Text consolidated by Valsts valodas centrs (State Language Centre) with amending laws of:

2 February 2017 [shall come into force on 2 March 2017];

13 May 2021 [shall come into force on 8 June 2021].

If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima* 1 has adopted and

the President has proclaimed the following Law:

**Law on Control of Aid for Commercial Activity**

**Chapter I**

**General Provisions**

**Section 1. Terms Used in the Law**

(1) The terms and concepts of this Law are used within the meaning of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codification) (hereinafter – Council Regulation No 2015/1589).

(2) The following terms are also used in the Law:

1) ***ad-hoc* aid**– aid for commercial activity which is granted outside an aid scheme;

2) **date of granting of the aid** – the day on which the right to receive aid for commercial activity arises for the beneficiary of the aid for commercial activity in accordance with the provisions laid down in legal acts;

3) **aid scheme** – a legal act or acts on the basis of which individual aid may be granted to commercial companies in accordance with the conditions included therein;

4) **grantor of aid** – a State or local government authority or an authorised legal person thereof which takes the decision on the granting of aid for commercial activity or which is responsible for the development of the aid scheme or the application of the aid scheme or an individual aid project;

5) ***de minimis* aid** – aid for commercial activity granted to a commercial company in a specific period of time which does not exceed the amount specified in:

a) Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (hereinafter – Commission Regulation No 1407/2013);

b) Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest;

c) Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (hereinafter – Commission Regulation No 717/2014);

d) Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector (hereinafter – Commission Regulation No 1408/2013);

6) **exclusive rights** – the rights which have been granted by the State or local government authority by a legal act or a contract or an authorised legal person thereof by a contract to a commercial company, authorising the commercial company to provide services or to perform activities in a specific administrative territory;

7) **individual** **aid** – aid for commercial activity which is granted in an aid scheme;

8) **special rights** – the rights which have been granted by the State or local government authority by a legal act or a contract or an authorised legal person thereof by a contract to specific commercial companies and which in a specific administrative territory, without conforming to the criteria of objectivity, proportionality, and prohibition of discrimination, in at least one of the following ways:

a) restricts the number of commercial companies to two or more commercial companies which are permitted to provide specific services or to perform activities;

b) selects several competing commercial companies which have been permitted to provide any specific services or to perform activities;

c) grants to one or several commercial companies advantages which significantly affect the possibilities of another commercial company to provide the same service or to perform the same activity in the same administrative territory under equal conditions;

9) **commercial activity** – economic activity which is related to the offering of goods or services on the market. If the activity has non-profit nature, it shall not exclude the classification of such activity as commercial activity;

10) **commercial company** – a natural person, a legal person, or an association of such persons which performs or is preparing to perform commercial activity regardless of the type of ownership and type of activity thereof;

11) **unlawful aid for commercial activity** – aid for commercial activity which is granted without conforming to Article 108(3) of the Treaty on the Functioning of the European Union. Misused aid for commercial activity, i.e. such aid for commercial activity which is used by the beneficiary thereof in violation of the conditions of such legal act by which the beneficiary of the aid for commercial activity, in accordance with the provisions laid down in legal acts, was granted the right to receive the aid for commercial activity, or in violation of the conditions of such decision of the European Commission which has been taken in accordance with Article 4(2) and (3) or Article 9(2), (3), or (4) of Council Regulation No 2015/1589, shall also be considered as unlawful aid for commercial activity;

12) **State or local government authority** – an institution of direct or indirect administration or a derived public person;

13) **capital company controlled by the State or local government** – a capital company in which the State or a local government directly or indirectly, separately or together owns more than 50 per cent of equity capital of the capital company, has the majority of voting rights, or has the right to appoint or revoke the majority of members of the executive authority or the supervisory authority of the capital company.

[*13 May 2021*]

**Section 2. Purpose of the Law**

(1) The purpose of this Law is to ensure the rule of law in the implementation of aid for commercial activity, to specify the national control competence of Latvia and procedures in the field of aid for commercial activity in order to reduce the negative effect of aid on competition.

(2) The Law lays down financial accounting requirements for State and local government authorities by granting financial aid to commercial companies.

**Section 3. Scope of Application of the Law**

(1) This Law shall be applicable to grantors of aid which provide and are planning to provide aid for commercial activity to commercial companies and to beneficiaries of aid for commercial activity.

(2) This Law shall be applied to aid for commercial activities the compatibility of which with internal market is assessed in accordance with Article 93, Article 106 (2) or Article 107 (2) or (3) of the Treaty on the Functioning of the European Union.

(3) This Law shall be applied in conformity with the division of competence specified in Section 9 of this Law among monitoring institutions of aid for commercial activity.

(4) This Law does not guarantee the right to receive aid for commercial activities.

