to do so.

(4) The costs of collecting, recovering or disposing of waste generated by problem products from manufacturers and manufacturers' association shall not exceed the costs necessary to carry out the activities required by section 25_1 of this Act in a cost-effective manner.

(5) The arrangements for sharing and reimbursing the costs provided for in subsection 1 of this section shall be determined between manufacturers and the third parties concerned in such a way that they are comprehensible to all. Reimbursement of expenses shall be based on the provisions of the Law of Obligations Act. For the purpose of calculating the reimbursement of costs, revenue from the re-use of problem products and the sale of secondary raw materials will be taken into account.';

15) clause 5 of subsection 26^8(9) is repealed;

16) subsection 26^9(1) is amended and worded as follows:

‘(1) The purchase of problem products or parts separated from such products as waste shall be permitted only from a manufacturer or manufacturers’ association registered in the register of problem products established in accordance with subsection 26^{1}(2) of this Act, or from an undertaking holding an environmental protection permit and having a contract with a manufacturer or manufacturers’ association or as a result of whose lawful activities the waste has been generated.’;

17) in subsection 34^{1}(1) the text ‘in clause 5 of section 91’ shall be replaced with the text ‘in clause 4 of subsection 1 of section 91’;

18) in subsection 65(2), the text ‘except in the case specified in subsection 26(1) of this Act’ shall be replaced with the text ‘except in the case specified in subsection 25_{1} (1) of this Act’;

19) in subsection 98^{3}(1), the text ‘monetary security’ shall be replaced with the text ‘the amount of security paid in the form of a deposit in an account designated for that purpose’ (hereinafter *security for the storage of waste*)’;

20) subsections 1_{1}–1_{4} are added to section 98_{3} and these worded as follows:

‘(1^{1}) The amount of the security for the storage of waste shall be calculated according to the following formula:

M = (T × K + T × L + V) × 1.15, where

M – the amount of the security for the storage of waste in euros;

T – the quantity in tonnes of waste stored simultaneously in an application for an environmental protection permit or in an environmental protection permit;

K – the price per tonne of waste management in euros;

L – the cost of loading the waste in euros per tonne;

V – the price of waste shipments in euros.

(1^{2}) In the case of a guarantee provided for in subsection (1) of this section, the Environmental Board shall be the beneficiary of the security.

(1^{3}) The amount of security provided for in subsection (1) of this section shall be paid as a deposit

to account of the Ministry of Finance in a credit institution.

(1^{4}) If the basis for demanding a security for the storage of waste referred to in subsection 1 of this section has ceased to exist, the Environmental Board shall arrange for the return of the amount of the security paid in the form of a deposit and the termination of the obligations of the undertaking issuing the guarantee under the guarantee.’;

21) subsection 98_{3} (2) is amended and worded as follows:

‘(2) The security for the storage of waste specified in subsection (1) of this section shall cover the costs of organising and handling all the waste that has been applied for and shall be in place

and valid for the entire period of storage of the waste. ';

22) paragraph 98^3 in paragraphs 3 to 5, the words 'security or financial security' are replaced by 'security for the storage of waste';

23) subsections 4^1–4^5 are added to section 98^3 and these are worded as follows:

'(4^1) The amount of the security for the storage of waste referred to in subsection 1 of this section shall be agreed with the Environmental Board, which shall verify that the amount of the security has been set correctly. The amount of the security is based on the costs of organising the management of the waste to be landfilled as well as the costs of the management.

(4^2) For the calculation of the security for the storage of waste, the costs of organising the management of waste shall be taken into account both as the cost of loading and transport of waste and as the costs of handling waste by type of waste.

(4^3) The person holding an environmental protection permit shall assess, in a format which can be reproduced in writing, the adequacy of the security for the storage of waste specified in subsection 1 of this section at least every three years and, if necessary, amend it.

