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

21 February 2019 [shall come into force from 18 April 2019];

5 December 2019 [shall come into force from 31 December 2019];

30 April 2020 [shall come into force from 1 May 2020].

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 the Procurements of Public Service Providers**

**Chapter I. General Provisions**

**Section 1. Terms Used in this Law**

The following terms are used in the Law:

1) **subcontractor**– a person contracted by the tenderer or a person contracted by such person, in its turn, who performs construction work or provides services for the performance of the procurement contract;

2) **life cycle**– all consecutive and interlinked stages which include research and development, production, trading and its conditions, transport, use, maintenance throughout the entire period of existence of the product or structure, or the time of provision of the service from recovery of raw materials or production of resources to waste disposal, demolition of a structure, and termination of provision or use of the service;

3) **open procedure**– a procurement procedure where all interested economic operators are entitled to submit tenders;

4) **works, supply, and service contracts**– procurement contracts for pecuniary interest concluded in writing between one or more public service providers and one or more economic operators and the subject matter of which is:

a) for a works contract – the performance or designing of the construction work referred to in Annex 1 to this Law, and the execution of the relevant construction work referred to in Annex 1 to this Law, or the development of the structure, or designing and development of the structure, or the development of the structure by using whatever means according to the requirements of the public service provider which have the decisive influence on the type or design of a structure. For the purposes of this Law, the structure shall mean the outcome of the construction work referred to in Annex 1 to this Law taken as a whole, which is sufficient for the structure to be able to ensure certain economic or technical function;

b) for a service contract – the provision of services other than referred to in Sub-clause “a” of this Clause;

c) for a supply contract – the purchase, lease, rental, or lease of a product with an option to buy. A procurement contract the subject matter of which is the supply of products and the incidental part of which is the siting or installation of the products shall be considered to be a supply contract;

5) **central purchasing body**– a public service provider or any other person who is a contracting authority within the meaning of the Public Procurement Law and conforms to at least one of the following features:

a) purchases works, products, or services for the needs of public service providers;

b) performs procurement procedures in order to conclude a procurement contract or a framework agreement for the needs of other public service providers;

6) **dynamic purchasing system**– a completely electronic process applied to construction work, services, and supplies frequently used and widely available on the market and which is limited in time and open to all economic operators meeting the candidate selection requirements;

61) **electronic invoice**– an invoice issued, sent, and received in a structured electronic form allowing to process it automatically and electronically;

7) **electronic auction**– an electronic process repeatedly depicting the descending prices or new values of the lots of certain tenders, enabling the ranking of the tenders by means of automatic evaluation methods;

8) **electronic means** – means suitable for processing of the data received or sent via the electronic communications network (also for digital compression) and storage thereof, and also for transmission of data via the electronic communications networks;

9) **procurement identification number** – a designation containing the short version (abbreviation) of the name of the public service provider, the relevant year, and the procurement order number in ascending order. A public service provider may also indicate other information in the final part of the procurement identification number;

10) **Common Procurement Vocabulary (CPV) –** a nomenclature approved by the European Union, which is applied in procurement procedures;

11) **procurement procedure**– a procedure according to which a public service provider selects economic operators and awards the right to them to conclude works, supply, or service contracts;

12) **procurement procedure document**– any document drawn up or referred to by the public service provider to describe or determine the elements of the procurement or procurement procedure, including the contract notice, the modification or additional information notice, the technical specification, the descriptive documents, the draft procurement contract, the procurement procedure regulations, and additional documents;

13) **innovation partnership procedure**– a procurement procedure where all interested economic operators may request the right to participate, but the tenders may only be submitted by the candidates invited by the public service provider, and which is applied to establish a long-term innovation partnership aimed at the development and subsequent acquisition of a new, innovative product, service or construction work;

14) **candidate**– an economic operator taking part in a restricted procedure, a negotiated procedure without publishing an invitation to participate, a negotiated procedure by publishing an invitation to participate, a competitive dialogue, or in an innovation partnership procedure prior to submission of the tender;

15) **competitive dialogue**– a procurement procedure where all interested economic operators may request the right to participate, but the tenders may only be submitted by the candidates invited by the public service provider, and which shall be applied when it is impossible to obtain the tender meeting the needs of the public service provider within an open or restricted procedure, and the aim of which shall be to identify and define, in a dialogue with the selected candidates, the means best suited to satisfy the needs of the public service provider;

16) **common technical specification**– a technical specification in the field of information and communication technologies laid down in accordance with Articles 13 and 14 of Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council;

17) **contract price**– total remuneration for the performance of the procurement contract, including all applicable taxes, except for the value added tax;

18) **design contest**– a procedure which enables the public service provider to acquire [mainly in the fields of city and any other territory planning, architecture, construction, or data processing (including information systems)] a design or plan recognised as the best by a jury commission;

19) **contracting authority**– a public person or institution thereof, an association in which all members are contracting authorities, a foundation all founders of which are contracting authorities, as well as such legal person governed by private law which conforms with all of the following criteria:

a) is established or operates in order to ensure the needs of the public, which are not of commercial or industrial nature;

b) is subordinate to or under the decisive influence of a public person or institution thereof, or under the decisive influence of a legal person governed by private law meeting these criteria (this influence manifests as the majority of voting rights upon electing the members of the supervisory or executive authority or upon appointment of the management), or more than 50 per cent of financing for activities of such legal person governed by private law come from the public person, institution thereof, or another legal person governed by private law meeting these criteria;

20) **contracting authority undertaking**– any merchant subject to direct or indirect decisive influence of a contracting authority on the basis of participation or a contract. The contracting authority has the decisive influence, if it directly or indirectly holds the majority (more than 50 per cent) of the subscribed fixed capital of the capital company or if it controls the majority of votes related to the issued capital shares (stocks), or if such authority is entitled to appoint more than half of the members of the supervisory body or executive body;

21) **research and development**– all activities related to the fundamental and industrial studies and experimental development;

22) **tender security**– payment of a sum of money provided for in the procurement procedure documents into the account indicated by the public service provider, guarantee from the credit institution or insurance company for a specific amount of money which the tenderer submits together with the tender to the public service provider as a security for the validity of the tender;

23) **economic operator**– a natural person or a legal person, a contracting authority, a public service provider, or an association of such persons in any combination thereof which offer to perform construction works, supply products or provide services accordingly;

24) **buyer profile**– the site of a public service provider in the State electronic information system publicly available on the internet for acceptance of tenders and applications, where the public service provider posts information on subsequent invitations to tender, planned procurements, concluded contracts, suspended procedures, as well as other information related to procurements as defined in the laws and regulations;

25) **tenderer**– an economic operator who has submitted a tender;

26) **publication management system**– the State information system under supervision of the Procurement Monitoring Bureau and available on the website of the Procurement Monitoring Bureau which ensures preparation and submission of such information to the Procurement Monitoring Bureau or publication of such information on its website which, in accordance with laws and regulations, shall be prepared and submitted to the Procurement Monitoring Bureau or published on its website and which contains information on such persons on whom administrative penalty – a prohibition to exercise rights – a prohibition to hold such offices the duties of which include taking of decisions in the field of public procurements and public-private partnership or the conclusion of procurement contracts, framework agreements, partnership procurement contracts, or concession contracts has been imposed for violations in the field of public procurement and public-private partnership;

27) **public service provider**:

a) a contracting authority or a contracting authority undertaking that performs the activities referred to in Chapter II of this Law in the fields referred to in Chapter II of the Law;

b) any subject governed by private law that performs the activities referred to in Chapter II of this Law in the fields referred to in Chapter II of this Law or in any combination thereof on the basis of special or exclusive rights that have been conferred by the competent authority on the basis of such laws and regulations or administrative acts the norms of which restrict the performance of activities in the abovementioned fields granting the right to perform activities in any of these fields only to one subject or some subjects, and which significantly affects the opportunities of other subjects to act in these fields. The provisions of this Clause shall not be applicable to a subject governed by private law if the right to conclude the contract has been awarded in accordance with the laws and regulations in the field of public procurements, energy or electricity, post or subterranean depths, or in accordance with Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 or on the basis of such law or regulation or administrative act in which transparency and objective criteria for contract awarding have been ensured;

28) **negotiated procedure without publishing an invitation to participate**– a procurement procedure without prior publishing of an invitation to participate in which the public service provider consults with the economic operators of its choice and organises negotiations on the terms of the procurement contract with one or more of them;

29) **negotiated procedure by publishing an invitation to participate**– a procurement procedure in which the public service provider consults with the economic operators of its choice and organises negotiations on the terms of the procurement contract with one or more of them;

30) **restricted procedure**– a procurement procedure in which all interested economic operators may request the right to participate, however, tenders may only be submitted by those candidates which are invited by the public service provider;

31) **technical reference** – any document of European standardisation bodies other than official standards developed according to procedures adapted to developments in market needs;

32) **framework agreement** – such agreement between one or more public service providers and one or more economic operators the objective of which is to determine and characterise the contracts to be concluded during a given time period and to provide for the provisions with which such contracts shall be concluded (especially in relation to prices and, if necessary, the intended quantity);

33) **green public procurement**– procurement of such products, services, or construction work the environmental impact whereof during their life cycle is smaller than the impact of the products, services, and construction work with the same purpose of use acquired without applying the principles of green public procurement.

[*21 February 2019; 5 December 2019* / *Amendment to Clause 26 which provides for the replacement of the words “prohibition to hold the office of public official” with the words “prohibition to exercise rights – a prohibition to hold such offices the duties of which include taking of decisions in the field of public procurements and public-private partnership or the conclusion of procurement contracts, framework agreements, partnership procurement contracts, or concession contracts” shall come into force on 1 July 2020.* *See Paragraph 10 of Transitional Provisions*]

**Section 2. Purpose of the Law**

The purpose of the Law is to ensure:

1) openness of the procurement procedure;

2) free competition of economic operators, and also equal and fair treatment thereof;

3) efficient use of the resources of public service providers and public persons.

**Chapter II. Areas of Activities of Public Service Providers**

**Section 3. Activities of Public Service Providers in the Field of Gas Supply, Heat Supply, and Electricity Supply**

(1) In the field of gas supply and heat supply, this Law shall be applied to the provision or management of the public distributions networks for production, transportation, or distribution networks of gas or heat energy, and also to the supply of gas or heat energy to such networks, except for the cases where gas or heat energy production is integral consequences of the type of activity which is not referred to in this Section or Section 4, 5, 6, or 7 of this Law of a contracting authority undertaking or a subject governed by private law which is referred to in Section 1, Clause 27, Sub-clause “b” of this Law, or the subject governed by private law which is referred to in Section 1, Clause 27, Sub-clause “b” of this Law performs supply to the public distribution network only for the purpose to use economically the gas or heat energy obtained in such activity, moreover the amount of such supply in terms of money shall not exceed 20 per cent of the turnover of the relevant contracting authority undertaking or subject governed by private law which is referred to in Section 1, Clause 27, Sub-clause “b” of this Law, taking into account the average turnover in the previous three reporting years, including the current year.

(2) In the field of electricity supply, this Law shall be applied to the provision and management of the public distribution networks for production, transmission and distribution of electricity, and also to the supply of electricity to such networks, except for the cases where a contracting authority undertaking or a subject governed by private law which is referred to in Section 1, Clause 27, Sub-clause “b” of this Law need the production of electricity in order to ensure the electricity consumption in other types of activities not referred to in this Section or in Section 4, 5, 6, or 7 of this Law, and the supply to a public distribution network depends only on the home consumption of electricity and does not exceed 30 per cent of the average amount of electricity produced in a year, taking into account the average amount of electricity produced in the preceding three reporting years, including the current year.

**Section 4. Activities of Public Service Providers in the Field of Water Supply**

(1) In the field of drinking water supply, this Law shall be applied to the provision or management of the public distribution networks for obtaining, transportation, or distribution of drinking water, or to the supply of drinking water to such networks, except for the cases where the obtaining of drinking water for a public authority undertaking or a subject governed by private law which is referred to in Section 1, Clause 27, Sub-clause “b” of this Law, is necessary in order to ensure the consumption of drinking water in a type of activity not referred to in this Section or in Section 3, 5, 6, or 7 of this Law, and the supply to a public distribution network depends only on the home consumption of drinking water and does not exceed 30 per cent of the amount of drinking water obtained, taking into account the average amount of drinking water obtained in the preceding three reporting years, including the current year.

(2) This Law shall be applied by the public service provider which performs any of the activities referred to in Paragraph one of this Section, including procurements related to hydraulic engineering projects, irrigation or drainage of farming land, provided that the volume of drinking water supplied exceeds 20 per cent of the total volume of water obtained as a result of the installation of the hydraulic engineering structure, irrigation or drainage of farming land, and procurements related to the disposal or treatment of sewage.

**Section 5. Activities of Public Service Providers in the Field of Transport Services**

(1) In the field of transport services this Law shall be applied to the provision or management of public railway, automated system, tramway, trolleybus, bus and ropeway transport networks, or for the provision of the services thereof.

(2) Within the meaning of this Section, a transport network exists, if transport services are provided in accordance with the regulations issued by an institution regulating the provision of these services, including regulations regarding the routes to be served, the quantities to be carried, or the frequency of the carriages.

**Section 6. Activities of Public Service Providers in the Field of Postal Services**

In the field of postal services this Law shall be applied to the universal postal service and other postal services which are provided by a provider of the universal postal service.

**Section 7. Activities of Public Service Providers in the Field of the Exploitation of a Geographical Area**

In the field of the exploitation of a geographical area this Law shall be applied in relation to the exploitation of a specific geographical area for the extraction of oil or gas or for the exploration or extraction of coal or other fuel, and also to the management of airports or sea ports.

**Section 8. Procurement Contracts that Cover Several Lots of the Subject Matter of the Procurement**

(1) The procurement contract having as its subject matter two or more types of procurement (construction work, supplies, or services) shall be awarded in accordance with the provisions applicable to the type of procurement that characterises the main subject matter of the respective procurement contract. For the procurement contracts consisting partly of the services referred to in Annex 2 to this Law and other services or partly of services and partly of supplies, the main subject matter and the applicable procurement procedure shall be determined according to which of the estimated contract prices of the respective services or supplies is the highest.

(2) If the subject matter of a procurement contract is construction work, supplies, or services to which this Law applies, and construction work, supplies, or services to which this Law does not apply, and if the different lots of the procurement are objectively separable, the public service provider is entitled to apply appropriate legal framework to each lot or conclude a full procurement contract and apply this Law. If the lots of the procurement contract are not objectively separable, the applicable legal framework shall be determined according to the main subject matter of the procurement contract.

(3) If the subject matter of a procurement contract is construction work, supplies, or services to which this Law applies and it also contains the elements of a concession contract and if the lots of the procurement are objectively separable, the procurement contract may be awarded in accordance with this Law, if the contract price of the lot of the procurement to which this Law applies is equal to or exceeds the thresholds of contract prices stipulated by the Cabinet.

(4) If the subject matter of a procurement contract is both the construction work, supplies, or services to which this Law applies and the construction work, supplies, or services to which the laws and regulations governing the procurement in the field of defence and security apply, and if the different lots of the procurement are objectively separable, the public service provider may conclude a full procurement contract (the decision to conclude a full procurement contract shall not be taken in order to avoid the application of either this Law or the laws and regulations governing the procurement in the field of defence and security). The applicable legal framework shall be determined on the basis of the following features:

1) if Article 346 of the Treaty on the Functioning of the European Union applies to a lot of the procurement contract, the procurement contract may be awarded without applying this Law, if awarding of a full procurement contract is justified on objective grounds;

2) if the Law on Procurements in the Field of Defence and Security applies to a lot of the procurement contract, the procurement contract may be awarded in accordance with the Law on Procurements in the Field of Defence and Security, provided that awarding of the full procurement contract is justified on objective grounds.

(5) If a procurement contract conforms to both Clause 1 and Clause 2 of Paragraph four of this Section, the public service provider shall apply Paragraph four, Clause 1 of this Section.

**Section 9. Procurement Contracts that Cover Activities in Several Fields**

(1) If procurement contracts are intended for the provision of activities in several fields, a public service provider may select to award individual procurement contracts in relation to each field of activity or award a full procurement contract. If the public service provider selects to award individual procurement contracts, it shall apply appropriate legal framework for conclusion of each individual procurement contract. If the public service provider selects to award a full procurement contract regardless of Section 8 of this Law, Paragraphs two and three of this Section shall be applied.

(2) A public service provider may not award a full procurement contract or individual procurement contracts in several fields of activity and conclude an individual procurement contract corresponding to each field in order to avoid the application of this Law, the Public Procurement Law, the Law on Public-Private Partnership, or the Law on Procurements in the Field of Defence and Security.

(3) If a procurement contract applies to activities in several fields, the procurement procedure shall be governed by the norms of such a field to which the most essential part of the procurement contract applies.

(4) If a procurement contract applies to activities in both in the field of application of this Law and other activities, and it is not objectively possible to determine to which field the most essential part of the procurement contract applies, the applicable regulations shall be determined in accordance with Clause 1, 2, or 3 of this Paragraph:

1) to award the procurement contract in accordance with the framework of the Public Procurement Law if this Law applies to any of the activities for which the procurement contract is intended, but the Public Procurement Law applies to another activity;

2) to award the procurement contract in accordance with the framework of this Law if this Law applies to any of the activities for which the procurement contract is intended, but the Law on Public-Private Partnership applies to another activity;

3) a procurement procedure shall be carried out in accordance with this Law if this Law applies to any of the activities for which the procurement contract is intended, but neither this Law, the Public Procurement Law nor the Law on Public-Private Partnership applies to another activity.

(5) If objective reasons are on the basis of awarding a full procurement contract, the procurement contract may be awarded in accordance with the Law on Procurements in the Field of Defence and Security without applying the thresholds of contract prices and exceptions of this Law if the procurement contract applies both to the activities to which this Law applies, and to the activities to which the Law on Procurements in the Field of Defence and Security applies.

[*21 February 2019*]

**Chapter III. Exceptions to the Application of this Law**

**Section 10. Exceptions to the Application of this Law**

(1) This Law shall not be applied if a public service provider concludes a contract for:

1) construction work, supplies, or services, and the objective of such public service provider is to sell or lease to third persons the subject matter of the procurement contract in conformity with the condition that the public service provider has no special rights or exclusive rights to sell or lease the subject matter of the procurement contract and that other subjects governed by private law are entitled to sell or lease it in accordance with the same conditions which apply to the public service provider. The public service provider shall inform the European Commission upon request thereof of all categories of products or activities to which such an exclusion is applied;

2) the subject matter of the procurement contract the objective of which is other than the provision of the activities referred to in Section 3, 4, 5, 6, or 7 of this Law or the objective of which is to perform such activities in the country other than the European Union Member State in conformity with the condition that the infrastructure of the European Union or the territory belonging to the European Union is not used for this objective, and also design contests which are organised for the abovementioned purposes. The public service provider shall inform the European Commission upon request thereof of all activities to which such an exclusion is applied;

3) the purchase or lease of land, existing structure, or another immovable property or the acquisition of other rights to such immovable property with any financial resources;

4) the contracts for the provision of transmission time or broadcasts which are awarded to electronic mass media;

5) the services of arbitration and services which are provided for reconciliation of the parties;

6) the document certification services provided by notaries;

7) the legal services the providers of which are designated by courts or the providers of which are assigned, by external laws and regulations, to carry out specific tasks under supervision of courts;

8) the legal services related to the exercise of official authority;

9) the financial services related to the issue, purchase, sale, or transfer of securities or other financial instruments, and the activities which are performed with the assistance of the European Financial Stability Facility and the European Stability Mechanism;

10) the loans – regardless of whether they are or are not related to the issue, sale, transfer, or purchase of securities or other financial instruments;

11) the services of natural persons under the employment contracts;

12) the public transport services by rail or underground railway;

13) the services in the field of civil protection, civil defence, and disaster prevention which are provided by associations, foundations, or unions and to which one of the following CPV codes refers: 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8, 98113100-9, and 85143000-3, except for the emergency medical assistance services related to the transportation of patients;

14) the subject matter of the procurement contract the objective of which is the provision of the activity referred to in Section 3, 4, 5, 6, or 7 of this Law if it is recognised in accordance with the procedures referred to in Chapter XVI of this Law that such an activity is performed under the conditions of free competition;

15) water supply in conformity with the condition that the public service provider ensures or manages the public networks of drinking water supply, transport, or distribution, or supplies drinking water to such networks;

16) supply of energy or supply of fuel for the production of energy in conformity with the condition that the public service provider ensures or manages public distribution networks of the production, transportation, or distribution of gas, heat energy, or electricity, or supplies gas, heat energy, or electricity to such networks, or exploits a specific geographical area for the exploration or extraction of oil, gas, or solid fuel;

17) the services provided by a contracting authority which, in accordance with external laws and regulations, has exclusive rights to provide the relevant service.