[*13 May 2021*]

**Section 4. Legal Framework of Aid for Commercial Activity**

This Law, the Treaty on the Functioning of the European Union, European Union legislation, case law of the European Union and other documents in the field of control of aid for commercial activity which are applied by assessing compatibility of aid for commercial activity with internal market (hereinafter – Acts of the European Union), as well as other provisions of international law binding to the Republic of Latvia shall be the legal framework of aid for commercial activity.

**Section 5. Features Characterising Aid for Commercial Activity**

In accordance with the provisions laid down in Article 107 (1) of the Treaty on the Functioning of the European Union and other Acts of the European Union, for the financial assistance for the promotion of commercial activity to be considered as aid for commercial activity for a commercial company it shall conform to all of the following features:

1) financial assistance is directly or indirectly provided from the State, local government, or European Union resources, financial resources over which the State or local government authorities or the authorised legal persons thereof have controlling influence, or other public resources (hereinafter – the State or local government resources), and the State or local government authority or the authorised legal person thereof is responsible for the determination of the financial assistance;

2) upon receipt of financial assistance, a commercial company acquires economic advantages which it could not acquire under the market conditions or if the aid for commercial activity were not provided;

3) financial assistance does not apply equally to all commercial companies, but it is provided to commercial companies depending on the size, type of activity or location thereof, as well as other differentiating criteria or is also provided to a particular commercial company;

4) financial assistance affects trade and distorts competition in the internal market of the European Union.

[*13 May 2021*]

**Section 6. Prohibition to Grant Aid for Commercial Activity**

Aid for commercial activity is prohibited, except for the cases when an aid scheme or the *ad-hoc* aid project complies with Acts of the European Union and the applicable procedures laid down therein arising from Article 108 (3) and (4) of the Treaty on the Functioning of the European Union, and also other international legal norms.

[*13 May 2021*]

**Section 7. Type of the Provision of Aid for Commercial Activity**

Aid for commercial activity may be granted in the form of direct payments from State or local government budget (subsidies, grants, endowment), measures taken in the field of taxes or mandatory social insurance payments, State or local government guarantee, subsidising of loan interest rates, complete or partial forgoing of dividends by the State or local government, State or local government investment in a capital company, writing-off of debts, setting of preferential rates for the services provided by State capital companies, sale or leasing of immovable property at less than the market value or purchase or leasing above the market value, and also other financial assistance granted from the State or local government resources over which the State or local government authorities have controlling influence.

[*13 May 2021*]

**Section 8. Repayment of Aid Prior to Fulfilment of Subordinate Obligations**

(1) If a commercial company which is facing financial difficulties receives aid in accordance with the laws and regulations governing aid for commercial activities, from the moment of granting aid for commercial activities until the end of the provision of aid, observing the provisions laid down in the decision of the European Commission or a national laws and regulations on granting aid and irrespective of the effective legal obligations of a commercial company, the commercial company is prohibited from fulfilling subordinate obligations (including the prohibition to repay a loan, calculate, accumulate or pay out an interest or other remuneration for such loan) irrespective of the moment when the subordinate obligations were established.

(2) Within the meaning of this Law, subordinate obligations shall mean the rights and obligations, including the obligation of a loan interest pay-out, caused to a commercial company by a loan (irrespective of the type of the concluded transaction) and which, based on the transaction concluded with the commercial company, entitles the lender to request pre-term repayment of the loan only in the case of insolvency or liquidation of a commercial company and after discharging the claims of creditors, but prior to discharging the claims of stockholders or shareholders.

[*2 February 2017*]

**Chapter II**

**Monitoring Provisions for Aid for Commercial Activity**

**Section 8.1 Special Conditions for Termination of Activities of Commercial Companies Receiving Aid for Commercial Activity**

(1) If a commercial company which is in financial difficulty and receives aid in accordance with the laws and regulations governing aid for commercial activity, not later than six months prior to the term of liquidation of the commercial company specified in the decision of the European Commission or in the national laws and regulations regarding the granting of aid, concludes that the aid for commercial activity has not been fully repaid and will not be repaid until the end of the term of the provision of the aid, the commercial company shall terminate the activity and shall initiate the liquidation procedure of the commercial company, taking into account the conditions provided for in Paragraph two and three of this Section.

(2) Within the framework of the liquidation procedure initiated in accordance with Paragraph one of this Section, the subordinate liabilities shall be fulfilled only when the aid for commercial activity received has been fully repaid. Until the aid for commercial activity is repaid:

1) the inability to repay the aid for commercial activity and the non-fulfilment of the subordinate liabilities shall not constitute a basis for initiating insolvency proceedings;

2) the claim of the creditor of the subordinate liabilities shall not be secured, and also the creditor of the subordinate liabilities shall not be entitled to request depositing their claim amounts or the fulfilment of any other liabilities;

3) it shall be prohibited to pay liquidation quotas to members of the commercial company (shareholders, members, owners).

(3) The Enterprise Register shall exclude a commercial company from the public register even if, within the liquidation carried out in accordance with the conditions specified in this Section, the aid for commercial activity has not been repaid or the subordinate liabilities have not been fulfilled.