(4^4) If, in the opinion of the issuer of permit, the security for the storage of waste specified in subsection 1 of this section does not cover the costs of organising the handling of waste to be stored and handling such waste, the issuer of permit has the right to demand that the person holding the environmental protection permit increase the security.

(4^5) The security for the storage of waste specified in subsection 1 of this section shall not be included in the bankruptcy estate of the person holding an environmental protection permit.';

24) in clause 1 of subsection 98^3(5), the text 'or collection point' is added after the text 'on the waste station';

25) in clause 4 of subsection 98^3(5), the wording is amended by adding the text 'on the basis of a written contract' after the text 'on behalf of';

26) in clause 6 of subsection 98^3(5), the text 'in the waste management facilities included in the Eco-Management and Audit Scheme registration certificate' is added after the text 'environmental management and audit scheme;';

27) clauses 7 and 8 are added to subsection 98^3(5) and these are worded as follows:

'7) a person registered with the Environmental Board in accordance with clause 1 of subsection 98^7(2) of this Act in the case of waste destined for recovery, if the amount of the security for the storage of waste does not exceed 500 euros;

8) in the case of treatment of sewage sludge generated by a water undertaking in the course of its own activities.';

28) subsections 6–12 are added to section 98^3 and these are worded as follows:

'(6) If a person holding an environmental protection permit is unable to comply with the obligation to organise and handle the waste to be stored, the person shall immediately notify

the Environmental Board thereof.

(7) The use of the security for the storage of waste shall be decided by the Environmental Board. Bankruptcy proceedings initiated against the holder of an environmental protection permit shall not restrict the rights of the Environmental Board in the use of the security.

(8) If a person holding an environmental protection permit is unable to perform the obligation to organise and handle the waste to be stored, the Environmental Board shall organise the performance of the specified obligations on the bases and pursuant to the procedure provided for in the Substitutional Performance and Non-Compliance Levies Act.

(9) If the person holding an environmental protection permit is unable to comply with the obligation to organise and handle the waste to be stored and the Environmental Board has made a decision concerning the substitutive enforcement specified in subsection (8) of this section, the Environmental Board shall submit a claim to the undertaking that issued the guarantee to make a payment on the basis of the guarantee or make a payment decision on the amount of security paid as a deposit.

(10) The due date for payment of a claim under the guarantee is 20 working days.

(11) If the amount of security or guarantee transferred from the account designated for the purpose as a deposit to the account designated by the Environmental Board is greater than the actual costs of organising and handling the waste, the remaining amount shall be returned to the account of the holder of the environmental protection permit or, in the absence thereof, to the state budget.

(12) If the security for the storage of waste by a person holding an environmental protection permit is not sufficient to cover the costs of organising and handling the waste to be stored, the person holding an environmental protection permit shall ensure the missing part.';

29) the text of section 98^4 is amended and worded as follows:
'In addition to the provisions of subsection 83(1) of this Act, the issuer of permits shall refuse to grant an environmental protection permit for the storage of waste if the applicant does not have section 98^3 the security for the storage of waste referred to in subsection 1 or the issuer of permits does not consider the security provided to be sufficient or reliable.';

30) clause 2 of subsection 98^5(1) is amended and worded as follows:
'2) a document evidencing the guarantee of a credit or financial institution established in the European Economic Area or a liability insurance contract (hereinafter *accident winding-up guarantee*) to cover the costs of remediation of environmental pollution caused by accidents;';

31) subsection 98^5(2) is amended and worded as follows:
'(2) The amount of the accident winding-up guarantee shall be calculated according to the following formula:

$M = T \times L/52$, where

M – the amount of the accident winding-up guarantee in euros;
T – 255 euros per tonne;

L – the annual quantity in tonnes of hazardous waste referred to in the application for a waste permit;
52 – the number of weeks per year.';

32) subsections 2^1-2^3 are added to section 98^5 and these are worded as follows:
'(2^1) The liability insurance contract specified in clause 2 of subsection 1 of this section shall comply with the following conditions:
1) the insurance contract shall be concluded with an insurer who has the right to insure risks located in Estonia;
2) an insured event is a sudden and unforeseeable event caused by the handling of hazardous waste or substances during the insurance period or a property of hazardous waste or substance and the operator is liable for the damage caused;
3) the sum insured must be reasonable, taking into account the site related to the management of hazardous waste, the quantity and manner of treatment of hazardous waste, the extent of the activities covered by the insurance contract, and the damage that may result therefrom, and other relevant circumstances.