(2) This Law shall apply only to service contracts for research and development services under the CPV code from 73000000-2 to 73120000-9, 73300000-5, 73420000-2, and 73430000-5 if the following conditions are concurrently fulfilled:

1) the benefits from the results of the service provided will accrue exclusively to the public service provider which will use these results only in the conduct of its own affairs;

2) the public service provider will fully pay for the service provided.

(3) This Law shall not be applied if a contract is concluded or a design contest is organised in accordance with other provisions of procedures and the contract is awarded:

1) in accordance with an international agreement which, in accordance with the legal acts of the European Union, has been concluded by a European Union Member State with one or several states, other than European Union Member States, or their lots on construction work, supplies, or services in relation to the participation of the states having signed the agreement in the implementation of any joint measure or the use of the results thereof. The public service provider shall notify the European Commission regarding all such agreements;

2) in accordance with a particular procedure of any international organisation;

3) in accordance with a particular procedure of any international organisation or international financial institution if the relevant procurement is fully financed by the relevant organisation or institution. If the relevant organisation or institution finances the procurement at least in the amount of 50 per cent, the parties may agree on which procurement procedures shall be applied;

4) in accordance with an international agreement related to the deployment of troops and applicable to the undertakings of the European Union Member State or the undertakings of the country other than the European Union Member State.

(4) This Law shall not be applied if:

1) the Cabinet, in accordance with external laws and regulations, has recognised the information on a contract or the implementation thereof as an official secret;

2) its application can possibly harm the protection of essential State security interests. The Cabinet shall decide on the protection of essential State security interests on a case-by-case basis. The basis for the application of this exception shall be neither urgency nor protected information itself, if protection thereof can be ensured in procurement procedures in accordance with this Law or the Law on Procurements in the Field of Defence and Security.

(5) This Law shall not be applied to the construction work, supplies, and services that conform to Section 3 of the Law on Procurements in the Field of Defence and Security.

[*21 February 2019*]

**Section 11. Mutual Procurement Contracts Between the Contracting Authorities**

(1) This Law shall not be applied to the construction work performed, supplies or services provided by a person who meets all of the following features:

1) it is under such control of the contracting authority which manifests as the rights to influence the strategic objectives and decisions of the activities of the controlled person, or under control of a person controlled in the abovementioned manner by the contracting authority;

2) more than 80 per cent of its activities are comprised of carrying out particular tasks in the interests of the controlling contracting authority or other persons controlled by the abovementioned contracting authority;

3) there is no direct private capital participation in it, except for such form of private capital participation which, in accordance with the laws and regulations governing commercial law and the Treaty on the Functioning of the European Union, does not entail the rights to influence and control the decisions of such person and does not exert a decisive influence on it.

(2) This Law shall not be applied if the controlled person corresponding to the features of Paragraph one of this Section, concurrently also being the contracting authority, awards a procurement contract to its controlling contracting authority or to another person controlled by the controlling contracting authority within the meaning of Paragraph one, Clause 1 of this Section, provided that there is no direct private capital participation in the person to whom the procurement contract is awarded, except for such form of private capital participation which, in accordance with the laws and regulations governing commercial law and the Treaty on the Functioning of the European Union, does not entail the rights to influence and control the decisions of such person and does not exert a decisive influence on it.

(3) This Law shall not be applied to the construction work performed, supplies or services provided by a person who meets all of the following features:

1) it is under the joint control of several contracting authorities which manifests as the rights to influence the strategic objectives and decisions of the activities of the controlled person;

2) more than 80 per cent of its activities are comprised of carrying out particular tasks in the interests of the jointly controlling contracting authorities or other persons controlled by the abovementioned contracting authorities;

3) there is no direct private capital participation in it, except for such form of private capital participation which, in accordance with the laws and regulations governing commercial law and the Treaty on the Functioning of the European Union, does not entail the rights to influence and control the decisions of such person and does not exert a decisive influence on it.

(4) Within the meaning of Paragraph three of this Section, the person is under joint control of several contracting authorities if:

1) the administrative authorities of the controlled person are composed of representatives of all contracting authorities (individual representatives may represent several or all of the participating contracting authorities);

2) all contracting authorities have the right to jointly influence the strategic objectives and decisions of the activities of the controlled person;

3) the controlled person operates within the interests of the contracting authorities.

(5) This Law shall not be applied to the procurement contracts concluded between two or several contracting authorities, if all of the following conditions have been met:

1) the procurement contract establishes or implements a cooperation between the contracting authorities with the objective of ensuring public services under the competence thereof;

2) the cooperation is implemented in the interests of public;

3) the share of the public services provided by the participating contracting authorities in the open market for the ensuring of which the cooperation is implemented is less than 20 per cent.

(6) In order to determine a percentage of the activities referred to in Paragraph one, Clause 2, Paragraph three, Clause 2, and Paragraph five, Clause 3 of this Section, the average financial turnover or another activity-based measure (for example, costs of services, supplies, or construction work of the controlled person or the contracting authority) for the last three years until awarding of the procurement contract shall be taken into account. If the controlled person or the contracting authority has been established or has commenced activities after the set deadline or if data on its financial turnover or activity-based measures are not available due to its reorganisation or no longer apply, the percentage of the activities may be proved by using business projections.

**Section 12. Contracts Concluded with an Associate Undertaking or Public Service Provider which is a Part of the Joint Undertaking**

(1) Within the meaning of this Section, an associate undertaking shall be such commercial company, co-operative company registered in Latvia, European Economic Interest Grouping registered in Latvia, European co-operative company, and European commercial company which consolidates annual statements with annual statements of a public service provider in accordance with the Law on the Annual Statements and Consolidated Financial Statements.

(2) If a public service provider does not apply the Law on the Annual Statements and Consolidated Financial Statements, any undertaking in which a public service provider exercises a decisive influence or which exercises a decisive influence over a public service provider, or a capital company over which another capital company exercises a decisive influence and which concurrently exercises a decisive influence over a public service provider shall be regarded to be an associate undertaking.

(3) If Paragraphs four and five of this Section are conformed to, regardless of Section 11 of this Law, this Law shall not be applied to construction work, supply, and service contracts which a public service provider concludes with an associate undertaking or which the joint undertaking that has been established by several public service providers in order for such undertaking to perform some of the activities referred to in Section 3, 4, 5, 6, or 7 of this Law concludes with one of the associate undertakings of the public service provider forming the joint undertaking.

(4) Paragraph three of this Section shall be applied:

1) to the works contracts if at least 80 per cent of the average total turnover of the associate undertaking for the construction work executed over the last three years constitute construction work executed for the public service provider or other undertakings associated therewith;

2) to the supply contracts if more than 80 per cent of the average total turnover of the associate undertaking for the supplies performed over the last three years constitute supplies performed to the public service provider or such undertakings with which it is associated;

3) to the service contracts if more than 80 per cent of the average total turnover of the associate undertaking for the services provided over the last three years constitute services provided to the public service providers or other undertakings associated therewith.

(5) If the associate undertaking is established later and turnover cannot be determined accordingly for the last three years, the associate undertaking shall prove that the turnover referred to in Paragraph four of this Section is credible, especially by using estimation for business activity.

(6) If more than one undertaking associated with a public service provider performs the same or similar construction work or supplies or provides the same or similar services, the interest referred to in Paragraph four of this Section shall be calculated, taking into account the total turnover which is formed by the construction work, supplies performed or services provided by such associate undertakings accordingly.

(7) A public service provider which is established for the performance of the relevant activity for the period of at least three years and in the constitutive act of which it is intended that public service providers will not withdraw from the joint undertaking for at least three years, this Law shall not be applied if:

1) the joint undertaking formed by several public service providers in order for it to perform any of the activities referred to in Section 3, 4, 5, 6, or 7 of this Law concludes a contract with one of those public service providers;

2) the public service provider concludes a contract with the joint undertaking of which it is a part and which has been established in order to perform any of the activities referred to in Section 3, 4, 5, 6, or 7 of this Law for at least three years, provided that each public service provider is a part of the joint undertaking at least throughout this period.

(8) Upon request of the European Commission, a public service provider shall provide the following information on the application of this Section:

1) the names of the relevant undertakings or joint undertakings;

2) the types and values of the relevant contracts;

3) the proof requested by the European Commission that legal relationships of the public service provider and the undertaking conform to the requirements of this Section.

**Chapter IV. General Regulations for the Application of Procurement Procedures**

**Section 13. Types of Procurement Procedures and Application Thereof**

(1) The following procurement procedures exist:

1) open procedure;

2) restricted procedure;

3) negotiated procedure by publishing an invitation to participate;

4) negotiated procedure without publishing an invitation to participate;

5) the competitive dialogue;

6) innovation partnership procedure.

(2) A public service provider is entitled to organise a design contest if the estimated contract price is equal to or exceeds the thresholds of contract prices stipulated by the Cabinet. The design contest shall be organised as part of a procurement procedure leading to the award of a service contract, or as a separate contest providing for the prizes or payments to participants. The procedures for the course of the design contest shall be determined by the Cabinet.

(3) The Cabinet shall determine the provisions for the course of procurement procedures and design contests, insofar as it is not governed by this Law:

1) the procedures for the course and the provisions for the application of the procurement procedures and design contests;

2) the minimum terms for the submission of applications, tenders, and designs and the cases for reduction thereof;

3) the cases when the public service provider does not have an obligation to use electronic information systems for the receipt of applications, tenders, designs, or constituent parts thereof;

4) the content of the rules of the procurement procedures and design contests;

5) the provisions for the announcing, suspension and termination of procurement procedures and design contests;

6) the provisions for the communication of results of the procurement procedure and design contest;

7) the provisions for the documentation of the procurement procedure and design contest and the contents of the notice of the procurement procedure and design contest;

8) the provisions for the publication of the notices;

9) the procedures for the application of the dynamic purchasing system.

(4) The procurement procedures referred to in Paragraph one of this Section shall be applied to works, supply, or service contracts if the contract price thereof is equal to or exceeds the thresholds of contract prices stipulated by the Cabinet, except for the case when a service contract is concluded for the services referred to in Annex 2 to this Law.

(5) If a contract is concluded for the services referred to in Annex 2 to this Law, a public service provider shall apply this Law if the estimated contract price is equal to or exceeds the thresholds of contract prices stipulated by the Cabinet. For the procurement of these services, the public service provider need not apply the procurement procedures laid down in this Law, except for the requirements referred to in Sections 17, 19, 23, 24, 25, and 28, Chapter VI, Sections 34, 35, Section 36, Paragraph five, Section 37, Section 42, Paragraphs one, two, three, and ten, Section 43, Paragraphs one and two, Section 44, Section 45, Paragraphs one, three, and four, and Sections 55, 56, 65, and 66 of this Law.

(6) For conclusion of a works, supply, and service contract, a public service provider is entitled to select an open procedure, a restricted procedure, or a negotiated procedure by publishing an invitation to participate. If the public service provider forms a dynamic purchasing system, it shall apply the regulations of a restricted procedure, insofar as it is not laid down otherwise in this Law.

(7) A public service provider is entitled to apply a negotiated procedure without publishing an invitation to participate if:

1) no tenders or applications have been submitted, or tenders not corresponding to the procurement contract have been submitted in response to procurement procedure by publishing an invitation to participate where such tenders are incapable, without substantial changes, of meeting the requirements laid down in the procurement procedure documents, or applications of candidates who do not meet the qualification requirements and are to be excluded from the procurement procedure have been submitted, and provided that the initial provisions for the performance of the procurement contract are not substantially altered;

2) the contract is only intended for research, experiments, or for development without the purpose of making a profit or covering the costs of research or development, in conformity with the condition that such contract does not affect free competition in relation to conclusion of subsequent contracts;

3) the construction work, supplies, or services may be provided only by a particular economic operator in one of the following cases:

a) the objective of the procurement is the creation or acquisition of a unique work of art or artistic performance;

b) lack of competition due to technical reasons;

c) protection of exclusive rights (including intellectual property rights);

4) in an extraordinary situation that has come about due to events unforeseeable by the public service provider, where, as a result of time limits, it is not possible to apply the open procedure, restricted procedure, or negotiated procedure by publishing an invitation to participate, – insofar as it is necessary in order to prevent the extraordinary situation. The abovementioned circumstances which justify the extraordinary situation may not depend upon the activities of the public service provider;

5) the public service provider needs additional supplies from the original economic operator (manufacturer) of products in order to supplement or partly change the products or equipment already at the disposal thereof because, upon selecting another economic operator (manufacturer) of products, the public service provider would have to procure products which would differ technically from those products already at the disposal thereof and such difference would cause incompatibility or significant technical difficulties associated with the maintenance and operation of the products or equipment;

6) the subject matter of the contract is repeated performance of construction work or provision of services provided for in the contract previously concluded which are entrusted to the implementer of this contract, and the repeatedly necessary construction work or services conform to the existing project at the basis of the contract previously concluded. This condition shall apply to cases where the public service provider has concluded the initial works or service contract as a result of such procurement procedure for which an invitation to participate has been published, a repeat conclusion of a contract is provided for in the invitation to participate, and by determining the estimated contract price the value of the repeatedly necessary construction works or services has also been taken into account;

7) the subject matter of the contract is the supply of such products which are quoted and which the public service provider purchases on the commodity market;

8) it is possible to purchase products or services on particularly advantageous terms from either an economic operator which is definitively winding up its business activities or from the liquidator which carried out the liquidation procedure of the economic operator, or from the administrator organising the auction of the property of a bankrupt economic operator in accordance with the laws and regulations;

9) it is possible to purchase products in the time period which is shorter than the time limits for the submission of applications and tenders specified in this Law for the prices which are considerably lower than market prices;

10) a service contract is concluded with the winner or one of the winners of a design contest where the design contest is organised in accordance with the requirements of this Law. If several winners have been determined in the design contest, all winners shall be invited to participate in the negotiations.

(8) The exceptions referred to in Paragraph seven, Clause 3, Sub-clauses “b” and “c” of this Section shall only apply where there is no other reasonable alternative or substitute and if the absence of competition has not been caused by the requirements laid down for the procurement.

[*21 February 2019*]

**Section 14. Determination the Estimated Contract Price**

(1) The estimated contract price shall be determined in order to select the method of procurement.

(2) The estimated contract price shall be determined as the total planned payment of the public service provider for the implementation of the contract which the economic operator may receive from the public service provider and other persons. The public service provider, when planning the total payment, shall take into account any selection opportunity and any supplements to the contract, all taxes to be paid in relation to the contract (except for the value added tax), and also the value of prizes and payments if the public service provider intends to award prizes or to disburse payments to the candidates, tenderers, participants of a competitive dialogue, partners of an innovation partnership procedure, or participants of a design contest.

(3) The estimated contract price shall be determined prior to submission of the notice referred to Section 33, Paragraph one, Section 34, Paragraph one, or Section 36, Paragraph four of this Law for publication, or, if submission of such notice for the publication is not necessary, prior to the commencement of the procurement or the procurement procedure.

(4) It shall not be allowed to divide work projects, foreseeable supplies or services in order to avoid the application of the relevant procurement procedure. It shall not be allowed to use such method for the determination of the contract price which is aimed towards the non-application of the procurement procedure specified in the law.

(5) In the case of works contracts, the estimated contract price shall be the total value of all works or structures, including the contract price of the supplies or services necessary for the performance of the works contract and which are intended to be performed or provided to the contractor by the public service provider. The public service provider shall not add the estimated contract price of the supplies and services which are not necessary for the implementation of the particular works contract to the estimated contract price of the works contract if thereby the application of the requirements of this Law to the relevant supply or service contracts may be avoided.

(6) If the possible subject matter of a works or service contract may be divided into lots, when concurrently concluding contracts for each of the lots, the estimated contract price shall be determined as the total amount of all the lots. The public service provider shall apply the requirements of this Law to each lot if the total amount of the lots is equal to or exceeds the thresholds of contract prices stipulated by the Cabinet. The public service provider is entitled not to apply procurement procedures to those lots the estimated contract price of which is less than EUR 1 000 000 for works contracts and less than EUR 80 000 for service contracts if the total estimated contract prices of these lots does not exceed 20 per cent of the total estimated contract price of all lots.

(7) If similar products are intended to be purchased by concurrently concluding several supply contracts so that they are procurement contracts concerning lots, the estimated contract price shall be determined as the total amount of all lots. The public service provider shall apply the requirements of this Law to each lot if the total amount of the lots is equal to or exceeds the thresholds of contract prices stipulated by the Cabinet. The public service provider is entitled not to apply procurement procedures to those lots the estimated contract price of which is less than EUR 80 000 if the total estimated contract price of these lots does not exceed 20 per cent of the total estimated contract price of all lots.

(8) The estimated contract price for supply contracts providing for lease, hire purchase, or leasing shall be determined as follows:

1) in the case of fixed-term contracts:

a) if the term is 12 months or less – as the total contract price for the term of the contract;

b) if the term is greater than 12 months – as the total contract value for the period of the operation of the contract, taking into account the residual value;

2) in the case of contracts without a fixed term or the contracts, the term of which cannot be specified – as the estimated monthly payment multiplied by 48.

(9) In the case of conclusion of regular supply or service contracts or in the case where the time period of a contract is extended within a given period, the estimated contract price shall be determined:

1) as the total actual value of the successive contracts of the same type during the preceding 12 months or the preceding financial year, taking into account the possible changes in amount or value during the subsequent 12 months;

2) as the total estimated value of the successive contracts of the same type during the subsequent 12 months after the initial supply or during the next financial year (if it is longer than 12 months).

(10) The estimated contract price for services shall be determined:

1) for insurance services – as the total sum of the insurance premium payable and other forms of remuneration;

2) for credit institutions and other financial services – as the total sum of the fee for services, commission, interest to be paid, and other forms of remuneration;

3) for service contracts which include the drafting, the design and modelling of the architecture or engineering structures – as the total sum of the fee for services, commission, and other forms of remuneration.

(11) If the total contract price is not indicated for service contracts, the estimated contract price shall be determined as follows:

1) for contracts with a fixed term which is 48 months or less – as the total contract price for the term of the contract;

2) for contracts without a fixed term or with a term exceeding 48 months – as the estimated monthly payment multiplied by 48.

(12) The estimated contract price in the case of a framework agreement and for the dynamic purchasing system shall be the total contract price of contracts estimated during the term of the framework agreement or the dynamic purchasing system.

(13) The estimated contract price in case of an innovation partnership procedure shall be the maximum estimated value of all research and development activities during all stages of the procedure and the estimated maximum contract price of all construction work, supplies, or services intended to be developed during the procedure and subsequently purchased.

(14) If the design contest is planned as a part of the procurement procedure resulting in the award of the service contract, the estimated contract price shall be determined, taking into account the total amount of the prizes or payments and the estimated contract price of the service contract to be concluded.

[*21 February 2019*]

**Section 15. Thresholds of Contract Prices**

The thresholds of contract prices referred to in Section 8, Paragraph three, Section 13, Paragraphs two, four, and five, Section 14, Paragraphs six and seven, Section 65, Paragraph ten, Section 66, Paragraph five, Clause 1, Section 72, Paragraph two, Clause 3, Section 78, Paragraph one, Clauses 2, 5, and 6 of this Law shall be determined by the Cabinet on the basis of the international commitments of the European Union in relation to thresholds of contract prices which have to be met by a public service provider. The Cabinet shall determine the abovementioned thresholds of contract prices at least once in every two years within a month after the European Commission has announced the relevant thresholds of contract prices in the Official Journal of the European Union.

[*21 February 2019*]

**Section 16. Privileged Contracts**

(1) If the subject matter of an intended procurement contract allows for it, a public service provider is entitled, within the scope of the measures intended for certain groups of persons, to reserve the possibility to participate in procurement procedures only for those candidates or tenderers where more than 30 per cent of the average number of employees per year are persons with disabilities.

(2) When applying Paragraph one of this Section, reference to this Section shall be made in the contract notice.

[*21 February 2019*]

**Section 17. General Conditions in Relation to an Economic Operator**

(1) A public service provider shall not reject a candidate, a tenderer, or a participant of a design contest if it does not have the specific legal status in accordance with the laws and regulations of Latvia, however, it is entitled to perform construction work, supply products or provide services in accordance with the legal acts of the European Union Member State where it has been founded.