(4) If a part of the aid for commercial activity is not recovered, following the liquidation of the commercial company, this part shall be cancelled in the amount specified in the Law on the State Budget for the current year.

[*2 February 2017*]

**Section 9. Monitoring Institutions of Aid for Commercial Activity**

(1) The Ministry of Finance shall:

1) perform the initial assessment of the planned aid schemes or *ad-hoc* aid projects, or the planned amendments thereto, except for:

a) the initial assessment of the planned aid schemes or *ad-hoc* aid projects within the scope of which it is planned to provide aid for commercial activity in the sectors specified in Paragraph two of this Section;

b) the initial assessment of such *ad-hoc* aid projects within the scope of which it is planned to provide *de minimis* aid in accordance with Commission Regulation No 1407/2013 if the conditions of Section 10, Paragraph three of this Law are conformed to;

c) the initial assessment of such *ad-hoc* aid projects within the scope of which it is planned to provide aid for commercial activity as a payment of reimbursement (compensation) in any form for the provision of a service of general economic interest if the conditions of Section 10, Paragraph four of this Law are conformed to;

2) with the intermediation of the Latvia’s Representation to the European Union, send to the European Commission information related to the aid scheme or *ad-hoc* aid project notifications, except for the case when it is planned to provide aid for commercial activity in the sectors specified in Paragraph two of this Section;

3) prepare an annual report on aid provided for commercial activity, except for aid for commercial activity in the sectors specified in Paragraph two of this Section;

4) provide advisory assistance in the field of control of aid for commercial activity, except for aid for commercial activity in the sectors specified in Paragraph two of this Section;

5) ensure administration of the system for accounting of *de minimis* aid;

6) using the cooperation platform of the European Commission for Member States, organise circulation of information with the European Commission on the issues of aid for commercial activity.

(2) The Ministry of Agriculture shall perform the initial assessment of the planned aid schemes or the *ad-hoc* aid projects, or the amendments planned thereto in the sectors of fishery, aquaculture, agriculture, and forestry, except for the initial assessment of such *ad-hoc* aid projects within the scope of which it is planned to provide *de minimis* aid in accordance with Commission Regulation No 1408/2013 or Commission Regulation No 717/2014 if the conditions of Section 10, Paragraph three of this Law are conformed to.

(3) The grantor of aid shall monitor aid schemes, individual aid projects, and *ad-hoc* aid projects during the implementation thereof and after implementation of aid schemes, individual aid projects, and *ad-hoc* aid projects, ensuring conformity with the conditions for aid for commercial activity.

[*13 May 2021*]

**Section 10. Initial Assessment of Planned Aid for Commercial Activity**

(1) In accordance with Section 9, Paragraph one, Clause 1 of this Law, the grantor of aid shall submit every planned aid scheme or *ad-hoc* aid project and also every planned amendment to existing aid schemes or *ad-hoc* aid projects, prior to commencing the implementation thereof, for the initial assessment to the Ministry of Finance, except for amendments of formal or administrative nature which cannot influence the assessment of compatibility of aid for commercial activity with the internal market of the European Union.

(2) Paragraph one of this Section shall be applied also to such aid for commercial activity which, in accordance with the provisions laid down in directly applicable legal acts of the European Union, has been exempted from prior notification or submission of summary information to the European Commission.

(3) An *ad-hoc* aid project within the scope of which it is planned to provide *de minimis* aid in accordance with Commission Regulation No 1407/2013, Commission Regulation No 717/2014, or Commission Regulation No 1408/2013 does not have to be submitted for the initial assessment to the Ministry of Finance or the Ministry of Agriculture if the grantor of aid has included the following conditions or their assessment therein:

1) *de minimis* aid is provided to the sectors and activities to be aided;

2) if a commercial company to which *de minimis* aid is applied is concurrently operating in both sectors to be aided and sectors not to be aided, the commercial company ensures the distinction of activities or costs of such sectors from such activities to which *de minimis* aid has been granted, ensuring that activities in the abovementioned sectors are not benefiting from the aid granted;

3) the amount of *de minimis* aid to a commercial company at the level of a single undertaking together with the amount of *de minimis* aid granted in the relevant fiscal (calendar) year and the previous two fiscal (calendar) years does not exceed the maximum permissible amount of *de minimis* aids specified in Commission Regulation No 1407/2013, and the amount of *de minimis* aid in the sectors of fishery, aquaculture, and agriculture to a commercial company at the level of a single undertaking and at the national level together with the amount of *de minimis* aid granted in the relevant fiscal (calendar) year and the previous two fiscal (calendar) years does not exceed the maximum permissible amount of *de minimis* aids specified in Commission Regulation No 717/2014 or Commission Regulation No 1408/2013;

4) the date of granting of the aid has been indicated;

5) if it is planned to provide *de minimis* aid in the form of loans or guarantees, the conditions for granting *de minimis* aid are conformed to;

6) information is provided that cumulationof *de minimis* aid is not permitted or the conditions for the cumulation of *de minimis* aid and their control are referred to if cumulation of aid is permitted;

7) the grantor of aid and the commercial company maintain data regarding *de minimis* aid granted for 10 fiscal (calendar) years from the date of granting of the aid;

8) *de minimis* aid is granted in conformity with the laws and regulations regarding the procedures for the accounting and granting of such aid;

9) the *ad-hoc* aid granting act specifies the obligation to recover unlawful aid for commercial activity in accordance with the provisions laid down in Chapter V of this Law.