(2^2) A liability insurance contract entered into on the basis of clause 2 of subsection 1 of this section need not cover damage which:
1) was caused by the operator as a result of the deterioration of the environmental situation, with the exception of the reasonable costs of initial emergency measures to remedy the initial damage and to prevent further damage;
2) was caused to property in the operator's possession;
3) results from an event caused intentionally by the operator.

(2^3) An insurance undertaking has the right to refuse entry into a liability insurance contract specified in clause 2 of subsection 1 of this section if the operator refuses to submit a risk analysis and evidence which makes it possible to identify the circumstances which, in the opinion of the insurer, are necessary for the assessment of the insured risk.

33) subsections 98^5(3)–(5) are amended and worded as follows:
'(3) If the amount of the accident winding-up guarantee calculated on the basis of the formula set out in subsection (2) of this section is less than 6 400 euros, the amount of the accident winding-up guarantee shall be 6 400 euros per year.
(4) If the amount of the accident winding-up guarantee calculated on the basis of the formula set out in subsection (2) of this section exceeds 320 000 euros, the amount of the accident winding-up guarantee shall be 320 000 euros per year.
(5) The accident liquidation security or liability insurance contract specified in clause 2 of subsection 1 of this section shall be in place and valid at the same time as hazardous waste is treated.

34) in clause 1 of section 98^6, the text 'guarantee or monetary security' shall be replaced with the text 'accident winding-up guarantee';

35) in subsection 105(2), the text 'a network operator holding a statutory market authorisation, a telecommunications network operator holding a licence' shall be replaced with the text 'a network operator as referred to in the Electricity Market Act holding a licence granted under the Electricity Market Act, an electronic communications undertaking as referred to in the Electronic Communications Act which has submitted the notification of economic activities required under the Electronic Communications Act';

36) in subsection 105(3), the text ‘an undertaking holding a road maintenance licence, a railway infrastructure manager’ shall be replaced by the text ‘a person competent to maintain public roads who has submitted the notification of economic activities required under the Building Code, a railway infrastructure manager as provided for in the Railways Act who holds a licence under the Railways Act’;

37) in the heading of section 124^5, the text ‘Problem products and parts thereof containing dangerous substances’ shall be replaced with the text ‘Problem products and parts thereof’;

38) in subsection 124^5(1), the text ‘Problem products or parts thereof containing dangerous substances’ shall be replaced with the text ‘Problem products or parts thereof’;

39) the text of section 127 is amended and worded as follows:
‘(1) The out-of-court proceeding authority for the offences referred to in sections 120–126^{10} of this Act shall be:
1) the Environmental Board;
2) the Police and Border Guard Board;
3) the rural municipality or city government.
(2) The out-of-court proceeding authority for misdemeanour referred to in sections 120_4, 120^5 and 122 of this Act shall also be the Tax and Customs Board.
(3) The out-of-court proceeding authority for misdemeanours referred to in sections 122, 124^6, and 126^{11} of this Act shall also be the Consumer Protection and Technical Regulatory Authority.
(4) The out-of-court proceeding authority for misdemeanour referred to in section 126^{10} of this Act shall also be the Rescue Board.
(5) The limitation period for misdemeanour provided for in section 124 of this Act is three years.’;

Lauri Hussar
President of the *Riigikogu*

Tallinn ‘_’ 2023

Initiated by the Government of the Republic ‘…’ 2023

signed digitally