(2) The public service provider shall request only such information or documents from the candidate, the tenderer, or the participant of a design contest which are necessary for the verification of the conformity of the qualification and tenders, and also for the selection of a tender in accordance with the specified tender evaluation criteria.

(3) [21 February 2019]

(4) If a works or service contract is being concluded or if a supply contract also includes the siting or installation of a product, the public service provider is entitled to request that the tenderer indicates in the tender or the candidate indicates in the application for the participation in the procurement procedure the persons responsible for the implementation of the particular contract, and also the professional qualifications thereof.

(5) Economic operator associations may submit tenders or apply as candidates. The public service provider is not entitled to bring forward a request that a specific legal status be necessary for such an association in order for it to submit a tender or a submission on the participation in a procurement procedure as a tenderer or a candidate.

(6) The public service provider may determine in the procurement procedure documents how the economic operator associations must meet the requirements in relation to the economic and financial standing or technical and professional abilities. Such requirements shall be commensurate and based on objective reasons.

(7) The public service provider may bring forward different, commensurate, and objectively justified conditions for the economic operator associations in relation to the implementation of the contract. The public service provider may request that the association in relation to which the decision is taken to award the procurement contract, at its own choice, establishes according to a specific legal status or concludes a partnership agreement, agreeing upon the allocation of liability of the members of the association, if necessary for successful implementation of the provisions of the procurement contract.

(8) If an economic operator, its employee, or the person indicated in the tender of the economic operator has participated in any previous stage of the relevant procurement project or in the development of the procurement procedure documents, the economic operator is not entitled to participate in the next stages of the same project or in the relevant procurement procedure if the abovementioned conditions provide the economic operator with advantages in this procurement procedure, thus restricting the competition. Stages of a procurement project shall mean several successively performed procurements which ensure the achievement of a unified end result.

(9) The public service provider, having established the conditions referred to in Paragraph eight of this Section, prior to the potential rejection of a candidate or a tenderer, shall allow it to prove that there are no conditions which would provide this candidate or tenderer any advantages in the relevant procurement procedure, thus hindering, restricting, or distorting the competition.

[*21 February 2019*]

**Section 18. Conditions in Relation to the Agreement on Government Procurement of the World Trade Organisation and Other International Agreements**

The public service provider, insofar as it is laid down in the Agreement on Government Procurement of the World Trade Organisation and other international agreements binding on the European Union, shall apply at least as favourable conditions to the construction work, supplies, services, and economic operators of the abovementioned contracting parties as those applied to the construction work, supplies, services, and economic operators of the European Union.

[*21 February 2019*]

**Section 19. Protection of Information**

(1) A public service provider may bring forward the conditions in relation to the protection of such information which has been transferred thereby to economic operators together with technical specifications, and also during the procurement procedure.

(2) When notifying of the conclusion of a procurement contract and informing the candidates and tenderers, the public service provider is not entitled to reveal the information which has been transferred thereto by other candidates and economic operators as a commercial secret or confidential information.

**Section 20. Procurements Made Jointly by Central Purchasing Bodies and Public Service Providers**

(1) A central purchasing body may procure products and services, and also carry out procurements and procurement procedures for conclusion of procurement contracts and framework agreements for the needs of other public service providers, including public service providers of other countries. In such case the central purchasing body shall apply the requirements laid down in this Law. The central purchasing body may maintain an electronic information system for the receipt of applications and tenders, and also provide consultations to the public service providers and economic operators regarding the use of such system.

(2) The public service provider may procure products and services from a central purchasing body or receive construction work, supplies, and services with the intermediation thereof.

(3) If the public service provider purchases products and services from a central purchasing body or receives construction work, supplies, and services with the intermediation thereof, it shall be considered that it has applied the requirements of this Law if the central purchasing body, by carrying out the procurement procedure, has applied the requirements of this Law.

(4) The public service provider may purchase products and services from a central purchasing body located in another European Union Member State or receive construction work, supplies, and services with the intermediation of such body, if it, by carrying out the procurement procedure for the needs of the public service provider, applies the requirements of such laws and regulations which conform to the legal acts of the relevant Member State or directly applicable legal acts of the European Union in the field of public procurement. In such case it shall be considered that the public service provider has complied with the requirements of this Law.

(5) Several public service providers from different European Union Member States may jointly award the contract, conclude a framework agreement, or use the dynamic purchasing system. If the provisions for such cooperation are not included in the international agreement concluded between the European Union Member States, the relevant public service providers shall conclude an agreement providing for the rights and obligations of the parties, determine the national law applicable to the commitments, the provisions for organisation of the procurement procedure and conclusion of the contract. The rights and obligations of public service providers shall be indicated also in the documents of the relevant procurement procedure.

(6) If several public service providers from different European Union Member States have set up a joint entity, including European Groupings of Territorial Cooperation or another entity established in accordance with directly applicable legal acts of the European Union, the public service providers involved shall, by a decision of the competent body of the joint entity, agree whether to apply the procurement provisions of the Member State where the joint entity has its registered address or where the joint entity is carrying out its activities.

(7) Public service providers may agree to organise certain specific procurements jointly. Where the joint procurement is organised in the name and on behalf of all public service providers, even though the procurement is carried out by only one public service provider, the public service providers involved shall be jointly responsible for conformity with the requirements of this Law. Public service providers shall be jointly responsible only for those lots of the procurement which are carried out for the needs of all public services providers involved.

**Section 21. Special Provisions for Procurements in the Field of Road Transport**

(1) A public service provider, when organising procurements of road transport, shall take into account the effect of the putting into operation thereof on energy and the environment, evaluating at least the energy consumption and the amount of the emission of carbon dioxide, nitric oxides, methane-free hydrocarbons, and aerosols.

(2) The Cabinet shall determine the road transport categories for the procurement of which the requirements of this Section shall apply, and also the methodology for the calculation of the costs for the putting into service of the abovementioned road transport.

(3) The public service provider shall implement the requirements referred to in Paragraph one of this Section in one of the following ways:

1) the requirements in relation to energy consumption and the amount of emissions of the substances referred to in Paragraph one of this Section, and also, if necessary, other environmental impact aspects shall be included in technical specifications;

2) the impact of operation on the energy industry and environment shall be assessed, determining the tender evaluation criteria in accordance with Section 57 of this Law. The public service provider is entitled to express and evaluate these factors in monetary terms, using the methodology stipulated by the Cabinet for the calculation of the costs of putting road transport into service.

**Chapter V. Provisions for Technical Specifications and Procurement Procedure Documentation**

**Section 22. Informing of the Planned Procurements and Procurement Procedures, Consultation with Economic Operators, and Prior Involvement of Candidates and Tenderers**

(1) A public service provider shall, within five working days from the day when a decision on the necessity of a procurement procedure, design contest, or the procurement referred to in Section 13, Paragraph five of this Law is taken, publish in the State Electronic Information System and, if necessary, update information on the planned procurement procedures, design contests, or the procurements referred to in Section 13, Paragraph five of this Law, indicating at least the subject matter of the procurement, the estimated scope of the contract, and the planned time for the announcement of the procurement. The public service provider is entitled not to publish this information in the cases specified in Section 13, Paragraph seven and Section 34, Paragraph three of this Law or in the cases when early publishing may have a negative effect on competitiveness of the public service provider.

(2) Before launching a procurement procedure, the public service provider may organise consultations with the economic operators with a view to prepare the procurement and inform the economic operators of the procurement plan and requirements. The public service provider shall announce the consultation on its website, indicating the issues to be discussed, the time and place of the consultation, and the manner how economic operators can apply for participation in the consultation, the requirements in relation to documenting the consultation and publishing such documentation.

(3) The public service provider may receive consultations from independent experts, institutions, or economic operators. The abovementioned consultations may be used in the planning and organising of the procurement procedure, if it does not restrict competition and does not infringe the principle of prohibition of discrimination and the principle of transparency.

(4) If a candidate, tenderer, or legal person connected with the candidate or tenderer has consulted the public service provider or has been otherwise engaged in the preparation of the procurement procedure, the public service provider shall ensure that the participation of the relevant candidate or tenderer does not give rise to the restriction of competition in the procurement procedure by communicating to other candidates and tenderers the significant information which has been provided in relation to engagement of the candidate or the tenderer in the preparation of the procurement procedure, or which arises out of such engagement, and setting a corresponding term for the submission of applications or tenders.

[*21 February 2019*]

**Section 23. Technical Specifications**

(1) Technical specifications are included in the documents of a procurement procedure. Technical specifications shall ensure equal opportunities for all tenderers and shall not create unjustified restrictions for the competition in procurement procedures.

(2) The requirements of the public service provider may refer to a special process or method of performance of the requested construction work, production of products, or provision of services, or a special process in another stage of their life cycle even if such factors are not directly related to the nature of the construction work, supplies, or services, but they are related to the subject matter of the procurement contract and are commensurate with the value and objectives of the procurement contract.

(3) Technical specifications for works contracts shall be a summary of technical descriptions which determines the requirements of the public service provider in relation to materials, products, technical equipment, or supplies and which characterises materials, products, technical equipment, or supplies so that they would conform to the objectives intended by the public service provider. These descriptions shall include the environmental protection requirements, the designing requirements (also requirements in relation to availability for persons with disability), the requirements for conformity assessment and implementation, the safety rules, the quality assurance system, the terminology, the measurements, the symbols, the testing rules and methods, the packaging, the labelling, the production processes and methods in all stages of a life cycle of construction work. Technical specifications shall also include the provisions regarding work completion tests and work acceptance, the requirements in relation to the methods and technology for the performance of construction work, the provisions regarding the construction designing and cost-estimation, and other technical provisions which the public service provider has intended for construction work or the structure in aggregate, or for materials and objects which are planned to be used in the structure. The scope of construction work shall be determined according to the building design and shall be included in the list of the scope of construction work. The procedures for the determination of construction costs for a works contract shall be determined by the Cabinet.

(4) The requirements brought forward in relation to the necessary supplies and services shall be determined in the technical specifications for supply and service contracts. In addition the objective, methods and resources to be used (if necessary), and also the end result of services shall be determined for service contracts. Technical specifications for supply and service contracts shall additionally contain technical descriptions which include such requirements stipulated by the public service provider in relation to the product or service as the level of quality, the environmental protection requirements and climate change reduction, the construction requirements (also requirements in relation to the provision of availability for persons with disability), the performance requirements, the requirements for product use, the safety rules, the measurements, the terminology, the symbols, the testing rules and methods, the requirements in relation to the product name under which they are sold, the packaging and labelling, the user manuals, the production processes and methods at any stage of a life cycle of a product or service, and also the conformity assessment methods.

(5) Technical specifications shall be prepared in one of the following ways:

1) by determining the functional requirements or performance results and including also the environmental protection requirements. The requirements shall be defined with precision so that the tenderer might ascertain the subject matter of the contract, but the public service provider – compare tenders;

2) by referring to the technical specifications referred to in Paragraphs three and four of this Section and to the standards in the following sequence: the European standards adapted in the status of a Latvian national standard, the European technical assessments, the common technical specifications, other international standards, and also other technical reference systems established by the European standardisation authorities, or if the abovementioned standards do not exist – in the following sequence: the Latvian national standards, the national technical approvals, or the national technical specifications in relation to designing, cost-estimation, and performance, and also the use of the products. Each reference shall include the words “or equivalent”;

3) by determining the functional requirements or performance results in accordance with Clause 1 of this Paragraph and with reference to the specifications in accordance with Clause 2 of this Paragraph in order to ensure the conformity to the functional or performance requirements;

4) by referring to the specifications in accordance with Clause 2 of this Paragraph, but specifying other requirements as functional requirements or performance requirements in accordance with Clause 1 of this Paragraph.

(6) If it is not decisive for the existence of the subject matter of the contract, technical specifications shall not specify a specific origin, special process characterising the products or services of only a particular economic operator, brand, patents, or specific types of products creating advantages or a reason for the rejection for certain economic operators or products. Such reference may be included in an exceptional case if it is not possible to prepare a sufficiently precise and clear description of the subject matter of the contract in accordance with Paragraph five of this Section. In such case the reference shall be used together with the words “or equivalent”.

(7) If the public service provider prepares the technical specification in accordance with Paragraph five, Clause 2 of this Section, it shall not reject a tender because the offered product or services do not conform to the standards or technical specifications indicated in the reference if the tenderer, using any appropriate means (including the evidence referred to in Section 25 of this Law), can prove that the tender is equivalent and meets the requirements of the public service provider which are indicated in the technical specification.

(8) If the public service provider determines the environmental protection requirements as the functional requirements or performance requirements in accordance with Paragraph four, Clause 1 of this Section, it shall not reject tenders which conform to the European standards adapted in the status of a Latvian national standard, the European technical assessments, the common technical specifications, other international standards, and other technical reference systems established by European standardisation authorities, if these standards, technical specifications, or reference systems determine the same functional or performance requirements which have been stipulated by the public service provider. A tenderer, using any appropriate means (including the evidence referred to in Section 25 of this Law), may prove that the construction work, supplies, or services conforming to the standard meet the functional or performance requirements stipulated by the public service provider.

(9) For procurements the results of which are intended for use by natural persons (including the staff of the public service provider), the technical specifications shall be prepared so as to ensure accessibility of the procurement results for persons with disability or to take into account the principles of universal design, except for when the public service provider has a duly justification for the non-inclusion of such requirements in the technical specifications. If the directly applicable legal acts of the European Union confirm the mandatory access requirements, the technical specifications shall contain a reference to such standards, insofar as they determine the requirements in relation to ensuring access for persons with disability or the principles of universal design.

(10) The provisions in relation to the transfer of the intellectual property rights to a public service provider may also be indicated in the technical specifications.

**Section 24. Labels**

(1) If a public service provider plans to purchase construction work, products, or services conforming to specific environmental protection, social or other special requirements, it may, in the technical specifications, the tender evaluation criteria, or the provisions for the performance of the contract, require a special label as means of proof that the construction work, services, or supplies conform to the specified requirements, if all of the following conditions have been met:

1) the label requirements only apply to the criteria linked to the subject matter of the contract and are appropriate for defining the characteristic features of the construction work, supplies, or services included in the subject matter of the procurement;

2) the label requirements are prepared on the basis of objectively verifiable and non-discriminatory criteria;

3) the labels is approved in open and transparent procedures in which all relevant stakeholders, including State authorities, consumers, social partners, producers, distributors, and non-governmental organisations, may participate;

4) the labels are accessible to all stakeholders;

5) the label requirements are determined by a person over which the economic operator applying for the receipt of the label cannot exercise a decisive influence.

(2) If a label conforms to the conditions of Paragraph one, Clauses 2, 3, 4, and 5 of this Section, but it also includes information on the requirements not related to the subject matter of the procurement contract, the public service provider shall not require conformity with all label requirements, but shall refer the detailed specification of the relevant label or the parts thereof that are linked to the subject matter of the procurement contract and are appropriate for defining the characteristic features of the subject matter of the procurement contract.

(3) The public service provider shall indicate which label requirements must be conformed to if the conformity of the construction work, supplies, or services with all of the label requirements is not required. The public service provider shall accept equivalent labels confirming that the construction works, supplies, or services conform to the label indicated by the public service provider.

(4) If the economic operator had no possibility of obtaining the label indicated by the public service provider or an equivalent label by the day of submitting the tender for reasons that are not attributable to the economic operator, the public service provider shall accept other appropriate means of proof (including a technical dossier from the producer) proving that the construction works, supplies, or services fulfil the requirements of the label indicated by the public service provider.

[*21 February 2019*]

**Section 25. Test Reports, Specifications, and Other Means of Proof**

(1) A public service provider may require that the economic operator submits a test report or a certificate of the conformity assessment body accredited in accordance with the procedures laid down in Regulation No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 to prove the conformity with the requirements or criteria laid down in the technical specification, with the tender evaluation criteria or the provisions for the performance of the contract. If the public service provider requires the submission of certificates issued by a particular conformity assessment body, certificates issued by other equivalent conformity assessment bodies shall also be accepted by the public service provider.

(2) The public service provider shall accept other appropriate means of proof (including a technical dossier of the producer) if the economic operator had no possibility of obtaining the certificates or test reports referred to in Paragraph one of this Section, or no possibility of obtaining them by the time limit for submission of tenders, provided that it is not attributable to the economic operator and provided that it proves that the construction work, supplies, or services conform to the requirements or criteria laid down in the technical specification, to the tender evaluation criteria or the provisions for the performance of the contract.

**Section 26. Variants of Tenders**

(1) A public service provider may provide for a possibility to submit variants of tenders. The public service provider shall indicate in the contract notice whether or not the submission of variants of tenders is mandatory or permissible. It shall not be permitted to submit variants without such indication.

(2) The public service provider shall determine in the procurement procedure documents the minimum requirements for the variants and specific requirements for submission of variants, indicating whether variants may be submitted only where a tender has also been submitted.

(3) The public service provider shall only review those variants of tenders which conform to the minimum requirements stipulated thereby.

(4) If it is intended to conclude a supply or service contract in procurement procedures and the public service provider has allowed the submission of variants of tenders in accordance with Paragraph two of this Section, it shall not reject a variant of a tender only on the basis of the fact that in case of tender selection a service contract will be concluded instead of a supply contract or a supply contract – instead of a service contract.

[*21 February 2019*]

**Section 27. Tender Security and Performance Bond**

(1) A public service provider is entitled to request that the tenderer submits or pays in a tender security and performance bond. The public service provider shall determine in the procurement procedure documents the types, amount, and time limits of the tender security and performance bond, and also the provisions for the submission and issue, payment and disbursement thereof.

(2) The amount of the tender security shall be determined commensurately, taking into account the estimated contract price of the relevant procurement and the subject-matter of the contract, but not more than two per cent of the estimated contract price.

(3) The time limit of the tender security shall be determined commensurately, taking into account the complexity of the relevant procurement and the estimated time limit for evaluation of tenders, but the time limit of the tender security may not exceed six months counting from the day when tenders were opened. If the specified time limit cannot be conformed to due to objective reasons, the public service provider may ask to extend the time limit of the tender security.

(4) An economic operator is entitled to submit the tender security and performance bond as a credit institution guarantee, insurance policy or, if the public service provider has provided for such an option in the procurement procedure documents, as payment of a sum of money in the account indicated by the public service provider.

(5) The tender security shall be in effect for the shortest of the following time limits (except for the case referred to in Paragraph seven of this Section):

1) within the minimum time limit of validity of the tender security specified in the procurement procedure documents;

2) if it has been specified in the procurement procedure documents that the tenderer to whom the procurement contract has been awarded submits a performance bond prior to conclusion of the procurement contract – until the day when the selected tenderer submits such performance bond;

3) until conclusion of the procurement contract.

(6) The security provider shall disburse the public service provider or the public service provider shall withhold the amount of tender security paid by the tenderer, if:

1) the tenderer withdraws his tender during the period of validity of the tender security;

2) the tenderer to whom the procurement contract has been awarded has not submitted the performance bond provided for in the procurement procedure documents and the procurement contract to the public service provider within the time limit stipulated by the public service provider;

3) the tenderer to whom the procurement contract has been awarded does not sign the procurement contract or framework agreement within the time limit stipulated by the public service provider.

(7) If it has been specified in the procurement procedure documents and the procurement contract that the tenderer whose tender has been selected according to the tender selection criterion submits a performance bond after conclusion of the contract, the tender security in relation to such person shall be in effect until the day when it submits such performance bond.

[*21 February 2019*]

**Section 28. Green Public Procurement**

(1) A public service provider, when preparing the procurement, shall take into account the requirements laid down in accordance with Paragraph two of this Section. If such requirements are not laid down, the public service provider shall give preference to such requirements of technical specifications, tender evaluation criteria, and provisions for the performance of the procurement contract which ensure the conformity of the procurement with the principles of a green public procurement, taking into account the principle of commensurability and based on objective reasons.

(2) The Cabinet shall determine the principles of a green public procurement, the requirements and the procedures for the application thereof, the groups of products, services, and construction work subject to the requirements of a green public procurement, the tender evaluation criteria, the provisions for the performance of the procurement contract, and the procedures for the control thereof.