(4) An *ad-hoc* aid project within the scope of which aid for commercial activity is planned for a commercial company for the provision of a service of general economic interest need not be submitted to the Ministry of Finance for the performance of initial assessment if the grantor of aid has included the following conditions in the authorisation act or acts on the basis of which the commercial company is authorised to provide the abovementioned service:

1) the content of obligations and duration of the service of general economic interest;

2) the territory of provision of the service;

3) the essence of the exclusive or special rights granted to the provider of the service of general economic interest;

4) a description of the mechanism of payments of reimbursement (compensation) and the calculation, control, and review parameters;

5) the measures to be taken to prevent and recover any excessive payments of reimbursement (compensation);

6) a reference to Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest;

7) the time period for the maintaining of documents related to granting aid for commercial activity;

8) the obligation specified in the document for the granting of *ad-hoc* aid to recover unlawful aid for commercial activity in accordance with the provisions laid down in Chapter V of this Law.

(5) The Ministry of Finance shall perform an assessment and prepare an opinion not later than within 20 working days after receipt of the aid scheme or *ad-hoc* aid project.

(6) In submitting an aid scheme or *ad-hoc* aid project for the initial assessment, if necessary, documents or copies thereof shall be appended thereto, certifying the veracity of the reflected information.

(7) If all the necessary information has not been included in the aid scheme or *ad-hoc* aid project in accordance with the provisions laid down in Acts of the European Union, the Ministry of Finance shall indicate the determined inaccuracies and the necessary additions in its opinion.

(8) For the assessment of particular aid schemes or *ad-hoc* aid projects, the Ministry of Finance may invite sectoral specialists or other experts.

[*13 May 2021*]

**Section 11. Submission of Notification of Aid for Commercial Activity or Summary Information to the European Commission**

The aid scheme or *ad-hoc* aid project notification and also summary information on the aid scheme or *ad-hoc* aid project which is implemented in accordance with Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (Text with EEA relevance) shall be submitted by the grantor of aid to the European Commission electronically, using the electronic system of aid for commercial activity notifications supervised by the European Commission.

[*2 February 2017; 13 May 2021*]

**Section 12. Competence of the Cabinet in Ensuring Control of Aid for Commercial Activity**

In order to ensure the rule of law of the implementation of aid for commercial activities, the Cabinet shall determine:

1) the procedures by which the aid scheme or individual aid project notifications, as well as the summary information shall be submitted to the European Commission electronically, and by which the rights to use the electronic system of aid for commercial activities notifications shall be granted and cancelled;

2) the procedures by which information on the provided aid for commercial activities shall be published, annual reports on expenses related to aid for commercial activities shall be submitted to the European Commission electronically and by which the rights to use the electronic system of aid for commercial activities notifications shall be granted and cancelled;

3) territories of Latvia where regional aid for development may be granted to commercial companies, as well as the maximum permitted aid intensity;

4) the procedures by which the commercial company shall declare its compliance with the status of a small (micro) and medium-sized commercial company;

5) the procedures by which samples of the forms for accounting *de minimis* aid are approved and accounting and granting of *de minimis* aid are performed.

**Section 13. Restrictions on the Provision of Information**

Employees of the Ministry of Finance and invited sectoral specialists or experts are prohibited from disclosing information, in public or some other way, which has been acquired in the assessment of aid schemes, individual aid, or *ad-hoc* aid projects, except for the cases provided for in laws and regulations.

[*13 May 2021*]

**Chapter III**

**Requirements for State or Local Government Authority Financial Relations with Commercial Companies**

**Section 14. Record-keeping of Financial Transactions**

(1) A capital company under State or local government control shall ensure such accounting record-keeping which reflects information regarding transfers made from State or local government authority resources which the State or local government authority grants directly to a capital company under State or local government control or through the intermediation of capital companies under State or local government control or financial institutions, and utilisation of such resources.

(2) Separate accounting record-keeping shall be ensured by commercial companies to which special or exclusive rights have been granted in accordance with Article 106 (1) of the Treaty on the Functioning of the European Union or which have been entrusted to provide some kind of service of general economic interest in accordance with Article 106 (2) of the Treaty on the Functioning of the European Union, and which receive any kind of reimbursement payment (compensation) for the provision of such services, and also perform activities other than services of general economic interest.

(3) Commercial companies to which the requirement for separate accounting record-keeping applies shall establish a financial and organisational structure which ensures the possibility to identify costs and income associated with various activities (on the one hand – products or services in relation to which the commercial company has been granted special or exclusive rights or entrusted services of public significance, on the other hand – other products produced or services provided by the commercial company), as well as the methods on the basis of which costs and income are granted or divided for various activities.

(4) A commercial company shall keep the information referred to in Paragraphs one and three of this Section for 10 years following the last transfer of State or local government funds has been made and shall submit to the Ministry of Finance upon the request thereof. The Ministry of Finance shall send the submitted information to the European Commission through the intermediation of Latvia’s Representation to the European Union.

(5) The requirements specified in Paragraph one of this Section shall apply to the following financial relation aspects of State or local government authorities and capital companies under State or local government control:

1) compensation of economic activity losses;

2) capital security;

3) non-repayable financial grants or loans with preferential conditions;

4) granting of financial advantages for waiving of profit or debt collection;

5) waiving of the usual fees for utilised State funds;

6) compensation for the financial burdens imposed by State or local government authorities.

(6) In order to fulfil the requirement referred to in Paragraph three of this Section regarding the establishment of separate accounting record-keeping, in the commercial company:

1) internal accounting shall be separated for various activities;

2) all costs and income shall be correctly granted and divided, based upon consistently observed and objectively justified cost accounting principles;

3) cost accounting principles shall be clearly defined, in accordance with which the separate accounting shall be organised.

**Section 15. Requirements for Capital Companies of the Industrial Sector**

(1) An industrial sector capital company is a capital company the main area of activity of which is manufacturing which forms at least 50 per cent of the annual turnover. The industrial sector covers activities which are included in the statistical classification of economic activities in the European Community (NACE Rev. 2) Section C – Manufacturing.

(2) An industrial sector capital company controlled by the State or local government the net turnover of which in the last accounting year has exceeded 250 million euros shall each year not later than by 15 August submit the following to the Ministry of Finance:

1) annual accounts;

2) minutes of meetings of stockholders or shareholders;

3) information regarding allocated grants, subsidies, advantages associated with investment equity capital, credits, overdrafts and guarantees granted by State or local government authorities, including the conditions for the allocation thereof and indicating the interest rates, as well as guarantees, which the recipient of credit offers to the lender;

4) information regarding granted equity capital or quasi-capital funds which are comparable to own capital, by this meaning State or local government investments in the equity capital of capital companies under State or local government control, as well as funds which are received or are granted through the intermediation of a group of companies under State or local government control or another capital company (also financial institution) under State or local government control, irrespective of whether it is the granting of internal funds in a group of companies or granting from outside, indicating the type of relations between the grantor and the recipient. The information shall indicate the grant conditions (common stock, preferential stock, stock with deferred payment of dividends or convertible stock, interest rates, dividend or convertibility rights granted together with stock);

5) information regarding paid out dividends and retained earnings;

6) information regarding other State intervention types, including release from the performance of payments specified in legislation applied to capital companies controlled by the State or local government, as well as the performance of credits, grants, enterprise income tax and other similar payments.

(3) The Ministry of Finance each year by 31 March shall send information on industrial sector capital companies controlled by the State or local government the net turnover of which in the last accounting year has exceeded 250 million euros to the European Commission in electronic form through the intermediation of the Representation of Latvia in the European Union.

(4) The Ministry of Finance each year by 1 September shall send to the European Commission electronically, through the intermediation of Latvia’s Representation to the European Union, the information referred to in Paragraph two of this Section.

(5) The information referred to in Paragraph two of this Section shall be provided for each:

1) capital company controlled by the State or local government separately including a capital company registered in another Member State, indicating information regarding internal or mutual transactions of capital companies controlled by the State or local government, as well as direct transactions between capital companies controlled by the State or local government and State or local government authorities;

2) a group of companies controlled by the State or local government which includes capital companies controlled by the State or local government if the consolidated turnover of such group of companies allows it to be classified as an industrial sector capital company.

(6) A group of companies controlled by the State or local government which unifies several legally independent capital companies controlled by the State or local government shall submit consolidated reports wherein information regarding economic activities in the group of capital companies, which are engaged in one and the same sector or closely associated sectors, shall be indicated. Groups of companies controlled by the State or local government which are financially associated, but are engaged in different sectors, shall not submit the consolidated report.

[*13 May 2021*]

**Section 16. Exceptions for Record-keeping of Financial Transactions**

(1) The requirements specified in Section 14, Paragraph one of this Law shall not apply to the financial relations of State or local government authorities with:

1) a capital company controlled by the State or local government if the average turnover of such capital company during the previous two years prior to the year in which the funds referred to in Section 14, Paragraph one of this Law have been granted or used is less than 40 million euros;

2) a credit institution controlled by the State or local government if the average balance sheet total of such credit institution during the previous year prior to the year in which the funds referred to in Section 14, Paragraph one of this Law have been granted or used is less than 800 million euros;

3) a credit institution controlled by the State or local government if a State or local government authority invests in it State or local government funds with commercial conditions;

4) the Bank of Latvia.