**Chapter VI. Procurement Commission**

**Section 29. Establishment of the Procurement Commission**

(1) A public service provider shall establish a procurement commission for the performance of the procurement procedures referred to in Section 13, Paragraph one, Clauses 1, 2, 3, 4, 5, and 6 of this Law and for the performance of the procurements referred to in Section 13, Paragraph five of this Law. The commission shall consist of persons upon whom the administrative penalty for infringements in the field of public procurement and public-private partnership – a prohibition to exercise the rights – the prohibition to hold the offices the duties of which include taking of decisions in the field of public procurements and public-private partnership or conclusion of procurement contracts, framework agreements, partnership procurement contracts, or concession contracts, has not been imposed, or the enforcement of such penalty has ended. The public service provider shall, before establishment of the procurement commission or inclusion of a new member in the procurement commission, obtain the abovementioned information on a person from the publication management system.

(2) The procurement commission shall be established for each procurement separately or for a certain time, or as a permanently functioning body. When establishing the procurement commission, the public service provider shall ensure that this commission is competent in the field where the procurement contract is being awarded. The procurement commission is entitled to invite experts, when performing its duties.

(3) The public service provider shall establish a procurement commission which consists of at least three members. The procurement commission shall be independent in its activity, and influencing of the decision thereof is not permissible.

(4) The persons who are operating in the procurement commission which is established in accordance with this Law shall not be regarded as public officials within the meaning of the law On Prevention of Conflict of Interest in Activities of Public Officials.

[*5 December 2019 /* *The new wording of Paragraph one shall come into force on 1 July 2020.* *See Paragraph 10 of Transitional Provisions*]

**Section 30. Basic Operating Principles of the Procurement Commission**

(1) A person preparing the procurement procedure documents (official or employee of the public service provider), members of the procurement commission, and experts may not represent the interests of a candidate or tenderer, and also may not be connected to the candidate or tenderer. Within the meaning of this Paragraph, a person preparing the procurement procedure documents (official or employee of the public service provider), a member of the procurement commission, and an expert is connected to a candidate or tenderer if he or she is:

1) the current or former employee, official, shareholder, stockholder, proctor, or member of a legal person – candidate, tenderer, or subcontractor, and if this connection with the legal person has ended within the last 24 months;

2) the father, mother, grandmother, grandfather, child, grandchild, adoptee, adopter, brother, sister, half-brother, half-sister, or spouse (hereinafter – the relative) of a stockholder who owns at least 10 per cent of stocks, shareholder, proctor, or official of a legal person – candidate, tenderer, or subcontractor;

3) the relative of a natural person – candidate, tenderer, or subcontractor.

(2) The connection of a person preparing the procurement procedure documents (official or employee of the public service provider), members of the procurement commission, experts with a candidate or tenderer shall also apply to cases where the candidate or tenderer is an association of persons the members of which are natural or legal persons with whom the person preparing the procurement procedure documents (official or employee of the public service provider), the member of the commission, or the expert has the connection referred to in Paragraph one, Clause 1, 2, or 3 of this Section.

(3) A person preparing the procurement procedure documents (official or employee of the public service provider), members of the procurement commission, experts, or a developer of technical documentation shall sign a certification that there are no such circumstances due to which it might be regarded that they are interested in selecting or activities of a particular candidate or tenderer or that they are connected to them within the meaning of Paragraph one of this Section.

(4) The chairperson of the procurement commission shall organise and manage the work of the commission, determine the venue, time, and agenda of the commission meetings, convene and chair the commission meetings, and also ensure signing of the certifications referred to in Paragraph three of this Section.

(5) The procurement commission shall take decisions at meetings. The procurement commission shall have a quorum if at least two thirds, but not less than three members of the members of the commission are present at the meeting. The number of the members of the commission shall be determined by rounding up the result obtained. The procurement commission shall take decisions with a simple majority of votes. In the event of a tied vote of the members of the procurement commission, the chairperson of the commission shall have the casting vote. The member of the commission may not abstain from taking the decision.

(6) Each member of the procurement commission shall evaluate the tender individually according to all evaluation criteria indicated in the procurement procedure documents, except for where only the price is used for the comparison and evaluation of the tenders. The tender which upon summarisation of individual evaluations has achieved the highest evaluation shall be recognised as the most economically advantageous tender.

[*21 February 2019*]

**Chapter VII. Provisions for the Announcement and Observation of Transparency**

**Section 31. Periodic Indicative Notice**

A public service provider may inform of its planned procurements by publishing a periodic indicative notice.

**Section 32. Notice on the Existence of a Qualification System**

(1) If a public service provider wishes to develop a qualification system in accordance with Section 55 of this Law, it shall publish a notice on the existence of a qualification system, indicating the objective of the qualification system and the place for obtaining information on the operational rules of the qualification system. The public service provider shall indicate the duration of the validity of the qualification system in the notice on the existence of a qualification system.

(2) The public service provider shall publish the relevant notice in the publication management system if the following amendments are made during the term of validity of the qualification system:

1) if the term of validity of the qualification system is changed – a notice on the existence of a qualification system;

2) if the operation of the qualification system is discontinued before the specified term – a contract award notice.

**Section 33. Design Contest Notice and Notice on the Results of the Design Contest**

(1) A public service provider wishing to organise a design contest shall publish a design contest notice.

(2) The public service provider shall, within 10 working days after notifying the participants of the design contest, submit a notice on the results of the design contest for the publication.

**Section 34. Notice on Social and Other Specific Services**

(1) A public service provider wishing to organise a procurement in accordance with the procedures laid down in Section 13, Paragraph five of this Law shall publish a notice on social and other specific services. The public service provider shall determine the time limit for the submission of applications of not less than five working days from the day when the notice on social and other specific services has been published on the website of the Procurement Monitoring Bureau. The public service provider shall determine the time limit for the submission of tenders of not less than five working days from the day when the notice on social and other specific services has been published on the website of the Procurement Monitoring Bureau or when the invitation to tender has been sent to the selected candidates if the selection of candidates is provided for.

(2) The public service provider shall, within 10 working days after conclusion of a public service contract or taking of the decision to terminate or suspend the procurement, submit the notice on social and other specific services for the publication.

(3) The public service provider is entitled not to publish the notice referred to in Paragraph one of this Section, if the procurement conforms to any of the cases referred to in Section 13, Paragraph seven of this Law.

[*21 February 2019*]

**Section 35. Notice on Changes During the Term of the Contract**

A public service provider who has made the amendments referred to in Section 66, Paragraph three, Clauses 2 and 3 of this Law shall, within five working days after entering into effect of the amendments, publish a notice on changes during the term of the contract.

**Section 36. Invitation to Participate**

(1) In the case of a works, supply, and service contract, a public service provider shall invite economic operators to participate in the procurement procedure, using any of the following notices:

1) a periodic indicative notice;

2) a notice on the existence of a qualification system;

3) a contract notice.

(2) If a procurement is announced by providing a periodic indicative notice in accordance with Section 31 of this Law, and the procurement contract is awarded in a restricted procedure or negotiated procedure, the public service provider shall invite the candidates who have expressed their interest after publishing of the periodic indicative notice to confirm such interest in writing.

(3) If the public service provider includes an invitation to participate in the periodic indicative notice, it shall make reference in this notice specifically to the works, supplies, or services which will be the subject matter of the foreseeable procurement contract and shall indicate that the procurement contract will be concluded as a result of a restricted procedure or negotiated procedure without a subsequent invitation to participate, and also shall request that the interested economic operators submit their applications in writing. Such periodic indicative notice shall be published in accordance with Section 40, Paragraph two of this Law no later than 35 days and no sooner than 12 months prior to the invitation to submit a tender in a restricted procedure or the invitation to participate in a negotiated procedure in conformity with the time limits for the submission of tenders referred to in Section 41 of this Law.

(4) If the public service provider applies an open or restricted procedure, a negotiated procedure by publishing an invitation to participate, an innovation partnership procedure, a competitive dialogue or plans to establish the dynamic purchasing system, it shall publish a contract notice.

(5) If the public service provider makes amendments to procurement procedure documents or in the procurement documents in accordance with the procedures laid down in Section 13, Paragraph five of this Law, or extends the time limits for the submission of applications or tenders, it shall publish a notice on changes or additional information notice.

[*21 February 2019*]

**Section 37. Procedures by which Candidates and Tenderers shall be Informed of Results**

(1) A public service provider shall, within 10 working days after taking of the decision, concurrently inform all candidates of the decision taken in relation to the results of candidate selection or of inclusion in the dynamic purchasing system (the rejected tenderer shall also be notified of the reasons for rejecting the tender submitted by it), or design contest participants of the decision taken in relation to the results of the design contest. The public service provider shall notify all candidates or design contest participants of the term during which the person, in conformity with Section 72, Paragraph two, Clause 1 or 2 of this Law, may submit a complaint to the Procurement Monitoring Bureau regarding violations of the procurement procedure.

(2) The public service provider shall concurrently inform all tenderers of the decision taken in relation to the conclusion of a procurement contract or framework agreement within five working days after taking of the decision. The public service provider shall notify the name of the selected tenderer or the names of the participants selected for the framework agreement, indicating:

1) to the rejected tenderer – the reasons for rejecting the tender submitted thereby, justifying the decision on non-conformity with equivalence or the decision on non-conformity of the relevant tender with the functional or performance requirements;

2) the characterisation and relative advantages of the selected tender to the tenderer which has submitted an appropriate tender;

3) the time limit by which the tenderer may, in accordance with Section 72, Paragraph two, Clause 1 or 2 of this Law, submit a complaint to the Procurement Monitoring Bureau regarding violations of the procurement procedure.

(3) If a procurement procedure is terminated or discontinued or if a dynamic purchasing system is not established, the public service provider shall, within five working days after taking of the decision, concurrently inform all candidates or tenderers of all the reasons due to which the procurement procedure is terminated or discontinued or a dynamic purchasing system is not established. The public service provider shall inform all candidates or tenderers of the deadline by which a person is entitled, in accordance with Section 72, Paragraph two, Clause 1 or 2 of this Law, to submit a complaint to the Procurement Monitoring Bureau regarding violations of the procurement procedure.

(4) The public service provider shall inform an economic operator of the decision taken in relation to the inclusion thereof in the qualification system (the rejected tenderer shall also be given the reasons for the rejection of the tender submitted thereby) within five working days after taking of the decision and of the deadline by which an economic operator may submit a complaint to the Procurement Monitoring Bureau regarding violations of the procurement procedure in accordance with Section 72, Paragraph two, Clause 1 or 2 of this Law.

(5) The public service provider shall, within five working days after taking of the decision, inform a participant of the decision taken in relation to the exclusion thereof from the qualification system in the case referred to in Section 55, Paragraph eight of this Law, indicating the grounds for exclusion and the time limit by which a person, in accordance with Section 72, Paragraph two, Clause 1 or 2 of this Law, is entitled submit a complaint to the Procurement Monitoring Bureau regarding violations of the procurement procedure.

(6) The public service provider is entitled not to disclose the information referred to in Paragraphs one and two of this Section if disclosure thereof is in contradiction with laws and regulations or would restrict the competition of economic operators, or would damage substantial commercial interests of economic operators, providing a justified and objective explanation on reasons for non-disclosure of the information.

(7) The public service provider shall send information on the results by post, fax, or in electronic form, using a secure electronic signature or attaching a scanned document to the electronic mail message, or shall deliver it in person. Within the meaning of this Section, it shall be considered that information has been concurrently handed over to all candidates, tenderers, or design contest participants, if it has been sent out or handed over to these persons on the same day.

(8) When informing of results, the public service provider shall keep the evidence of the sending of the information or the date and time of handing it over.

[*21 February 2019*]

**Section 38. Contract Award Notices**

(1) A public service provider shall, within 10 working days after conclusion of a procurement contract or a framework agreement, submit a contract award notice for the publication. The public service provider may group contract award notices in relation to procurement contracts being concluded within the scope of the framework agreement on a quarterly basis and submit them for the publication within 10 working days after the end of each quarter.

(2) If the public service provider takes a decision within the scope of the dynamic purchasing system, it shall submit the contract award notice in relation to each procurement contract for the publication within 10 working days after taking of the decision. This condition may be waived, if the public service provider groups the contract award notices on a quarterly basis and submits them for the publication within 10 working days after the end of each quarter.

(3) A part of the information on conclusion of a procurement contract or a framework agreement need not be published if the disclosure of such information would hinder the implementation of legal acts or would be otherwise in contradiction with public interests, or damage national interests or commercial interests of the tenderer, or hinder, restrict, or distort competition.

(4) If the public service provider applies the negotiated procedure for conclusion of a research and development service contract without publishing an invitation to participate, it is entitled to restrict the information to be published in the contract award notice in relation to the nature and extent of the services with the note “research and development service”. If the public service provider concludes a research and development service contract as a result of such procurement procedure regarding which an invitation to participate has been published, it is entitled to restrict the information on the type and extent of the services to be provided on the grounds of a commercial secret. In such cases the public service provider shall ensure that any information referred to in this Section is not less detailed than that contained in the invitation to participate.

(5) By using the qualification system, the public service provider shall ensure that in the case referred to in Paragraph four of this Section the information referred to in the contract award notice is not less detailed than the category of services referred to in the list of qualified service providers of the qualification system.

**Section 39. Voluntary Notice on the Procurement Results**

(1) A public service provider may submit a voluntary notice on the procurement results for the publication in the cases referred to in Sections 10, 11, 12 and Section 13, Paragraph seven of this Law.

(2) A voluntary notice on the procurement results shall be published so that the stakeholders could contest the justification of such procurement which because of an error by the public service provider has been performed without applying a corresponding procurement procedure and without publishing a contract notice, and in order to concurrently eliminate the consequences referred to in Section 78 of this Law.

[*21 February 2019*]

**Section 40. Publication of Notices**

(1) The Cabinet shall determine the content of and the procedures for the preparation of the notices referred to in Sections 31, 32, 33, 34, and 35, Section 36, Paragraphs four and five, Section 38, Paragraph one, and Section 39 of this Law. A sample notice form shall be determined in accordance with Commission Regulation No 2015/1986 of 11 November 2015 establishing standard forms for the publication of notices in the field of public procurement and repealing Implementing Regulation (EU) No 842/2011.

(2) The Procurement Monitoring Bureau shall, within three working days after receipt of the notice referred to in Paragraph one of this Section, examine the conformity of the content thereof with the requirements of this Law and send the notice to the Publication Office of the European Union for the publication in the Official Journal of the European Union. The Procurement Monitoring Bureau shall publish the notice on its website after receipt of the confirmation that the notice has been published in the Official Journal of the European Union or 48 hours after receipt of the confirmation from the Publication Office of the European Union that the notice has been received.

(3) When announcing the procurement results, the public service provider is entitled to withhold certain information from publication in the notice, where its release would impede the application of laws and regulations or be in contradiction with the public interests, or would restrict competition among economic operators, or would harm the legitimate commercial interests (public or private) of economic operators.

(4) The public service provider has also the right to publish notices in the Official Journal of the European Union and insert them on the website of the Procurement Monitoring Bureau if this Law does not impose an obligation to publish such notices.

**Section 41. Time Limits for the Submission of Applications and Tenders**

(1) A public service provider, when determining the time limits for submission of applications or tenders, shall take into account the level of complexity of the potential procurement contract and the time period which is necessary for the preparation of tenders, and also the minimum time limits for the submission of applications and tenders stipulated by the Cabinet.

(2) The public service provider shall determine a longer time limit for the submission of tenders than it is provided for in the Cabinet regulations regarding the procedures for the course of a procurement procedure if the tender may be prepared only after visiting the place of implementation of the procurement contract or after becoming familiar with the additional documents of the procurement procedure indicated by the public service provider at the place indicated by the public service provider. The time limit for the submission of tenders shall be such that the interested economic operators or candidates would be able to become acquainted with all the information necessary for the preparation of a tender.

(3) The public service provider may make amendments to the procurement procedure documents, except for the case when the amended provisions allow for submission of different tenders or participation or selection of other candidates or tenderers in the procurement procedure. If amendments have been made to the procurement procedure documents, the time limit for the submission of tenders is extended according to the relevance of the information or changes so that the interested economic operators or candidates are able to become acquainted with all the information needed for the preparation of tenders, and the minimum time limits stipulated in the Cabinet regulations regarding the procedures for the course of the procurement procedure would be conformed to.

(4) The public service provider is entitled to extend the specified time limits for the submission of applications and tenders, publishing a notice on changes or additional information notice. The minimum time period by which the public service provider is entitled to extend the time limit for the submission of applications or tenders shall be seven days. Such extension of time limits shall not be considered amendments to the procurement procedure documents within the meaning of Paragraph three of this Section.

**Section 42. Access to Procurement Procedure Documents, Issuance Thereof, and Provision of Additional Information**

(1) A public service provider shall, in an open procedure, a restricted procedure, a design contest, or a competitive dialogue procedure upon request of the interested economic operators, issue technical specifications to them which are regularly used in works, supply, or service contracts, or technical specifications which it is preparing to apply to procurement contracts regarding which a periodic indicative notice has been published.

(2) The public service provider shall, free of charge, ensure free and direct electronic access to the technical specifications referred to in Paragraph one of this Section and other necessary documents, publishing them on the buyer profile.

(3) [21 February 2019]

(4) The public service provider is entitled not to publish the technical specification or part thereof on the buyer profile if such specification is recognised as a commercial secret and the public service provider plans to apply Section 19 of this Law to the procurement procedure. If the public service provider does not ensure free and direct electronic access to procurement procedure documents in accordance with Section 19, Paragraph one of this Law, it shall extend the time limit for the submission of tenders for five days and indicate what confidentiality protection of information is requested for these documents and how the interested economic operators may acquire access to the relevant documents, except for extraordinary cases when the public service provider justifies urgency.

(5) If the technical specifications have been prepared on the basis of documents available to the interested economic operators, the public service provider shall refer to those documents.

(6) The public service provider shall ensure free and direct access to the procurement procedure documents and all additionally necessary documents, and also the possibility for interested economic operators, starting from the time of announcement of the relevant procurement procedure, to become acquainted on site with the additional documents of the procurement procedure for which free and direct electronic access cannot be ensured due to confidentiality or commercial interest protection. If an interested economic operator requests to issue the procurement procedure documents in printed form, the public service provider shall issue them to such economic operator within three working days after receipt of the request for these documents, provided that the request for documents has been submitted in due time prior to the expiry of the time limit for the submission of tenders. The public service provider may charge a fee for the issue of the procurement procedure documents in printed form which shall not exceed the actual expenditures of reproduction and sending of the documents.

(7) If a notice on the existence of a qualification system is used for the announcement of the procurement, such access shall be offered as soon as possible, however not later on the day when the invitation to submit tenders or participate in negotiations is sent. The website where it is possible to access the procurement procedure documents shall be indicated in the notice or invitation.

(8) If the economic operator or the candidate has requested, in a timely manner, additional information on the requirements contained in the procurement procedure documents, the public service provider shall provide it within five working days, but not later than six days before expiry of the time limit for the submission of applications or tenders. If the public service provider, due to urgency considerations, has shortened the time limit for the submission of tenders in an open procedure or the time limit for the submission of applications and tenders in a restricted procedure or a negotiated procedure by publishing invitation to participate, the public service provider shall provide additional information within three working days, but not later than four days before expiry of the time limit for the submission of applications and tenders.

(9) The public service provider shall send additional information to the economic operator which has asked the question, and shall concurrently insert this information on the buyer profile where the procurement procedure documents are available, indicating also the question asked.

(10) If the public service provider has made amendments to the procurement procedure documents, it shall insert information on amendments to the buyer profile, where these documents are available, not later than within one day after the notice on changes or additional information notice has been submitted for the publication to the Procurement Monitoring Bureau.

[*21 February 2019*]

**Section 43. Exchange of Information**

(1) An exchange of information between the public service provider and economic operators shall take place by post, fax, or in electronic form (in accordance with the conditions of Paragraphs three, four, six, and eight of this Section), depending on the choice of the public service provider.

(2) Verbal communication may be used in order to exchange information which does not refer to the procurement procedure documents, applications for participation, certifications of interest, and tenders. The content of verbal communication shall be documented in written form or as audio recordings if it may have an impact on the content and assessment of the tender.

(3) The public service provider shall choose such means for the exchange of information which are generally accessible, in order not to hinder access for the economic operator to the procurement procedure. The public service provider shall choose such method of sending the documents referred to in this Law which ensures as quick receipt of information by the addressee as possible. If electronic means are used for the exchange of information, such means shall be chosen which are publicly accessible and compatible with generally used information and communication technologies, thereby avoiding the possibility of discriminating economic operators on these grounds.

(4) The exchange and storage of information shall be carried out so as to protect all the data contained in tenders and applications and that the public service provider might examine the content of tenders and applications only after expiry of the time limit for the submission of tenders and applications.