(2) The requirements specified in Section 14, Paragraph three of this Law shall not apply to:

1) a commercial company if the average turnover of such commercial company during the previous two years commencing from the year in which in accordance with Article 106 (1) of the Treaty on the Functioning of the European Union it has been granted special or exclusive rights or in accordance with Article 106 (2) of the Treaty on the Functioning of the European Union it has been entrusted to provide some kind of service of general economic interest, is less than 40 million euros;

2) a credit institution controlled by the State or local government if the average turnover of such credit institution during the previous two years commencing from the year in which in accordance with Article 106 (1) of the Treaty on the Functioning of the European Union it has been granted special or exclusive rights or in accordance with Article 106 (2) of the Treaty on the Functioning of the European Union it has been entrusted to provide some kind of service of general economic interest, is less than 800 million euros;

3) a commercial company which in accordance with Article 106 (2) of the Treaty on the Functioning of the European Union has been entrusted to provide services of general economic interest, if the aid for commercial activity which it has received in any form is intended for a specified period and is granted taking into account an open, transparent procedure without discrimination.

**Chapter IV**

**Recovery of Unlawful and Incompatible Aid for Commercial Activity According to a Decision Taken by the European Commission**

[*13 May 2021*]

**Section 17. Obligation to Recover Unlawful and Incompatible Aid for Commercial Activity**

A grantor of aid has the obligation to ensure that such aid for commercial activity is recovered from the beneficiary of aid for commercial activity which, according to the decision taken by the European Commission, has been recognised as unlawful and incompatible with the internal market of the European Union.

[*13 May 2021*]

**Section 18. Procedures for Recovery of Unlawful and Incompatible Aid for Commercial Activity**

(1) After the decision of the European Commission on the recovery of unlawful and incompatible aid for commercial activity has been received, the grantor of aid shall perform the activities specified in the decision of the European Commission for specifying the amount of unlawful and incompatible aid for commercial activity in conformity with the conditions of the decision of the European Commission, Article 16(2) of Council Regulation No. 2015/1589, and Article 11 of Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (hereinafter – Commission Regulation No 794/2004).

(2) Unlawful and incompatible aid for commercial activity shall be recovered in accordance with civil procedures or administrative procedures unless it has been laid down otherwise in other laws and regulations.

(3) If unlawful and incompatible aid for commercial activity has been received according to a civil legal contract, the abovementioned aid (together with interest) shall be recovered and other disputes related to such contract shall be solved in accordance with the procedures laid down in the Civil Procedure Law and other laws and regulations, conforming to that laid down in this Law.

(4) If unlawful and incompatible aid for commercial activity has been received according to a civil legal contract, the grantor of aid shall prepare and send a notice to the beneficiary of aid regarding recovery of unlawful and incompatible aid for commercial activity. At least the beneficiary of aid for commercial activity who has an obligation to repay unlawful and incompatible aid for commercial activity, the amount of unlawful and incompatible aid for commercial activity (together with interest) to be repaid, the justification for the recovery of unlawful and incompatible aid, the repayment details of unlawful and incompatible aid, the time period for voluntary fulfilment of the liabilities specified in the notice, and the consequences of voluntary non-fulfilment shall be indicated in the notice. The time period for voluntary fulfilment of the liabilities specified in the notice shall be one month from the day of sending the notice. If the beneficiary of aid does not voluntarily fulfil the liabilities specified in the notice, the grantor of aid shall submit a claim application and an application for securing a claim to a court not later than within two months from the day of sending the notice.

(5) If unlawful and incompatible aid for commercial activity has been received on the basis of a law or regulation, an administrative act, or another legal act in the field of public law or it arises from a court ruling, the grantor of aid shall pass an administrative act regarding recovery of unlawful and incompatible aid for commercial activity and shall recover such aid for commercial activity (together with interest) in accordance with the procedures laid down in the Administrative Procedure Law and other laws and regulations, conforming to that laid down in this Law.

(6) Contesting or appeal of the administrative act regarding recovery of unlawful and incompatible aid for commercial activity shall not suspend its operation.

(7) The beneficiary of aid shall voluntarily fulfil the administrative act regarding recovery of unlawful and incompatible aid for commercial activity within one month from the day of entering into effect of the administrative act. The grantor of aid or the enforcement authority indicated in the administrative act shall commence compulsory fulfilment of an administrative act which has not been voluntarily fulfilled not later than within one month from the end of the time period for voluntarily fulfilment specified in the administrative act.

(8) The enforcement authority of the administrative act regarding recovery of unlawful and incompatible aid for commercial activity shall be the grantor of aid unless it has been specified otherwise in the abovementioned administrative act.

(9) The limitation period for recovery of unlawful and incompatible aid for commercial activity shall be calculated in conformity with the conditions or Article 17 of Council Regulation No 2015/1589. In calculating the limitation period in relation to aid schemes which provide for regular payments or granting of other financial advantages to a commercial company, aid for commercial activity shall be considered as granted to the beneficiary of aid for commercial activity on the day when the commercial company has actually received unlawful and incompatible aid for commercial activity.

(10) A commercial company shall repay the amount of unlawful and incompatible aid for commercial activity specified in Paragraph one of this Section to the grantor of aid in conformity with the conditions of the decision of the European Commission and Article 16(3) of Council Regulation No 2015/1589.

(11) If the grantor of aid has commenced the recovery procedure of unlawful and incompatible aid for commercial activity referred to in Paragraph one of this Section and insolvency proceedings have been declared for the relevant commercial company, the grantor of aid shall submit a creditor’s claim to the administrator of insolvency proceedings in accordance with the procedures laid down in the Insolvency Law.

(12) Recovery of unlawful and incompatible aid for commercial activity shall be terminated only if a commercial company which is a legal person has been liquidated, it does not have any assets to be recovered, and economic continuity, including taking over of rights and liabilities, cannot be established. If the commercial company is a natural person, recovery of unlawful and incompatible aid for commercial activity shall be terminated only in case if it does not have any assets related to commercial activity and to be recovered, except for a dwelling which has been kept in the ownership of the natural person in accordance with the provisions laid down in Section 148 of the Insolvency Law and when economic continuity, including taking over of rights and liabilities, cannot be established.

[*13 May 2021*]

**Chapter V**

**Recovery of Unlawful Aid for Commercial Activity if the Decision of the European Commission on Recovery of Unlawful and Incompatible Aid for Commercial Activity has not Been Taken**

[*13 May 2021*]

**Section 19. Obligation to Recover Unlawful Aid for Commercial Activity**

(1) If the decision of the European Commission on recovery of unlawful and incompatible aid for commercial activity has not been taken, the grantor of aid has the obligation to ensure recovery of such unlawful aid for commercial activity for which the grantor of aid has not ensured the conformity of the aid scheme, individual aid, or *ad-hoc* aid project with the conditions regarding compatibility of aid for commercial activity with the internal market of the European Union, in accordance with the conditions and procedures of this Chapter, insofar as it has not been specified otherwise in the relevant aid scheme or the conditions for the granting of *ad-hoc* aid.

(2) The commercial company which has received the unlawful aid for commercial activity referred to in Paragraph one of this Section has the obligation to repay such aid together with interest which is published by the European Commission in accordance with Article 10 of Commission Regulation No 794/2004, adding 100 base points thereto, from the day when unlawful aid for commercial activity was transferred at the disposal of the beneficiary of aid for commercial activity until the day of the recovery thereof, in conformity with the method for the application of the interest rate specified in Article 11 of Commission Regulation No 794/2004.

(3) If the decision to provide aid for commercial activity is taken by the *Saeima* or the Cabinet or it arises from a court ruling and if the authority which, if necessary, would recover unlawful aid for commercial activity has not been indicated in the legal act by which aid for commercial activity is granted, it shall be ensured by the ministry within the field of responsibility of which the relevant decision has been taken.

[*13 May 2021*]

**Section 20. Procedures on Recovery of Unlawful Aid for Commercial Activity**

(1) In taking the decision on recovery of unlawful aid for commercial activity, the grantor of aid shall determine the amount of unlawful aid for commercial activity to be recovered together with interest which has been calculated in accordance with the provisions laid down in Section 19, Paragraph two of this Law.

(2) Unlawful aid for commercial activity shall be recovered in accordance with civil procedures or administrative procedures unless it has been laid down otherwise in other laws and regulations.

(3) If unlawful aid for commercial activity has been received according to a civil legal contract, the abovementioned aid (together with interest) shall be recovered and other disputes related to such contract shall be solved in accordance with the procedures laid down in the Civil Procedure Law and other laws and regulations, conforming to that laid down in this Law.

(4) If unlawful aid for commercial activity has been received according to a civil legal contract, the grantor of aid shall prepare and send a notice to the beneficiary of aid regarding recovery of unlawful aid for commercial activity. At least the beneficiary of aid for commercial activity who has the obligation to repay unlawful aid for commercial activity, the amount of unlawful aid for commercial activity (together with interest) to be repaid, the justification for the recovery of incompatible aid, the repayment details of unlawful aid, the time period for voluntary fulfilment of the liabilities specified in the notice, and the consequences of voluntary non-fulfilment shall be indicated in the notice. The time period for voluntary fulfilment of the liabilities specified in the notice shall be one month from the day of sending the notice. If the beneficiary of aid does not voluntarily fulfil the liabilities specified in the notice, a claim application and an application for securing a claim shall be submitted to a court not later than within two months from the day of sending the notice.

(5) If unlawful aid for commercial activity has been received on the basis of a law or regulation, an administrative act, or another legal act in the field of public law or it arises from a court ruling, the grantor of aid shall pass an administrative act regarding recovery of unlawful aid for commercial activity and shall recover such aid for commercial activity (together with interest) in accordance with the procedures laid down in the Administrative Procedure Law and other laws and regulations, conforming to that laid down in this Law.