(5) The public service provider shall not provide any information on the existence of other tenders or applications during the period from the day of submission of tenders or applications until the time of opening thereof. During the period of evaluation of tenders and applications until notification of results, the public service provider shall not provide information on the evaluation process.

(6) Section 44 of this Law shall be applied in relation to the electronic equipment which is used for the receipt and sending of tenders and applications.

(7) The public service provider may, if necessary, request that special equipment and technologies which are not generally accessible are used for the submission of tenders, provided that it offers the following alternative means of access:

1) use unrestricted and full direct access free of charge by electronic means to special equipment and technologies, starting from the day of publication of the contract notice. The website address where the relevant equipment and technologies are accessible shall be indicated in the contract notice;

2) it ensures that tenderers having no access to the relevant equipment and technologies or no possibility to acquire them within the relevant time limits (taking into account that the lack of access is not attributable to the tenderer concerned) might access the procurement by exercising a temporary right of access which is available online free of charge;

3) it supports an alternative data channel for electronic submission of tenders.

(8) When submitting a tender or application in electronic form, a candidate or economic operator is entitled to sign all documents as one set with one secure electronic signature. If a tender or application may be submitted in electronic form, the public service provider is not entitled to request that the candidate or economic operator also submit a written tender or application in addition to the electronic tender or application.

**Section 44. Requirements for the Electronic Receipt of Applications and Tenders**

(1) A public service provider shall provide for the electronic submission of applications and tenders in procurements, except for the cases stipulated by the Cabinet, when the public service provider does not have an obligation to use electronic information systems for the receipt of applications and tenders, or the constituent parts thereof. For the receipt of applications and tenders the public service provider shall choose the electronic information systems which may be used free of charge and which are intended for the electronic receipt of tenders and applications.

(2) If tenders and applications, and also plans and projects are received in the procurement procedures by using electronic information systems, the following rules shall be conformed to:

1) all interested economic operators have access to the information on specifications for the electronic submission, encryption, and time-stamping of applications and tenders;

2) a system-integrated signature tool is used, ensuring the validation of the identity of the signatory of the electronic document, or an electronic signature which conforms to the laws and regulations regarding the status of electronic documents and electronic signature;

3) the date and time when tenders and applications, and also plans and projects are submitted may be defined with precision;

4) the public service provider ensures that nobody is able to access the information submitted prior to the end of the specified deadline;

5) only authorised persons may set or change the time for opening the received documents;

6) during the different stages of the procurement procedure access to the submitted documents, or to a part thereof, is possible only after activities performed simultaneously by authorised persons;

7) the submitted documents may be accessed only on a specific date after activities performed simultaneously by authorised persons;

8) the submitted and opened documents remain accessible only to those authorised persons to whom such access has been granted;

9) it is possible to discover that the prohibition referred to in Clause 4, 5, 6, 7, or 8 of this Paragraph has been violated.

(3) The Cabinet shall determine the requirements and standards for the systems which are used for the submission of tenders and applications.

**Section 45. Documentation of the Procurement Procedure**

(1) A public service provider shall ensure documentation of each stage of the procurement procedure, and also shall document the procurement procedure which takes place by using electronic means.

(2) A procurement procedure notice (hereinafter – the notice) is a report reflecting the progress of the procurement procedure. The notice on each procurement procedure, in conformity with the procedures and content stipulated by the Cabinet, shall be prepared and published on the buyer profile after the decision on the results of the procurement procedure is taken.

(3) The minutes which show the progress of individual stages of the procurement procedure, the notice, and the procurement procedure documents (except for tenders and applications) shall be generally accessible information.

(4) The public service provider shall ensure the issuance of the documents referred to in Paragraph three of this Section within three working days after the day of receipt of the relevant request. The public service provider shall not issue the minutes (except for the minutes of the tender opening meeting) while the applications or tenders are being assessed.

[*21 February 2019*]

**Section 46. Storage of the Procurement Procedure Documentation**

A public service provider shall store all the original copies of the procurement procedure documentation, and also the original copies of tenders and applications, for at least three years after taking of the decision in relation to a procurement procedure.

**Chapter VIII. Selection of Candidates and Tenderers and Selection of the Tender**

**Section 47. General Conditions for the Selection of Candidates and Tenderers, Conformity Check and Selection of Tenders**

(1) A public service provider shall select candidates and tenderers in accordance with the qualification requirements laid down in Sections 50, 51, 52, 53, and 54 of this Law, check the conformity of tenders with the requirements laid down in the procurement procedure documents, and choose a tender or tenders according to the specified tender evaluation criteria.

(2) The amount of requirements, and also the requested minimum level of capability necessary for the implementation of the particular procurement contract shall be determined commensurate to the subject matter of the procurement contract. Such minimum conformity requirements shall be included in the invitation to participate, and also in the procurement procedure documentation.

(3) If a restricted procedure, a competitive dialogue, an innovation partnership, or a negotiated procedure is applied, when publishing the invitation to participate, the public service provider is entitled to anticipate in advance how many candidates it will invite to submit a tender or participate in negotiations if a sufficient number of appropriate candidates is available. The public service provider shall indicate objective and non-discriminatory criteria or regulations which it has decided to apply, and also the minimum and, if necessary, maximum number of candidates it has anticipated to invite, in the invitation to participate, and also in the procurement procedure documentation.

(4) If Paragraph three of this Section is applied, a sufficiently high number of candidates shall be selected in order to ensure competition.

(5) If Paragraphs three and four of this Section are applied, the public service provider shall invite a specific number of candidates which shall not be less than that anticipated in the invitation to participate. If the number of such candidates which conform to the qualification requirements is less than that anticipated, the public service provider is entitled to reduce the number of candidates specified in the invitation, ensuring appropriate competition.

(6) Statements and other documents issued by the competent authorities of Latvia in the cases referred to in this Law shall be accepted and recognised by the public service provider if they have been issued not earlier than one month prior to the day of submission, but the statements and other documents issued by the foreign competent authorities shall be accepted and recognised by the public service provider if they have been issued not earlier than six months prior to the day of submission, unless the issuer of the statement or document has indicated a shorter term of validity thereof.

(7) The public service provider is entitled to check the necessary information in the competent authority, publicly accessible databases, or other publicly accessible sources. If the public service provider has acquired information in such manner, but it does not conform to the actual situation, the relevant candidate or tenderer is entitled to submit a statement or another document on the particular fact.

(8) If the public service provider has a reason to doubt the authenticity of the document copy submitted, it shall request that the candidate or tenderer presents the original copy of the document or submits an attested copy of the document.

(9) If the public service provider establishes that the information or a document included in the application or tender or submitted by the candidate or tenderer is unclear or incomplete, it shall request that the candidate or tenderer, or the competent authority clarify or supplement the relevant information or document or submits the missing document, ensuring equal treatment of all candidates and tenderers. The public service provider shall determine the time limit for the submission of the necessary information or document commensurate with the time necessary for the preparation and submission of such information or document.

(10) If the public service provider, in accordance with Paragraph nine of this Section, has requested to clarify or supplement the information included in the application or tender or submitted by the candidate or tenderer, but the candidate or tenderer has failed to do it according to the requirements stipulated by the public service provider, the public service provider shall evaluate the application or tender based on information at its disposal.

(11) During evaluation of tenders, the public service provider is entitled to request that the information contained in the technical and financial tender be explained, and also the samples of offered products are submitted if any are necessary for the product conformity assessment and the tenderer is not able to prove the conformity of the products to the public service provider through the documents available thereto. The public service provider shall not request to submit the samples of such products which are to be adjusted or produced during the implementation of the procurement contract according to the requirements thereof if such samples are not available to the economic operator before conclusion of the procurement contract, and also the product samples the submission whereof causes incommensurate expenditures to the economic operator.

(12) During evaluation of tenders the public service provider shall verify whether there are arithmetical errors in the tender. If such mistakes are established, the public service provider shall correct them. The public service provider shall inform the tenderer whose errors have been corrected of the correction of errors and the corrected sum of the tender. Upon evaluating a financial tender, the public service provider shall take into account corrections.

(13) During evaluation of tenders, the public service provider is entitled to request that the candidate or tenderer submits a certification on independent development of the tender.

**Section 48. Provisions for the Exclusion of Candidates and Tenderers**

(1) A public service provider shall exclude a candidate or tenderer from participation in a procurement procedure in the following cases:

1) a candidate, a tenderer, or a person who is a member of the board or council, a person with representation rights or a proctor of the candidate or tenderer, or a person who is authorised to represent the candidate or tenderer in activities related to a branch, has been found guilty of any of the following criminal offences by such prosecutor’s penal order or a court judgment that has entered into effect and has become incontestable and unappealable, or a coercive measure has been applied thereto:

a) establishment or leading of a criminal organisation, involvement in such organisation or in an organised group included therein, or in another criminal formation, or participation in criminal offences committed by such organisation;

b) accepting bribes, giving of bribes, misappropriation of a bribe, intermediation in bribery, unlawful participation in property transactions, unauthorised receipt of benefits, commercial bribery, unlawful requesting, receiving and giving of benefit, trading with influence;

c) fraud, misappropriation, or money laundering;

d) terrorism, financing of terrorism, establishment or organisation of a terrorist group, travelling for terrorism purposes, justification of terrorism, invitation to terrorism, terrorism threats, or recruitment or training of a person for the committing of acts of terrorism;

e) human trafficking;

f) evasion of payment of taxes or payments equivalent thereto;

2) it has been established that on the last day of the time limit for the submission of tenders in case of a tenderer and of applications in case of a candidate, or on the day when the decision is taken to possibly award the procurement contract, they have tax debts in Latvia or in the country of registration or permanent place of residence thereof (including the debts of mandatory State social insurance contributions) which exceed EUR 150 in total in any country. In relation to the candidates or tenderers registered and permanently residing in Latvia, the public service provider shall take into account the information posted in the information system stipulated by the Cabinet on the date of the last data update of the public tax debtors’ database of the State Revenue Service and the Administration System of Immovable Property Tax;

3) insolvency proceedings have been declared for the candidate or tenderer, the economic activity of the candidate or tenderer has been suspended, or the candidate or tenderer is being liquidated;

4) the person preparing the procurement procedure documents (an official or employee of the public service provider), a member of the procurement commission, or an expert is connected to the candidate or tenderer within the meaning of Section 30, Paragraph one or two of this Law, or is interested in the selection of one candidate or tenderer, and the public service provider has no possibility to prevent this situation by less restrictive measures with respect to the candidate or tenderer;

5) the candidate or tenderer has advantages restricting the competition within the procurement procedure because it has been involved or a legal person connected thereto has been involved in the preparation of the procurement procedure in accordance with Section 22, Paragraph three of this Law and it cannot be prevented by less restrictive measures, and the candidate or tenderer cannot prove that the participation thereof or of the legal person connected thereto in the preparation of the procurement procedure does not restrict the competition;

6) the candidate or tenderer, by such decision of the competent authority or a court judgment which has entered into effect and has become incontestable and unappealable, has been found guilty of violating the competition law manifested as a horizontal cartel agreement, except for the case when the relevant authority, upon determining violation of the competition law, has released the candidate or tenderer from a fine or reduced fine for cooperation within the framework of the leniency programme;

7) the candidate or a tenderer, by such decision of the competent authority, a prosecutor’s penal order or court judgment which has entered into effect and has become incontestable and unappealable, has been found guilty of and punished for a violation manifesting as:

a) employment of one or several persons if they do not have the necessary work permit or they are not entitled to reside in a European Union Member State;

b) employment of a person without concluding a written employment contract, failing to submit, within the time period specified in the laws and regulations, in relation to such person an informative declaration regarding employees which should be submitted on persons who commence employment;

8) the candidate or tenderer has provided false information to certify the conformity with the provisions referred to in this Section or the qualification requirements for the candidates and tenderers laid down in accordance with this Law, or has failed to submit the requested information;

9) the conditions referred to in Clause 1, 2, 3, 4, 5, 6, 7, or 8 of this Paragraph are applicable to a member of the partnership (if the candidate or tenderer is a partnership);

10) the conditions referred to in Clause 2, 3, 4, 5, 6, 7, or 8 of this Paragraph are applicable to the subcontractor indicated by the tenderer the value of the construction work to be performed or the services to be provided by which is at least 10 per cent of the total value of the works, service, or supply contract;

11) the conditions referred to in Clause 1, 2, 3, 4, 5, 6, 7, or 8 of this Paragraph are applicable to the person indicated by the candidate or tenderer on whose capacities the candidate or tenderer relies upon to certify that the qualification thereof conforms to the requirements laid down in the contract notice or the procurement procedure documents.

(2) If it has been indicated in the contract notice or the procurement procedure documents, the public service provider shall exclude a candidate or tenderer from participation in a procurement procedure in the following cases:

1) the candidate or tenderer (as a contracting party or a participant or member of the contracting party if the contracting party has been an association of economic operators or a partnership), its participant or member (if the candidate or tenderer is an association of economic operators or a partnership) has failed to perform the procurement contract, framework agreement, or concession contract concluded with the relevant public service provider and therefore the public service provider or public partner has exercised the right provided for in the procurement contract, the provisions of the framework agreement, or the concession contract to unilaterally withdraw from the contract, framework agreement, or concession contract;

2) the candidate or tenderer has committed a serious violation of professional activity which casts doubt upon its honesty, or has failed to perform the procurement contract, framework agreement, or concession contract concluded with the public service provider or a public partner, and this fact has been recognised as such by a decision of the competent authority, a court judgment or prosecutor’s penal order which has entered into effect and has become incontestable and unappealable;

3) the conditions referred to in Clause 2 of this Paragraph are applicable to a member of the partnership (if the candidate or tenderer is a partnership);

4) the conditions referred to in Clause 1 or 2 of this Paragraph are applicable to the subcontractor indicated by the tenderer the value of the construction work to be performed or the services to be provided by which is at least 10 per cent of the total value of the works, service, or supply contract;

5) the conditions referred to in Clause 1 or 2 of this Paragraph are applicable to the person indicated by the candidate or tenderer on whose capacities the candidate or tenderer relies upon to certify that the qualification thereof conforms to the requirements laid down in the contract notice or the procurement procedure documents.

(3) The Cabinet shall determine the violations of the professional activity referred to in Paragraph two, Clause 2 of this Section for which exclusion from a procurement procedure is intended.

(4) The public service provider shall not exclude a candidate or tenderer from participation in a procurement procedure if:

1) three years have passed from the day when the court judgment, the prosecutor’s penal order, or a decision taken by another competent authority on the violations referred to in Paragraph one, Clause 1 and Clause 7, Sub-clause “a” of this Section has become incontestable and unappealable until the day of the submitting the request to participate or tender;

2) 12 months have passed from the day when the court judgment or a decision taken by another competent authority on the violations referred to in Paragraph one, Clause 6, Clause 7, Sub-clause “b” and Paragraph two, Clause 2 of this Section has become incontestable and unappealable until the day of submitting the request to participate or tender.

(5) The public service provider shall not exclude the candidate or tenderer from participation in a procurement procedure if 12 months have passed from the day when the public service provider has unilaterally withdrawn from the works, supply, or service contract, framework agreement on supply, services, or construction work, or services or works concession contract referred to in Paragraph two, Clause 1 of this Section until the day of submitting the application or tender. If the public service provider has indicated it in the contract notice or the procurement procedure documents, it is entitled not to exclude the candidate or tenderer from further participation in the procurement procedure in accordance with Paragraph two, Clause 1 of this Section, providing for an additional performance bond instead of it or such provisions for the performance of the procurement contract which make non-conformity with the essential provisions of the procurement contract or framework agreement economically unprofitable for the candidate or tenderer. The public service provider, upon taking a decision to exclude the candidate or tenderer from further participation in the procurement procedure in accordance with Paragraph two, Clause 1 of this Section, shall take into account the level of gravity of the violation committed during the performance of the procurement contract, framework agreement, or concession contract from which the public service provider has unilaterally withdrawn, and also the risk of non-performance of the procurement contract, framework agreement, or concession contract to be concluded.

(6) If reorganisation or amicable settlement (composition) is applied in the insolvency procedure of the candidate, tenderer, or the person referred to in Paragraph one, Clauses 9, 10, and 11 of this Section which has been commenced in accordance with the law On the Insolvency of Undertakings and Companies or the Law on Insolvency which was in force until 31 October 2010, the public service provider, upon evaluation of the possible economic risks and taking into account the subject matter of the procurement contract, may decide on non-application of Paragraph one, Clause 4 of this Section.

(7) If the public service provider establishes that, according to the information posted in the information system stipulated by the Cabinet on the date of the last data update of the public tax debtors’ database of the State Revenue Service or the Administration System of Immovable Property Tax, the candidate, the tenderer, or the person referred to in Paragraph one, Clauses 9, 10, and 11 of this Section has tax debts (including the debts of mandatory State social insurance contributions) exceeding EUR 150 in total on the last date of the time limit for the submission of applications or tenders or on the day when the decision is taken to possibly award the procurement contract, the public service provider shall determine a time limit – 10 days after the day of issuing or sending the information – for the submission of a certification that on the last day of the time limit for the submission of applications for a candidate and tenders for a tenderer, or on the day when the decision is taken to possibly award the procurement contract the candidate or tenderer did not have tax debts (including debts of State social insurance mandatory payments) which exceed EUR 150 in total. If the certification is not submitted within the specified time limit, the public service provider shall exclude the candidate or tenderer from participation in the procurement. If the public service provider establishes that, according to the information posted in the information system stipulated by the Cabinet on the date of the last data update of the public tax debtors’ database of the State Revenue Service or the Administration System of the Immovable Property Tax, the candidate, the tenderer, or the person referred to in Paragraph one, Clauses 9, 10, and 11 of this Section does not have tax debts (including debts of mandatory State social insurance contributions) exceeding EUR 150 in total on the last date of the time limit for the submission of applications or tenders or on the day when the decision is taken to possibly award the procurement contract, the public service provider shall not request the certification.

(8) In order to certify that the candidate or applicant, and also the person referred to in Paragraph one, Clauses 9, 10, and 11 of this Section had no tax debts, including the debts of mandatory State social insurance contributions exceeding EUR 150 in total in Latvia, the candidate or tenderer shall submit the following within the time limit specified in Paragraph seven of this Section:

1) a printout certified by the relevant person or a representative thereof from the Electronic Declaration System of the State Revenue Service or a statement of the State Revenue Service that this person did not have the relevant tax debts (including debts of the mandatory State social insurance contributions);

2) a statement issued by a local government that the relevant person did not have debts of the immovable property tax;

3) a copy of the decision issued by the State Revenue Service or the competent authority of a local government on the extension or postponing of the deadline for payment of the tax or other objective evidence of non-existence of tax debts.

(9) The public service provider shall request that the candidate or tenderer changes a subcontractor the value of the construction work to be performed or the services to be provided by which is at least 10 per cent of the total value of the works, supply, or service contract, if it conforms to the case for exclusion referred to in Paragraph one, Clause 2, 3, 4, 5, 6, or 7 or Paragraph two, Clauses 1 and 2 of this Section, and a person on whose capacities the candidate or tenderer relies upon to certify that the qualification thereof conforms to the requirements laid down in the contract notice or the procurement procedure documents, if it conforms to the grounds for exclusion referred to in Paragraph one, Clause 1, 2, 3, 4, 5, 6, or 7 or Paragraph two, Clauses 1 and 2 of this Section. If the candidate or tenderer, within 10 working days after the day of issue or sending of the request, fails to submit the documents on a new subcontractor or person complying with the requirements specified in the contract notice or the procurement procedure documents on whose capacities the candidate or tenderer relies upon to certify that the qualification thereof conforms to the requirements laid down in the contract notice or the procurement procedure documents, the public service provider shall exclude the tenderer and candidate from participation in the procurement procedure.