(6) The beneficiary of aid shall voluntarily fulfil the administrative act regarding recovery of unlawful aid for commercial activity within one month from the day of entering into effect of the administrative act. The grantor of aid or the enforcement authority indicated in the administrative act shall commence compulsory fulfilment of an administrative act which has not been voluntarily fulfilled not later than within one month from the end of the time period for voluntarily fulfilment specified in the administrative act.

(7) The enforcement authority of the administrative act regarding recovery of unlawful aid for commercial activity shall be the grantor of aid unless it has been specified otherwise in the abovementioned administrative act.

(8) Contesting or appeal of the administrative act regarding recovery of unlawful aid for commercial activity shall not suspend its operation.

(9) The limitation period for recovery of unlawful aid for commercial activity shall be 10 years from the date of granting of the aid for commercial activity. In calculating the limitation period in relation to aid schemes which provide for regular payments or regular granting of other financial advantages to a commercial company, aid for commercial activity shall be considered as granted to the beneficiary of aid for commercial activity on the day when the commercial company has actually received unlawful aid for commercial activity. Any activities which are performed by the grantor of aid in relation to recovery of unlawful aid for commercial activity shall discontinue the limitation period and the limitation period shall re-commence after each interruption.

(10) If the grantor of aid has information at its disposal that there are justified suspicions regarding lawfulness of aid for commercial activity granted to a commercial company, it has commenced the procedure for recovery of unlawful aid for commercial activity referred to in Section 19, Paragraph one of this Law, and insolvency proceedings have been declared for the relevant commercial company in accordance with the procedures laid down in laws and regulations, the grantor of aid shall submit a creditor’s claim to the administrator of insolvency proceedings in accordance with the procedures laid down in the Insolvency Law.

(11) Recovery of unlawful aid for commercial activity shall be terminated only if a commercial company which is a legal person has been liquidated, it does not have any assets to be recovered, and economic continuity, including taking over of rights and liabilities, cannot be established. If the commercial company is a natural person, recovery of unlawful aid for commercial activity shall be terminated only in case if it does not have any assets related to commercial activity and to be recovered, except for a dwelling which has been kept in the ownership of the natural person in accordance with the provisions laid down in Section 148 of the Insolvency Law and when economic succession, including taking over of rights and liabilities, cannot be established.

[*13 May 2021*]

**Section 21. Obligation to Provide Evidence**

If the grantor of aid, the monitoring authorities, or other competent authorities detect that potentially unlawful aid for commercial activity has been granted to a commercial company or the procedure referred to in Section 20, Paragraph two of this Law has been commenced, or the beneficiary of aid for commercial activity contests the administrative act referred to in Section 20, Paragraph five of this Law, the beneficiary of aid for commercial activity has the obligation to provide information and to prove that it has received aid for commercial activity in conformity with the requirements of legal acts for receipt of aid for commercial activity in order to ensure the conformity of such aid for commercial activity with the conditions regarding compatibility of aid for commercial activity with the internal market of the European Union.

[*13 May 2021*]

**Transitional Provisions**

1. With the coming into force of this Law, the Law On Control of Aid for Commercial Activity (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 2003, No. 2; 2004, No. 9; 2006, No. 24; 2007, No. 23; 2008, No. 15; 2009, No. 10; *Latvijas Vēstnesis*, 2013, No. 193), is repealed.

2. By 31 December 2014 the Cabinet shall issue the regulations referred to in Section 12 of this Law.

3. Until the issuing of a new Cabinet Regulation, but not later than until 31 December 2014, the following Cabinet Regulations shall be applied:

1) Cabinet Regulation No. 100 of 6 February 2007, Procedures by which Aid Scheme and Individual Aid Project Notifications shall be Submitted to the European Commission Electronically, and by which the Rights to Use the Electronic System of Aid Notifications shall be Granted and Cancelled, insofar as they are not in contradiction with this Law;

2) Cabinet Regulation No. 964 of 25 November 2008, Regulations Regarding Declaration Procedure of Commercial Companies in Conformity with Small (Micro) or Medium-sized Commercial Company, insofar as they are not in contradiction with this Law;

3) Cabinet Regulation No. 850 of 4 August 2009, Regulations Regarding Regional Development Aid in the Republic of Latvia, insofar as they are not in contradiction with this Law;

4) Cabinet Regulation No. 313 of 17 June 2014, Procedures for Accounting and Granting of *de* *minimis* Aid and Samples of *de minimis* Aid Accounting Forms, insofar as they are not in contradiction with this Law.

**Informative Reference to European Union Directives**

The Law contains legal norms arising from Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (Text with EEA relevance).

The Law shall come into force on 1 July 2014.

The Law has been adopted by the *Saeima* on 19 June 2014.

President A. Bērziņš

Rīga, 27 June 2014