(10) In order to verify whether the conditions for exclusion referred to in in Paragraph one and Paragraph two, Clause 2 of this Section apply to a member of the board or council, a person with representation rights, or a proctor of the candidate or tenderer registered in Latvia, or to a person who is authorised to represent the candidate or tenderer in activities related to a branch and who is registered or permanently resides abroad, or to a candidate or tenderer registered or permanently residing abroad, or to the person referred to in Paragraph one, Clauses 9, 10, and 11 of this Section and registered or permanently residing abroad, the public service provider shall, except for the case referred to in Paragraph eleven of this Section, request that the candidate or tenderer submit a statement from the relevant competent authority certifying that the cases referred to in Paragraph one and Paragraph two, Clause 2 of this Section do not apply to the member of the board or council, the person with representation rights, or the proctor of the candidate or tenderer registered in Latvia, or to the person who is authorised to represent the candidate or tenderer in activities related to a branch and who is registered or permanently resides abroad, or to the candidate or tenderer, or the person referred to in Paragraph one, Clauses 9, 10, and 11 of this Section. If, in accordance with the laws and regulations of the country of registration of the candidate, the tenderer, or the person referred to in Paragraph one, Clauses 9 and 11 of this Section a person subject to the grounds for exclusion specified in Paragraph one of this Section may not be a member of the board or council, a person with representation rights, or a proctor, or a person who is authorised to represent the candidate or tenderer in activities related to a branch, a candidate or a tenderer is entitled to provide a relevant explanation instead of the statement. The public service provider shall determine a time limit of not less than 10 working days after the day of issuing or sending of the request for the submission of an explanation or statement. If the relevant candidate or tenderer fails to submit the abovementioned explanation or statement within the specified time limit, the public service provider shall exclude them from participation in the procurement procedure. If the public service provider fails to ascertain from the explanation that the conditions for exclusion laid down in Paragraph one of this Section are not applicable to the relevant persons, it is entitled to request that statements of the competent authorities are issued on such persons.

(11) Paragraph ten of this Section shall not be applicable to the persons referred to in Paragraph one, Clauses 9, 10, and 11 of this Section which are registered in Latvia or are permanently residing in Latvia, and are indicated in the application or tender submitted by the candidate or tenderer. In such case verification shall be performed in accordance with Paragraph thirteen of this Section.

(12) If such documents by which a candidate or tenderer registered or permanently residing in a foreign country may certify that the cases specified in Paragraph one or Paragraph two, Clause 2 of this Section do not apply to him or her, are not being issued or such documents are not sufficient to certify that the cases specified in Paragraph one or Paragraph two, Clause 2 of this Section do not apply to the candidate or tenderer, the abovementioned documents may be replaced with an oath or, if the laws and regulations of the relevant country do not provide for giving of an oath, with a certification of the candidate, tenderer itself, or the person referred to in Paragraph one of this Section to the competent executive authority or judicial authority, a sworn notary, or a competent organisation of the relevant sector in the country of registration (permanent place of residence) thereof.

(13) In order to verify whether a candidate or tenderer is to be excluded from participation in a procurement procedure due to the criminal offences or violations referred to in Paragraph one, Clauses 1, 6, and 7 and Paragraph two, Clause 2 of this Section for which the relevant person referred to in Paragraph one of this Section has been punished in Latvia or a coercive measure has been applied thereto, and also due to the facts referred to in Paragraph one, Clauses 2 and 3 of this Section, the public service provider, and also the economic operator shall, in accordance with the procedures stipulated by the Cabinet, acquire the following information on themselves, using the information system stipulated by the Cabinet in relation to a person registered or permanently residing in Latvia:

1) on the violations and criminal offences referred to in Paragraph one, Clauses 1, 6, and 7 and Paragraph two, Clause 2 of this Section – from the Information Centre (Punishment Register) of the Ministry of the Interior. The public service provider is entitled to receive the abovementioned information from the Information Centre (Punishment Register) of the Ministry of Interior, without requesting any consent from the candidate, the tenderer, and other persons referred to in Paragraph one of this Section;

2) on the facts referred to in Paragraph one, Clause 2 of this Section – from the State Revenue Service and local governments of Latvia. The public service provider is entitled to receive the abovementioned information from the State Revenue Service and local governments of Latvia, without requesting any consent from the candidate, the tenderer, and other persons referred to in Paragraph one of this Section;

3) on the person referred to in Paragraph one, Clause 1 of this Section (a person who is a member of the board or council, a person with representation rights, a proctor of the candidate or tenderer, or a person who is authorised to represent the candidate or tenderer in activities related to a branch) and on the facts referred to in Paragraph one, Clause 3 of this Section – from the Enterprise Register.

(14) The Cabinet shall determine:

1) the information system where the verification referred to in Paragraph three of this Section is to be performed, and also the procedures for maintaining and using such system;

2) the objective and scope of processing the information to be verified and referred to in Paragraph thirteen, Clause 1 of this Section, and also the laws and regulations and sections thereof which conform to the cases for exclusion of candidates and tenderers referred to in Paragraphs one and two of this Section and for the violations and criminal offences provided wherein the verification referred to in Paragraph thirteen, Clause 1 of this Section is to be performed;

3) the procedures by which the information system referred to in Clause 1 of this Paragraph receives and processes information from the information systems maintained by the institutions referred to in Paragraph ten of this Section.

(15) The public service provider shall perform the verification of the cases for exclusion of candidates and tenderers referred to in Paragraphs one and two of this Section:

1) in an open procedure – in relation to each tenderer for whom the contract should be awarded according to other requirements laid down in the contract notice and the procurement procedure documents and the selected tender evaluation criteria;

2) in a restricted procedure, a competitive dialogue, an innovation partnership procedure, and a negotiated procedure by publishing an invitation to participate – in relation to each candidate who meets other requirements specified in the contract notice and the rules for the selection of candidates and should be invited to submit a tender. If the public service provider applies reduction in the number of candidates, it shall perform the verification before such reduction in the number of candidates. The public service provider shall perform the verification of existence of a case for exclusion of candidates and tenderers specified in Paragraph one, Clauses 2 and 10 of this Section in relation to each tenderer for whom the procurement contract should be awarded according to other requirements laid down in the contract notice and the procurement procedure documents and the selected tender evaluation criterion;

3) in a negotiated procedure without publishing an invitation to participate – in relation to each tenderer for whom the procurement contract should be awarded;

4) in a negotiated procedure without publishing an invitation to participate in the case referred to in Section 13, Paragraph seven, Clause 1 of this Law if the public service provider only invites to participate in negotiations all the tenderers not excluded in the previously announced relevant procurement procedure in accordance with the provisions referred to in this Section and meeting the qualification requirements brought forward, if such is applied after termination of an open procedure – in relation to each tenderer which has submitted a tender in an open procedure and has been invited to a negotiated procedure without publishing an invitation to participate. This verification shall be performed before commencement of negotiations.

(16) The public service provider shall perform the verification on existence of the case for exclusion of tenderers referred to in Paragraph one, Clause 2 of this Section in relation to each tenderer for whom the procurement contract should be awarded before the decision on awarding of the procurement contract is taken.

(17) If the public service provider applies a negotiated procedure without publishing an invitation to participate in accordance with Section 13, Paragraph seven, Clause 8 of this Law, it shall not apply Paragraph one, Clause 3 of this Section.

[*21 February 2019*]

**Section 49. Assessment of the Evidence Submitted for Ensuring Reliability**

(1) If a candidate or a member of partnership (if the candidate is a partnership) complies with the case for exclusion referred to in Section 48, Paragraph one, Clause 1, 3, 4, 5, 6, or 7 or Paragraph two, Clauses 1 and 2 of this Law, the candidate shall, together with the application, submit an explanation and evidence for the compensation of the damage caused or a concluded agreement on the compensation of the damage caused, collaboration with the investigating institutions and the technical, organisational, or personnel measures taken in order to prove its reliability and to prevent the repetition of the same and similar events in the future.

(2) If a tenderer or a member of partnership (if the tenderer is a partnership) complies with the case for exclusion referred to in Section 48, Paragraph one, Clause 1, 3, 4, 5, 6, or 7 or Paragraph two, Clauses 1 and 2 of this Law, the tenderer shall indicate it in the tender and, if it is recognised as a tenderer for whom the contract should be awarded, shall submit an explanation and evidence for the compensation of the damage caused or a concluded agreement on the compensation of the damage caused, collaboration with the investigating institutions and the technical, organisational, or personnel measures taken in order to prove its reliability and to prevent the repetition of the same and similar events in the future.

(3) If the candidate or tenderer fails to submit the explanation and evidence, the contracting authority shall exclude the candidate or tenderer from participation in the procurement procedure in accordance with the case for exclusion referred to in Section 48, Paragraph one, Clause 1, 3, 4, 5, 6, or 7 or Paragraph two, Clauses 1 and 2 of this Law.

(4) The public service provider shall evaluate the measures taken by the candidate, tenderer, or member of the partnership (if the candidate or tenderer is a partnership) and the evidence thereof, taking into account the severity of the criminal offence or violation and the particular circumstances. The public service provider may request an opinion of the authority competent in the field of the relevant criminal offence or violation on the sufficiency of the measures taken by the candidate or tenderer for the restoration of reliability and the prevention of the same and similar cases in the future. The opinion shall not be requested if the public service provider has available or also the candidate or tenderer has submitted the opinion of the authority competent in the field of the relevant criminal offence or violation that the measures taken by the particular candidate or tenderer are sufficient to restore reliability and to prevent the same and similar cases in the future.

(5) If the public service provider considers the measures taken as sufficient to restore reliability and to prevent the same and similar cases in the future, it shall take a decision not to exclude the relevant candidate or tenderer from participation in the procurement procedure. If the measures taken are not sufficient, the contracting authority shall take the decision to exclude the candidate or tenderer from further participation in the procurement procedure.

**Section 50. Conformity for the Performance of Professional Activities**

(1) A public service provider is entitled to request evidence that the relevant economic operator is registered, licensed, or certified in accordance with the requirements of the legal acts of the country of registration or permanent place of residence.

(2) In case of a service contract, insofar as the economic operators must be authorised or must be members of a specific organisation so that they might provide the particular service in their country of registration or permanent place of residence, the public service provider is entitled to request evidence regarding such authorisation or membership.

(3) [30 April 2020]

(4) The public service provider shall not determine the requirements in relation to the minimum time since the registration, licensing, or authorisation of an economic operator, or his or her becoming of a member of any special organisation.

[*30 April 2020*]

**Section 51. Economic and Financial Standing**

(1) A public service provider may determine requirements in relation to the economic and financial abilities of the economic operator which are necessary for the performance of the procurement contract. Such requirements may refer to the following:

1) the minimum annual financial turnover of the economic operator, including in the area covered by the particular procurement contract;

2) the financial indicators of the economic operator;

3) the professional risk insurance.

(2) The minimum annual financial turnover may be determined not exceeding two times the estimated contract price value, except for the case where the performance of the contract is related to special risks attached to the nature of the relevant construction work, services, or supplies. The public service provider shall indicate a justification for the application of the exception in the procurement procedure documents.

(3) If the subject matter of the procurement contract is divided into parts, the public service provider may determine the minimum annual financial turnover of an economic operator by reference to groups of parts, if the procurement contract is awarded as several parts to be executed at the same time.

(4) If, within the scope of a framework agreement, a re-evaluation of tenders is provided for, the minimum annual financial turnover of an economic operator shall be determined on the basis of the estimated maximum contract price of procurement contracts the performance of which is intended at the same time, or, if the estimated maximum contract price of the procurement contracts is not known, on the basis of the estimated contract price of the framework agreement.

(5) In case of a dynamic purchasing system, the minimum annual turnover of the economic operator shall be determined on the basis of the estimated maximum contract price of procurement contracts to be awarded within that system.

(6) An economic operator may attest the conformity of the economic and financial standing thereof with the requirements brought forward mainly by submitting the following documents:

1) a certifications of a credit institution or, if necessary, evidence of the relevant professional risk insurance company;

2) a financial statement or an extract from the financial statement, if the financial statement is publicly available in accordance with the laws and regulations of the country of registration of the economic operator;

3) a certification of its overall net turnover or, if necessary, of turnover in the area covered by the particular procurement contract, but not more than regarding three previous reporting years, insofar as the information on such turnover is available, taking into account the date on which the economic operator was established or commenced its activities.

(7) Upon laying down the requirements regarding the financial indicators of an economic operator, the public service provider shall clearly indicate, in the procurement procedure documents, objective and non-discriminatory methods and criteria which will be used for determination of financial indicators.

(8) The economic operator may rely on the economic and financial possibilities of other persons if it is necessary for the performance of the particular procurement contract, regardless of the legal nature of the mutual relationships. In such case the economic operator shall prove to the public service provider that it will have the necessary resources at its disposal by submitting, for example, a certification of these persons or an agreement on the cooperation for the performance of the particular procurement contract. The public service provider may request that the economic operator and the person on whose economic and financial capacities it relies are solidarily responsible for the implementation of the procurement contract.

(9) In the contract notice or in the invitation to tender, and also in the procurement procedure documents the public service provider shall determine the documents which the economic operator or candidate submits to certify its conformity with the requirements stipulated by the public service provider. If due to substantiated reasons the economic operator or candidate is unable to submit the documents requested by the public service provider, it is entitled to certify its economic or financial standing with any other documents which are considered appropriate by the public service provider.

[*21 February 2019; 30 April 2020*]

**Section 52. Technical and Professional Abilities**

(1) A public service provider may determine requirements in relation to the technical and professional abilities of the economic operator which are necessary for the performance of the procurement contract. Such requirements may refer to the staff involved in the performance of the procurement contract, experience and technical resources of the economic operator.

(2) In procurement procedures for supplies requiring siting or installation work, services or construction work, the professional abilities of the economic operator to provide the service, to ensure the installation or to perform the construction work may be evaluated, taking into account their skills, efficiency, experience, and reliability.

(3) The technical and professional abilities of the economic operator according to the nature, quantity, level of significance, and application of construction work, supply, or service may be certified by the following:

1) information on the performed construction work by attaching statements and references on the performance of the most important works in the course of not more than five preceding years, except for the case when the public service provider has determined a longer period of time for the certification of experience for the purpose of promoting competition;

2) information on the most significant supplies performed or services provided during not more than three preceding years by indicating the amounts, time, and recipients (public persons or private individuals) and appending references of purchasers or attestations of economic operators. If it is necessary for the promotion of competition, the public service provider may specify a longer period of time for the certification of experience;

3) information on the technical staff or the authorities responsible for the quality control, but, if construction work is to be performed, on the technical staff or authorities which will be involved in the performance of construction work;

4) a description on technical equipment and means which are used by the economic operator for the ensuring of quality, and also on training and research equipment of the economic operator;

5) information on the management and route control systems of the supply chain which will be used by the economic operator for the performance of the procurement contract;

6) a check carried out by the public service provider or, on its behalf, by the competent authority of the country of the economic operator or the service provider if the products to be supplied or the services to be provided are of a complex nature or such products or services are intended for a special purpose. The abovementioned check shall cover the production capacity of the economic operator or the technical capacity of the service provider and, if necessary, the quality control measures it will take;

7) the documents certifying education or professional qualification of the managerial staff of the performer of construction work or the service provider, if education or professional qualification of the managerial staff is not assessed as one of the criteria for the selection of the economically most advantageous tender;

8) a description of the measures planned to be taken by the economic operator for the ensuring of the environmental protection requirements during the performance of the procurement contract;

9) information on the average number of employees of the performer of construction work and the service provided per year and the number of the managerial staff during the last three years;

10) information on the tools, installations, and technical equipment available to the performer of construction work and the service provider for the performance of the procurement contract;

11) an indication of the lot of the procurement contract which the economic operator intends to assign to a subcontractor;

12) in relation to the products to be supplied:

a) samples, descriptions, or photographs the authenticity of which must be certified if requested so by the public service provider;

b) a certificate of the quality control authority (the competence of which has been recognised) which certifies the conformity of products with specific technical specifications or standards.

(4) If it is necessary for the performance of the particular procurement contract, the economic operator may rely on the capacities of other entrepreneurs regardless of the legal nature of the mutual relationships. In such case the economic operator shall prove to the public service provider that it will have the necessary resources at its disposal by submitting a certification of these entrepreneurs or an agreement on the transfer of the necessary resources into the disposal of the economic operator. In order to certify the professional experience or the availability of the staff meeting the requirements of the public service provider, the economic operator may rely on the capacities of other persons only if such persons are to perform the construction work or to provide services for the performance whereof the relevant capacities are necessary.

(5) If a works contract or a service contract is concluded, or if a service contract includes also the siting or installation of the product, the public service provider may request that certain critical tasks are performed by the tenderer itself or by a member of the association of persons.

(6) In the contract notice or in the invitation to tender, and also in the procurement procedure documents the public service provider shall determine the documents to be submitted by the economic operator or candidate to certify its conformity with the requirements of the public service provider.

[*21 February 2019; 30 April 2020*]

**Section 53. Quality Assurance Standards**

(1) If a public service provider requests a certificate of an independent authority on the conformity of an economic operator with specific quality assurance standards (including the provision of access for persons with disability), it shall refer to the quality assurance systems which have been approved by authorities accredited in accordance with the procedures laid down in laws and regulations according to the European standards. The public service provider shall recognise a certificate issued by an authority accredited in accordance with the procedures laid down in legal acts of another European Union Member State. If it has been impossible for the economic operator to obtain such certificate by the day of submission of an application or tender for reasons that are not attributable to that economic operator, the economic operator shall submit other evidence that equal quality assurance measures have been taken, and prove that the quality assurance measures offered conform to the requirements of the public service provider.

(2) [30 April 2020]

[*30 April 2020*]

**Section 54. Environmental Management Standards**

(1) If a public service provider requests that the environmental management system of an economic operator or its conformity with the environmental management standards is checked, it shall refer to the Eco-Management and Audit Scheme (EMAS) or other systems which have been recognised in accordance with Article 49 of Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC, or to other environmental management standards that conform to the European or international environmental management system standards which have been developed by authorities accredited in accordance with the procedures laid down in laws and regulations. The public service provider shall recognise a certificate issued by an authority accredited in accordance with the procedures laid down in legal acts of another European Union Member State. If it has been impossible for the economic operator to obtain such certificate by the day of submission of an application or tender for reasons that are not attributable to that economic operator, the economic operator shall submit other evidence of equivalent measures which should be ensured according to the environmental management system or standard required by the public service provider.

(2) [30 April 2020]

[*30 April 2020*]

**Section 55. Qualification Systems**

(1) A public service provider who publishes a notice on the existence of a qualification system is entitled to develop and maintain the qualification system of economic operators. The public service provider which has established and is maintaining a qualification system shall ensure that the economic operators are able to request the inclusion thereof in the system at all times during the maintenance of the system.

(2) A qualification system may involve several qualification stages. The system shall be applied on the basis of the objective qualification assessment criteria and conditions stipulated by the public service provider in relation to the economic and financial standing, technical and professional abilities of the economic operator, and also it shall include the provisions regarding writing in the system, the conditions for periodic updating of the qualification, and the duration of the system operation. Upon determining these criteria and conditions, the public service provider shall take into account Section 47, Paragraphs two and three, Sections 48, 50, 51, 52, 53, and 54 of this Law. If the criteria and conditions include technical specifications, Sections 23, 24, and 25 of this Law shall be applied.

(3) The public service provider shall issue the qualification criteria and conditions upon request of the economic operator. If the public service provider considers that the qualification system of any other public service provider conforms to its requirements, such public service provider shall notify the name of the relevant public service provider to the interested economic operators.

(4) If necessary, the specified criteria and conditions may be supplemented or altered. All interested economic operators shall be notified of amendments to the criteria and conditions.

(5) If the qualification criteria and conditions bring forward requirements in relation to the economic and financial standing, technical and professional abilities of the economic operator, the economic operator is entitled to rely on the possibilities of other economic operators regardless of the legal nature of the mutual relationships. In such case the economic operator who has submitted the application shall prove to the public service provider that it will have the necessary resources at the disposal thereof throughout the period of operation of the qualification system by submitting a certification of the relevant economic operators or an agreement on cooperation.

(6) The public service provider who is creating a qualification system shall evaluate the conformity of the qualification of the applicant within six months after submission of the application and inform of the decision taken in conformity with Section 37, Paragraph one of this Law. If a period exceeding four months is necessary for taking of the decision after submission of the application, the public service provider shall, within two months after submission of the application, notify the applicant of the reasons due to which a longer period of time is required for taking of the decision, and also of the time period by which the relevant decision will be taken.

(7) The public service provider shall maintain lists of the qualified economic operators. Economic operators may be divided into categories according to that type of the procurement contract in relation to which the qualification is valid.

(8) The public service provider which maintains the qualification system shall exclude an economic operator from this system if the economic operator fails to conform to the qualification criteria and provisions which have been provided for upon establishment of the system. Participants of the qualification system shall be excluded from the system not earlier than on the day after sending of the information referred to in Section 37, Paragraph five of this Law to this participant and the time period referred to in Section 72, Paragraph two, Clause 1 or 2 and Paragraph six of this Law has passed, if a complaint regarding violations of the procurement procedure has not been submitted in accordance with the procedures laid down in Section 72 of this Law.

(9) If a notice on the existence of a qualification system has been published as an invitation to participate, in order to select candidates for conclusion of particular procurement contracts in respect of which an invitation to participate should be published, the public service provider shall select economic operators in accordance with the qualification criteria and conditions brought forward, and also in accordance with the candidate evaluation methodology, if Section 47, Paragraph three of this Law is applied, and they shall be included in the qualification system.

(10) If a notice on the existence of a qualification system is published as an invitation to participate, the procurement contract shall be awarded by using a restricted procedure and a negotiated procedure in which tenderers and participants shall be selected from candidates which have been already qualified.

(11) The public service provider is entitled to request a payment which does not exceed actual expenses for the qualification requests or for the renewal or retaining of such qualification which has already been acquired according to the qualification system.

[*21 February 2019*]

**Section 56. European Single Procurement Document**

(1) A public service provider shall accept the European Single Procurement Document as the preliminary evidence of the conformity with the requirements for the selection of candidates and tenderers laid down in the contract notice or the procurement procedure documents. An economic operator shall submit a separate European Single Procurement Document regarding each person on the capacities of which the candidate or tenderer is relying on in order to certify that it conforms to the requirements for the selection of candidates and tenderers laid down in the contract notice or the procurement procedure documents, and on the sub-contractor indicated by it the value of construction work to be performed or the services to be provided by which is at least 10 per cent of the procurement contract value. The association of economic operators shall submit a separate European Single Procurement Document regarding each member thereof.

(2) The economic operator may submit to the public service provider a European Single Procurement Document which has already been submitted in another procurement procedure, if the economic operator certifies that the information contained in the document is correct.

(3) The public service provider is entitled to ask the candidate and tenderer, at any stage during the procurement procedure, to submit all or part of the documents certifying the conformity with the requirements for the selection of candidates and tenderers laid down in the contract notice or the procurement procedure documents. The public service provider shall not request such documents and information which is at its disposal or is available in public databases.

(4) The procedures for the use of the European Single Procurement Document in procurement procedures shall be determined by the Cabinet. Sample forms of the European Single Procurement Document shall be determined in accordance with the Commission Implementing Regulation (EU) No 2016/7 of 5 January 2016 establishing the standard form for the European Single Procurement Document.

**Section 57. Tender Evaluation Criteria**

(1) A public service provider shall award the procurement contract to the most economically advantageous tender.

(2) The most economically advantageous tender shall be determined:

1) by using cost-effectiveness approach (for example, by assessing the life cycle costs or the proportion of indicators and price characterising construction work, supply, or services of significance for the achievement of the objective of the procurement);

2) by taking into account the price or cost-effectiveness and the quality criteria related to the subject matter of the procurement contract, for example:

a) the quality, including technical merit, aesthetic and functional characteristics, accessibility, conformity with universal design, social and environmental protection requirements, innovative characteristics, and trading conditions;

b) the management structure of the performance the procurement contract and the qualification and experience of the staff involved, if the qualification and experience of the staff involved can have a significant impact on the quality of the performance of the procurement contract;

c) the after-sale services and technical assistance, the delivery provisions (such as delivery date, delivery process, and delivery period or period of completion of delivery).

(3) The quality criteria are linked to the subject matter of the procurement contract if they apply to the construction work, supply, or services at any stage of their life cycle, and also to the factors involved in the process of the performance of the construction work, production or trade of the products, or provision of the services, or any other process in a stage of their life cycle, even if such factors are not directly linked to the subject matter of the procurement contract (for example, conformity with the environmental protection requirements or social criteria during provision of the services, production of the product, or performance of the construction work).

(4) The public service provider is entitled to use price only for comparison and assessment of the tenders if the procurement is carried out in accordance with the procedures laid down in Section 13, Paragraph five of this Law, or the prepared technical specification is detailed and other criteria are of no significance in selecting the tender.

(5) The public service provider shall determine such tender evaluation criteria which are not restricting the competition and can be compared or evaluated objectively.

(6) The public service provider shall indicate in the procurement procedure documents all tender evaluation criteria in the order of their importance, the values of the criteria and, where appropriate, the range of values, and also the selection algorithm of a tender according to these criteria and a description how each of the criteria indicated will be assessed.

(7) The public service provider shall indicate in the procurement procedure documents the decisive tender selection criterion according to which it will select the tender, if, prior to taking of the decision on awarding of the procurement contract, it is to detect that the score of at least two tenders is identical. The public service provider has the right to set such criterion as the decisive tender selection criterion which describes the conformity of the economic operator with the social protection requirements, including that the public service provider selects a tender submitted by an economic operator which is a member of an organisation of employers of national level and has concluded a collective agreement with a trade union which is a member of a trade union of national level (if the tender has been submitted by a partnership or an association of persons, the collective agreement must be concluded with each member of the partnership and each participant of the association of persons).

[*21 February 2019*]

**Section 58. Life Cycle Costs**

(1) Life cycle costs shall fully or partially cover the following costs over the life cycle of product, service, or construction work:

1) the costs incurred by a public service provider or other users, such as:

a) the costs related to acquisition;

b) the costs of use (for example, consumption of electricity and other resources);

c) the maintenance costs;

d) the end of life costs (for example, collection and regeneration costs);

2) the costs incurred during the life cycle of the product, service, or construction work and related to the environmental impact (such as the costs of greenhouse gas emissions and emissions of other pollutants, the costs of measures oriented towards mitigation and adaptation to climate change), if they can be expressed in monetary terms and verified.

(2) The public service provider shall indicate in the procurement procedure documents the methodology for the calculation of the life cycle costs and the data necessary for the performance of the calculation and to be submitted by the tenderers.

(3) The methodology for the calculation of the costs related to environmental impact shall conform to the following conditions:

1) it is based on objectively verifiable and non-discriminatory criteria;

2) it is accessible to all interested persons;

3) the data necessary for the calculations are at the disposal of or easily accessible by economic operators (including by those economic operators which are registered in a country other than a European Union Member State).

**Section 59. Abnormally Low Tender**

(1) A public service provider shall require an explanation on the price or costs proposed in the tender if the tender appears to be abnormally low in relation to a particular works, supply, or service contract.

(2) The explanation may specifically relate to:

1) the costs of the production process, the method for the performance of construction work, or of the services to be provided;

2) the technical solutions chosen and any exceptionally favourable conditions available to the tenderer for the execution of construction work, the supply of products, or the provision of services;

3) the qualities and originality of the construction work, products, or services proposed;

4) the conformity with the obligations specified in the laws and regulations governing the fields of environmental, social, and labour law and labour protection, and in the collective agreements;

5) the commitments towards subcontractors;

6) the aid for commercial activity received by the tenderer.

(3) The public service provider shall, upon consultation with a tenderer, evaluate the explanations provided by the tenderer. The public service provider has the right to request that the tenderer submits printouts from the Electronic Declaration System of the State Revenue Service regarding the average hourly tariff rates in profession groups of the employees of the tenderer and the subcontractors indicated in its tender, if such data are compiled by the State Revenue Service.

(4) The public service provider shall reject the tender as abnormally low if the provided explanations do not satisfactorily account for the low level of price or costs proposed by the tenderer, or if the price or costs do not cover the costs related to conformity with the obligations specified in the laws and regulations governing the fields of environmental, social, and labour law and labour protection, and in the collective agreements.

(5) If the public service provider establishes that a tender is abnormally low because the tenderer has received aid for commercial activity, the tender may be rejected after consultations with the tenderer only on the basis of the fact that the tenderer is not able to prove, within a reasonable time period stipulated by the public service provider, that the received aid for commercial activity is compatible with the internal market in accordance with Section 107 of the Treaty on the Functioning of the European Union. If the public service provider rejects the tender due to this reason, it shall inform the European Commission and the Procurement Monitoring Bureau of rejecting the tender and the reason for rejection.

**Section 60. Tenders which Include Products Originating in Third Countries**

(1) This Section shall be applied to tenders which include products originating in third countries with which the European Union has not concluded bilateral or multilateral agreements on the comparable and effective access of the undertakings of the European Union to the market of these countries. This Section is without prejudice to the international obligations of the European Union and Latvia in respect of third countries.

(2) Any tender for the conclusion of a supply contract may be rejected if the proportion of the products originating from the countries other than the European Union Member States which is specified in accordance with Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code is more than 50 per cent of the total value of the products included in the tender. Within the meaning of this Section, software for telecommunications network equipment shall be considered as products.

(3) Taking into account Paragraph two of this Section, if two or several tenders, when evaluating them in conformity with the requirements of Section 57 of this Law, are equivalent, preference shall be given to the tenders which are not to be rejected in accordance with Paragraph two of this Section. The prices shall be considered equivalent for the purposes of this Section, if they do not differ by more than three per cent. A tender is not given preference in relation to another tender if such tender imposes a duty on the public service provider to acquire equipment the technical characteristics of which differ significantly from the characteristics of the equipment that is at the disposal of the public service provider, thereby resulting in incompatibility of the equipment, technical difficulties in the operation and maintenance of the equipment, and also disproportionate costs.

**Chapter IX. Application of the Framework Agreement and Dynamic Purchasing System, Electronic Auction and Electronic Catalogues**

**Section 61. Framework Agreement**

(1) In order to conclude a framework agreement, the public service provider shall comply with the procurement procedures laid down in this Law in all stages up to the conclusion of contracts within the scope of a framework agreement. The public service provider shall determine the participants of the framework agreement, taking into account the criteria specified for the assessment of a tender.

(2) Contracts shall be concluded within the scope of the framework agreement in accordance with Paragraphs five, six, and seven of this Section. This procedure shall only apply to such public service providers and economic operators which have been determined as participants in the provisions of the framework agreement on the date of conclusion thereof. Only such public service providers which are indicated in the contract notice, in the invitation to submit an application, or in the procurement procedure documents shall be determined as the participants of the framework agreement.

(3) Upon concluding procurement contracts within the scope of the framework agreement, the parties shall not make substantial amendments to the provisions of the framework agreement, particularly in the cases referred to in Paragraph five of this Section.

(4) The framework agreement shall be concluded for a period of time up to four years, except for the cases when a longer period of time is necessary due to objective reasons (particularly, if it is required by the subject matter of the contract). The public service provider may not use the framework agreement in order to hinder, restrict, or distort competition.

(5) If the framework agreement is concluded with one economic operator, contracts within the scope of this agreement shall be concluded in accordance with the provisions of the framework agreement. In order to conclude these procurement contracts, the public service provider may consult with an economic operator in writing and request it to supplement the tender thereof, insofar as it is necessary.

(6) If the framework agreement is concluded with more than one economic operator, the particular contracts within the scope of the framework agreement shall be concluded in one of the following ways:

1) by applying the provisions of the framework agreement and without re-evaluating the tender if all objectively necessary provisions for the ensuring of relevant construction work, supplies, and services and for the selection of an economic operator are provided for in the provisions of the framework agreement;

2) by applying the provisions of the framework agreement (also in relation to the parts of the framework agreement) and without re-evaluating the tender or with re-evaluating the tender if all the necessary provisions for the ensuring of the relevant construction work, supplies, and services and the cases and provisions for direct conclusion of a contract and for re-evaluating the tenders are provided for in the provisions of the framework agreement;

3) by evaluating the tenders if all the necessary provisions for the ensuring of the relevant construction work, supplies, and services are not provided for in the provisions of the framework agreement.

(7) If all the necessary conditions are not provided for in the provisions of the framework agreement and the tenders have to be re-evaluated, these provisions shall be supplemented on the basis of the same provisions (if necessary, regulated in more detail) or other provisions in conformity with the specifications of the framework agreement according to the following procedure:

1) in order to conclude the particular contract, the public service provider shall consult in writing with the economic operators which are capable to perform the relevant contract;

2) the public service provider shall determine a time limit which is sufficient for the submission of the relevant tender, taking into account such factors as the complexity of the subject matter of the contract and the time required for the preparation of tenders;

3) the tenderers shall submit a tender in writing and the public service provider shall not open them until expiry of the time limit specified for the submission;

4) the public service provider shall conclude the particular procurement contract with the tenderer that has submitted the most appropriate tender on the basis of the tender evaluation criteria which are specified in the procurement procedure documents for conclusion of the framework agreement.

**Section 62. Dynamic Purchasing System**

Procurements within the dynamic purchasing system shall be subject to a restricted procedure. The Cabinet shall determine the rules and procedures for the application of the dynamic purchasing system.

**Section 63. Application of Electronic Auctions**

(1) In case of an open and restricted procedure and a negotiated procedure by publishing an invitation to participate, a public service provider may decide that the selection of a tender shall be preceded by an electronic auction if the procurement procedure documents (in particular the technical specifications) can be prepared with great precision. An electronic auction may also be organised prior to the selection of a tender within the scope of the framework agreement in accordance with Section 61, Paragraph six, Clauses 2 and 3 of this Law, and also prior to the selection of a tender within the scope of the dynamic purchasing system.

(2) An object of an electronic auction may be:

1) the price or the price and the new values of the features of the tenders indicated in the procurement procedure documents, if the tender evaluation criterion is ratio of the price or cost-effectiveness and the quality criteria linked to the subject matter of the procurement contract, or the lowest cost using a cost-effectiveness approach;

2) the price if the tender evaluation criterion is solely the price.

(21) Works or service contracts the subject matter of which is intellectual work (such as designing) shall not be the object of electronic auctions.

(3) If a decision to organise an electronic auction is taken, the public service provider shall indicate it in the contract notice or in the invitation to confirm interest.

(4) If an electronic auction is held, the procurement procedure documents, in addition to other information, shall include also the following:

1) the characteristics of the objects of the electronic auction, if they are quantifiable and their value can be expressed in figures or percentages;

2) any thresholds (which may be submitted and modified), taking into account the technical specifications of the subject matter of the procurement contract;

3) the information which will be made available to tenderers in the course of the auction and, where appropriate, when it will be made available to them;

4) the necessary information applying to the organisation of the electronic auction;

5) the provisions which the tenderers must conform to when bidding in the electronic auction, particularly in relation to the minimum steps of the auction which will be requested, if necessary;

6) the relevant information on the electronic equipment used and the arrangements and technical specifications for connection.

(5) Prior to the launching of an electronic auction, the public service provider shall perform a complete initial evaluation of tenders according to the specified tender evaluation criteria.

(6) The public service provider shall concurrently invite all tenderers which have submitted admissible tenders to submit new prices or prices and values by electronic means. The invitation shall contain all the necessary information on the individual connection to the electronic equipment being used in the auction and shall state the date and time when the electronic auction will be initiated. The electronic auction may take place in a number of successive phases. It shall not be initiated earlier than two working days after sending of the invitation to participate in this auction.

(7) A summary of the evaluation of tenders shall be appended to the invitation and the invitation shall include the mathematical formula or algorithm to be used in the electronic auction which reflects the notional values of all criteria and which, taking into account the initially intended proportion of criteria, shall determine the re-ranking of positions using the newly submitted values and prices or only prices. Except for the case where the most economically advantageous tender is determined on the basis of price alone, the abovementioned formula shall contain the weighting of all the criteria intended for the determination of the most economically advantageous tender accordance to that referred to in the contract notice or in the procurement procedure documents. If the numeric values assigned to the criteria are specified within a certain range, they shall be expressed to a particular value. If variants of tenders are permitted, a separate formula shall be provided for each variant.

(8) During any phase of an electronic auction the public service provider shall constantly provide all tenderers with information which allows them to ascertain their relative rankings at any time. The public service provider may also provide information on other prices or values tendered if it is provided for in the procurement procedure documents. The public service provider may also, at any time, announce the number of participants of the auction in the particular phase of the auction, however, the public service provider is not entitled to disclose the identities of the participants.

(9) The public service provider shall close an electronic auction (in conformity with one or several conditions):

1) at the previously indicated date and time;

2) after receipt of the final bid, if the time indicated in the invitation to auction has expired and no new bid is placed during this period;

3) if all of the previously indicated phases in the auction have been completed.

(10) If the public service provider wishes to close the auction in accordance with the provisions of both Clause 2 and Clause 3 of Paragraph nine of this Section, it shall indicate the time for each phase of the auction in the invitation to auction.

(11) When the electronic auction is completed, the public service provider shall, using the results of this auction, select a tender according to the specified tender evaluation criteria.

[*21 February 2019*]

**Section 64. Application of Electronic Catalogues**

(1) If it is intended that tenders will be submitted, using only electronic means of communication, the public service provider may require the tender to be submitted in the form of an electronic catalogue or to include an electronic catalogue in the tender. If tenders are accepted or requested in the form of an electronic catalogue, the public service provider shall indicate it in the contract notice or in the invitation to confirm interest if an advance informative notice is used for the announcement of the procurement. The public service provider shall indicate in the procurement procedure documents all the information necessary for the receipt of electronic documents in accordance with Section 42 of this Law, including the format, the electronic equipment to be used, the technical connection arrangements and specifications necessary for the electronic catalogue.

(2) A candidate or tenderer shall create an electronic catalogue in accordance with the requirements laid down in the procurement procedure documents. Tenders in the form of an electronic catalogue may be accompanied by other documents supplementing the tender.

(3) The public service provider may intend that re-evaluation of tenders will take place on the basis of updated catalogues, if a framework agreement has been concluded with several economic operators and the tenders had been submitted in the form of electronic catalogues, and may use one of the following procedures:

1) to invite the tenderers to resubmit their electronic catalogues which are adapted to the requirements of the particular procurement contract;

2) to inform the tenderers that tenders adapted to the requirements of the particular procurement contract will be created from the submitted electronic catalogues according to the methodology for the creation of tenders provided for in the procurement procedure documents for conclusion of the framework agreement, to indicate the date and time when creation of tenders will take place, and also inform the tenderers of the rights to express objections against the creation of such tenders and to determine a commensurate period of time for expression of objections.

(4) If the tenderer objects against the use of the procedure referred to in Paragraph three, Clause 2 of this Section, the public service provider shall use the procedure referred to in Paragraph three, Clause 1 of this Section.

(5) The public service provider shall inform the tenderer of the created tender and the content thereof and shall determine an adequate period of time for expression of objections or approval of the tender.

(6) The public service provider may intend that in the dynamic purchasing system tenders in relation to a particular procurement contract are submitted in the form of an electronic catalogue. If the procedure referred to in Paragraph three, Clause 2 of this Section is used within the scope of the dynamic purchasing system, the public service provider shall attach to the application for participation in the dynamic purchasing system an electronic catalogue meeting the requirements laid down in the procurement procedure documents to be completed by the candidates after the public service provider has notified of the use of the procedure referred to in Paragraph three, Clause 2 of this Section.

**Chapter X. Regulations of a Procurement Contract and Framework Agreement**

**Section 65. Procurement Contract**

(1) A procurement contract shall determine the legal relationships between the public service provider or public service providers and an economic operator or economic operators. The procurement contract may determine the legal relationships between the public service provider or public service providers and an economic operator or economic operators and sub-contractors.

(2) Upon preparing the procurement contract, the public service provider shall take into account the requirements of the laws and regulations in relation to the construction work, supplies, and services included in the subject matter of the procurement contract and shall indicate in the procurement contract:

1) the name of the public service provider;

2) the name of the economic operator;

3) the subject matter of the procurement contract, the scope thereof, the quality requirements, and other necessary information;

4) the contract price and the manner of payment thereof, and also, if provided for by the public service provider, the manner of payment for subcontractors in accordance with the procedures referred to in Section 68 of this Law;

5) the time limit, location, and conditions for the performance of the procurement contract;

6) commensurate liability of the contracting parties for the losses caused and the failure to perform the procurement contract;

7) the procedures for the replacement of the subcontractors and staff indicated in the tender and for the attraction of new subcontractors and staff in accordance with Section 67 of this Law;

8) the procedures for amending the procurement contract and the procedures by which withdrawal from the procurement contract shall be permissible;

81) the condition that in case if the economic operator or, if the public service provider has provided for the direct payments to the subcontractors in accordance with Section 68, Paragraph five of this Law, the subcontractor submits an electronic invoice, it conforms to the laws and regulations regarding the applicable standard of an electronic invoice and the specifications for the use of its key elements and the procedures for its handling. In accordance with the laws and regulations regarding the applicable standard of an electronic invoice and the specifications for the use of its key elements and the procedures for its handling, additional key elements to be mandatorily indicated in the electronic invoice may be provided for in the procurement contract.

9) other rules.

(3) The public service provider is entitled to provide for special provisions for the performance of the procurement contract mainly in relation to economic and social circumstances, innovations, or environmental protection requirements in conformity with the condition that such provisions are not in contradiction with the national laws and regulations or directly applicable legal acts of the European Union and are indicated in the technical specifications or the contract notice, or the procurement procedure documents and are linked to the subject matter of the relevant procurement contract. The public service provider, upon preparing the procurement contract, may use the guidelines for the implementation of procurements and conclusion of contracts, and also the standard form contracts developed by sectoral experts or organisations. Upon conclusion of a procurement contract, commensurate conformity with the rights and legal interests of the contracting parties is ensured.

(4) A procurement contract shall be concluded for a time period not exceeding five years. The public service provider is entitled to conclude a procurement contract for a longer period of time if any of the following conditions is fulfilled:

1) it is provided for in another law;

2) it is substantially necessary for ensuring the performance of the procurement contract due to technical or economic circumstances directly related to the subject matter of the procurement contract. In such case prior to commencing the procurement, the public service provider which is an institution of direct administration must obtain a permit of the Cabinet, and the public service provider which is an institution of indirect administration – a permit of the body of the relevant derived public person.

(5) In the cases referred to in Paragraph four of this Section the public service provider shall indicate the justification in the contract award notice or in the notice on social and other special services for the existence of such circumstances which give the right to conclude a procurement contract for a longer period of time.

(6) A procurement contract or framework agreement shall be concluded not earlier than on the next working day after the end of the waiting period, if a complaint regarding violations of the procurement procedure has not been submitted to the Procurement Monitoring Bureau in accordance with the procedures laid down in Section 72 of this Law.

(7) The waiting period referred to in Paragraph six of this Section shall be:

1) 10 days after the day when the information referred to in Section 37, Paragraph two of this Law has been sent to all the tenderers in electronic form, using a secure electronic signature or attaching a scanned document to the electronic mail, or handed over in person, and one additional working day;

2) 15 days after the day when the information referred to in Section 37, Paragraph two of this Law has been sent, if it has been sent by post to at least one tenderer, and one additional working day.

(8) If the tenth day referred to in Paragraph seven, Clause 1 and the fifteenth day referred to in Clause 2 of this Section is Saturday, Sunday or statutory public holiday, the waiting period shall be extended for one working day.

(9) A procurement contract or framework agreement may be concluded without conforming to Paragraph six of this Section if:

1) the procurement contract is awarded to the sole tenderer and there are no candidates which would be entitled to submit a complaint in accordance with the procedures laid down in Section 72 of this Law;

2) a procurement of the social and other special services referred to in Annex 2 to this Law is being organised due to extraordinary circumstances unforeseen by the public service provider;

3) a negotiated procedure without publishing an invitation to participate is applied;

4) the procurement contract is concluded within the scope of a framework agreement in accordance with Section 61 or 64 of this Law;

5) the procurement contract is concluded within the scope of the dynamic purchasing system in accordance with Section 62 of this Law.

(10) Not later than within 10 working days after the procurement contract or amendments thereto have entered into effect, the public service provider shall post in its buyer profile the text of the procurement contract, the text of the framework agreement, the text of a procurement contract concluded on the basis of the framework agreement accordingly, if the contract price is equal to or exceeds the thresholds of contract prices stipulated by the Cabinet, or the text of amendments to the procurement contract and the justification for the amendments to the procurement contract referred to in Section 66, Paragraphs two and three of this Law in accordance with the procedures laid down in laws and regulations, conforming to the requirements for the protection of a commercial secret. The text of the procurement contract and amendments thereto shall be available in the buyer profile for the entire term of the procurement contract, however, for not less than 36 months following the day of entering into effect of the procurement contract.

[*21 February 2019 /* *See Paragraph 9 of Transitional Provisions*]

**Section 66. Amendments to the Procurement Contract or the Framework Agreement**

(1) Amendments to the procurement contract or the framework agreement shall be permissible, if they do not alter the overall nature of the contract or the framework agreement (the type and the objective specified in the procurement procedure documents) and meet one of the following conditions:

1) amendments are non-substantial;

2) amendments are substantial, and they are only made in the cases referred to in Paragraph three of this Section;

3) amendments are made in the case referred to in Paragraph five of this Section, irrespective of whether they are substantial or non-substantial.

(2) Amendments to the procurement contract or the framework agreement shall be substantial in any of the following cases:

1) the amended provisions of the procurement contract or the framework agreement, had they been part of the initial procurement procedure documents, would have allowed for submission of different tenders or participation or selection of other candidates or tenderers in the procurement procedure;

2) the economic balance (for example, risk allocation and the means compensating it) provided for in the procurement contract or the framework agreement is changed in the interests of the tenderer selected within the procurement procedure;

3) the subject matter of the procurement contract is extended to such construction work, supplies, or services which are not provided for in the procurement contract or framework agreement initially concluded;

4) the tenderer (contracting party) selected within the procurement procedure is replaced by another economic operator.

(3) Substantial amendments to the procurement contract or the framework agreement shall be permissible in any of the following cases:

1) the procurement procedure documents and the procurement contract or the framework agreement clearly and unequivocally provide for a possibility of amendments, the conditions when amendments are permissible, the scope and essence of amendments. Such provisions on amendments may refer to the revision of the contract price, exercising of the use of options, and also other aspects of the performance of the procurement contract or the framework agreement;

2) the public service provider needs additional construction work, supplies, or services that were not included in the initial procurement, and a change of the economic operator would cause a significant increase of costs, and it cannot be performed due to economic or technical reasons such as interchangeability or interoperability with the equipment, services, or installations purchased under the initial procurement, or the change of the economic operator would cause significant inconveniences;

3) amendments to the procurement contract are necessary due to such reasons which the public service provider could not foresee;

4) the tenderer (contracting party) selected in the procurement procedure is replaced by another economic operator in accordance with the laws and regulations in the field of commercial law regarding reorganisation of merchants and transfer of an undertaking, and such economic operator meets the qualification requirements laid down in the contract notice or the procurement procedure documents, and the provisions for exclusion referred to in Section 48, Paragraph one of this Law, and also the provisions for exclusion referred to in Section 48, Paragraph two of this Law which the public service provider has initially included in the contract notice or the procurement procedure documents are not applicable thereto.

(4) The increase of the contract price which is determined as the sum of the monetary values of all successive amendments may not exceed 50 per cent of the initial contract price of the procurement contract in relation to each case referred to in Paragraph three, Clauses 2 and 3 of this Section.

(5) Amendments to the procurement contract or the framework agreement shall be permissible if the value of the amendments to the procurement contract or the framework agreement determined as the sum of the monetary values of all successive amendments (without taking into account the value of amendments made in accordance with Paragraph three, Clauses 1, 2, and 3 of this Section) is concurrently less than:

1) the thresholds of contract prices stipulated by the Cabinet;

2) 10 per cent of the initial contract price of the contract or the framework agreement in case of a supply contract and a service contract and 15 per cent of the initial contract price of the procurement contract or the framework agreement in case of a works contract.

(6) If the procurement contract provides for the indexation of the contract price, the initial contract price of the procurement contract or the framework agreement referred to in Paragraphs four and five of this Section shall be the contract price which has been indexed.

(7) The public service provider shall publish a notice on changes during the term of the contract in accordance with Section 35 of this Law.

(8) The procurement procedures specified in this Law shall be applied to the amendments to the procurement contract and the framework agreement which do not conform to the conditions referred to in Paragraph one of this Section.

[*21 February 2019*]

**Section 67. Change of the Staff and Subcontractors Involved in the Performance of a Procurement Contract and Attraction of a New Staff and Subcontractors**

(1) The tenderer selected in the procurement procedure (the party to the procurement contract or framework agreement) is not entitled to change the staff and subcontractors indicated in the tender and to involve additional subcontractors in the performance of the procurement contract without coordination with the public service provider. The public service provider may request the opinion of the staff and the subcontractor regarding the reasons for change. The public service provider may provide in the procurement contract or the provisions of the framework agreement that the tenderer selected in the procurement procedure (the party to the procurement contract or framework agreement) has an obligation to coordinate the involvement of additional staff in the performance of the procurement contract with the public service provider.

(2) The change of the staff indicated in the tender shall only be permissible in accordance with the procedures and in the cases indicated in the procurement contract or the framework agreement. The public service provider shall not agree to the change of the staff indicated in the tender in the cases provided for in the procurement contract or the framework agreement, and also in cases when the offered staff does not meet the requirements brought forward for the staff which are laid down in the procurement procedure documents or it does not have at least the same qualification and experience as the staff that was evaluated when determining the most economically advantageous tender.

(3) The public service provider shall not agree to the change of the subcontractor indicated in the tender if any of the following conditions is fulfilled:

1) the tendered subcontractor does not meet the requirements brought forward for subcontractors which are laid down in the procurement procedure documents;

2) the subcontractor on whose capacities the selected tenderer has relied upon to certify that the qualification thereof conforms to the requirements laid down in the contract notice or the procurement procedure documents is replaced and the tendered subcontractor does not have at least the same qualification which the tenderer selected in the procurement procedure has referred to upon certifying the conformity thereof with the requirements laid down in the procurement procedure, or it conforms to the conditions for exclusion of the tenderers referred to in Section 48, Paragraph one of this Law, in the contract notice, or the procurement procedure documents;

3) the tendered subcontractor the value of the construction work to be performed or the services to be provided by which is at least 10 per cent of the total value of the procurement contract conforms to the conditions for exclusion of the tenderers referred to in Section 48, Paragraph one or two of this Law, in the contract notice, or the procurement procedure documents;

4) as a result of the change of the subcontractor such amendments to the tender of the tenderer would be made which, if they would have been initially included therein, would influence the selection of the tender according to the tender evaluation criteria specified in the procurement procedure documents.

(4) The public service provider shall not agree to the attraction of a new subcontractor in case when such changes, if they would have been made in the initial tender, would have influenced the selection of the tender according to the tender evaluation criteria specified in the procurement procedure documents.

(5) The public service provider shall agree to the change of the subcontractor indicated in the tender, if the conditions of Paragraph three of this Section are not applicable to the subcontractor, in the following cases:

1) the subcontractor indicated in the tender has notified in writing on refusal to participate in the performance of the procurement contract;

2) the subcontractor indicated in the tender conforms to the conditions for exclusion of tenderers referred to in Section 48, Paragraph one of this Law.

(6) Upon examining the conformity of the new subcontractor, the public service provider shall apply Section 48 of this Law. The time periods referred to in Section 48, Paragraph four of this Law shall be counted from the day when a request for the change of a subcontractor is submitted to the public service provider.

(7) The public service provider shall, within as short period of time as possible, but not later than within five working days after it has received all information and documents necessary for taking of a decision in accordance with this Section, take a decision to permit or refuse the change of the staff or subcontractors of the tenderer selected in the procurement procedure (the party to the procurement contract or framework agreement) or attraction of new subcontractors in the performance of the procurement contract.

**Section 68. Subcontractors**

(1) In order to ascertain that an economic operator will be able to perform a procurement contract, the public service provider is entitled to request that the tenderer indicates in its tender those parts of the procurement contract which it will transfer to subcontractors for performance, and also all anticipated subcontractors.

(2) The public service provider shall request that the tenderer indicates in its tender all those subcontractors the value of the construction work to be performed or the services to be provided by which is 10 per cent of the total value of the procurement contract or more, and the lot of the procurement contract to be transferred for performance to each such subcontractor.

(3) The total value of the construction work to be performed or the services to be provided by the subcontractor shall be determined, taking into account the value of the construction work to be performed or services to be provided by the subcontractor and by all associate undertakings thereof within the scope of the relevant procurement. Within the meaning of this Section, a capital company in which, in accordance with the Group of Companies Law, the subcontractor has a decisive influence or which has a decisive influence in the subcontractor, or a capital company in which another capital company has a decisive influence which concurrently has a decisive influence in the relevant subcontractor shall be considered as the associate undertaking.

(4) In case of a service contract (if the services are provided at an object of the public service provider) and in case of a works contract, the public service provider shall request that after the award of the procurement contract, however, not later when the performance of the procurement contract is commenced, the tenderer submits a list of subcontractors (if it is planned to involve such) involved in the construction work or service provision, indicating the name, contact details of the subcontractor and the person with the right of representation thereof, insofar as the abovementioned information is known. The subcontractors of the subcontractors of the economic operator shall also be indicated in the list. The public service provider shall request the economic operator to notify it of any changes to this information during the performance of the procurement contract, and also to supplement the list with information on any subcontractor which is later involved in the performance of construction work or the provision of services.

(5) The public service provider may provide in the procurement procedure documents that in case of a works contract, upon request of a subcontractor, the payments for the construction work, supplies, or services provided by the subcontractor to the economic operator which has accepted them and the term for payment whereof is past due if the public service provider has failed to disburse the entire contract price due to the economic operator, shall be transferred by the public service provider, on the basis of an invoice submitted by the subcontractor, directly to the subcontractor and the next payment to the economic operator shall be reduced by the relevant amount. Prior to the payment of the invoice of the subcontractor, the public service provider shall inform the economic operator of such request and shall allow it to express an opinion on the justification of the request. The procedures for making payments and exchanging information with the economic operator and subcontractors thereof shall be provided for by the public service provider in the procurement contract.

(6) The procedures laid down in Paragraphs one and five of this Section shall be without prejudice to the issues related to the liability of the economic operator for the performance of the procurement contract.

**Section 69. Early Termination of a Procurement Contract**

(1) A public service provider, upon sending a written notice to the economic operator, is entitled to unilaterally withdraw from a procurement contract in the cases provided for in the procurement contract and in the following cases:

1) substantial amendments have been made to the procurement contract which are not permissible in accordance with Section 66, Paragraph one of this Law;

2) the procurement contract has not been concluded in accordance with the provisions specified in the procurement procedure documents, or substantial provisions of the draft procurement contract contained in the procurement procedure documents have been amended;

3) the economic operator, at the time of the procurement contract award, conformed to any of the cases for exclusion referred to in Section 48, Paragraph one of this Law and should therefore have been excluded from the procurement procedure;

4) the procurement contract should not have been awarded to the economic operator due to a serious violation of the obligations specified in the Treaty on European Union, the Treaty on the Functioning of the European Union, and this Law which has been detected by the Court of Justice of the European Union in accordance with the procedure specified in Article 258 of the Treaty on the Functioning of the European Union.

(2) In the event of an early termination of the procurement contract in cases referred to in Paragraph one of this Section, the public service provider shall pay for the construction work and supplies actually performed and the services actually provided by the economic operator. The public service provider and the economic operator shall agree on the amount of the payment and the procedures for the disbursement thereof.

**Chapter XI. Procurement Monitoring Bureau**

**Section 70. Legal Status of the Procurement Monitoring Bureau**

(1) The Procurement Monitoring Bureau shall perform the monitoring of the conformity with this Law and the laws and regulations arising therefrom.

(2) The legal status and functions of the Procurement Monitoring Bureau shall be determined by the Public Procurement Law.

**Section 71. Complaint Examination Commission**

The procedures for the establishment and operation of the complaint examination commission (hereinafter also – the commission) shall be determined by the Public Procurement Law.

**Chapter XII. Procedures for the Examination of Complaints Regarding Violations of the Procurement Procedure**

**Section 72. Right to Submit a Complaint Regarding Violations of the Procurement Procedure**

(1) A person who is or has been interested in acquiring the awarding of a procurement contract or a framework agreement or who is qualifying for winning and who, in relation to the particular procurement procedure to which this Law applies, regards that his or her rights have been infringed upon or infringement of these rights is possible which is caused by a potential violation of the legal acts of the European Union or other laws and regulations is entitled to submit a complaint to the Procurement Monitoring Bureau on the provisions for the selection of candidates or tenderers, the technical specifications, and other requirements which apply to the particular procurement procedure, or on the activities of the public service provider or the procurement commission during the course of the procurement procedure. Within the meaning of this Chapter, the procedures for implementing the procurement referred to in Section 13, Paragraph five of this Law and the design contest shall also be regarded to be a procurement procedure.

(2) A complaint on the violations referred to in Paragraph one of this Section (except for the cases referred to in Paragraph three of this Section) may be submitted to the Procurement Monitoring Bureau until the day of conclusion of the procurement contract or the framework agreement within the following time limits:

1) within 10 days after the day when the information referred to in Section 37 of this Law has been sent to the relevant person in electronic form, using a secure electronic signature or attaching a scanned document to the electronic mail, or by fax or handed over in person;

2) within 15 days after the day when the information referred to in Section 37 of this Law has been sent to the relevant person by post;

3) within 10 days after the day when the notice referred to in Section 39, Paragraph one of this Law has been published in the Official Journal of the European Union.

(3) A complaint regarding the requirements included in the procurement procedure documents may be submitted within the following time limits:

1) not later than seven days prior to the expiry of the time limit for the submission of tenders – in relation to the requirements included in the open procedure rules and the contract notice;

2) not later than four working days prior to the expiry of the time limit for the submission of applications – in relation to the requirements included in the restricted procedure rules for the selection of candidates and in the contract notice, in the documents of the competitive dialogue and in the contract notice, or in the documents of a negotiated procedure by publishing an invitation to participate and in the contract notice, or the documents of an innovation partnership procedure and in the contract notice;

3) not later than four working days prior to the expiry of the time limit for the submission of tenders – in relation to the requirements included in an invitation to the restricted procedure, competitive dialogue, negotiated procedure by publishing an invitation to participate, or innovation partnership procedure;

4) not later than seven days prior to the expiry of the time limit for the submission of designs – in relation to the requirements included in the design contest rules and the contract notice on the design contest;

5) not later than two working days prior to the expiry of the time limit for the submission of tenders – in relation to the requirements included in the procurement documents in case of the procurement referred to in Section 13, Paragraph five of this Law.

(4) A complaint to the Procurement Monitoring Bureau may be submitted by delivering it in person or sending it by post, fax or in electronic form, using a secure electronic signature or attaching a scanned document to the electronic mail. A complaint shall be deemed submitted to the Procurement Monitoring Bureau within the time limit specified in Paragraphs two and three of this Section if it has been received at the Procurement Monitoring Bureau:

1) on the final day of the time limit at the latest, if sent by fax or in electronic form, using a secure electronic signature or attaching a scanned document to the electronic mail;

2) on the final day of the time limit at the latest, within the office hours of the Procurement Monitoring Bureau, if sent by post or delivered in person.

(5) A complaint shall be submitted in writing and shall include the following information:

1) the name and address of the submitter of the complaint;

2) the name and address of the public service provider regarding which the complaint has been submitted;

3) the title of the procurement procedure and the procurement identification number;

4) the facts regarding which the complaint is being submitted, indicating the violation;

5) the legal basis for the complaint;

6) the claim of the submitter of the complaint.

(6) The Procurement Monitoring Bureau shall, within one working day after receipt of a complaint regarding violations of the procurement procedure, post information on this on its website, indicating the submitter of the complaint, the public service provider, and the procurement procedure the lawfulness of which is being disputed by the submitter of the complaint, and also inform the public service provider of the initiation of an administrative case by sending a notice on the complaint received and a copy of the complaint to the fax number or electronic mail address indicated by the public service provider. The public service provider shall not conclude a procurement contract or framework agreement until a decision of the commission on the results of examination of the complaint or termination of the administrative case is received.

(7) If a complaint is submitted in relation to the requirements which are specified in the open procedure rules, the contract notice, or the invitation to tender of a restricted procedure, the public service provider shall act in accordance with the Cabinet regulations regarding the procedures for the course of the procurement procedure which are determined for the relevant procurement procedures.

(8) If a complaint is submitted regarding activities of the public service provider in relation to the lawfulness of the procurement procedure and a complaint regarding the same procurement procedure has already been submitted by another submitter of a complaint but such a complaint has not yet been examined, such complaints may be combined and examined concurrently.

(9) The submitter of a complaint is entitled to revoke the complaint submitted in writing, at any time, while the commission has not taken a decision on such complaint.

**Section 73. Leaving Complaint Unexamined**

(1) The Procurement Monitoring Bureau is entitled to leave a complaint unexamined in the following cases:

1) the complaint does not conform to the requirements referred to in Section 72, Paragraph one, two, three, or five of this Law;

2) a complaint has already been submitted and examined in relation to a procurement procedure for the same subject matter and on the same grounds;

3) the information included in the complaint is evidently insufficient to satisfy the claim of the submitter of the complaint, or the complaint is evidently inadmissible on its merits;

4) in the case referred to in Section 74, Paragraph four of this Law.

(2) The decision may be appealed to a court in accordance with the procedures laid down in the Administrative Procedure Law. Appeal of the decision shall not suspend the operation thereof.

**Section 74. Deposit**

(1) When submitting a complaint in accordance with the procedures laid down in Section 72 of this Law, a deposit shall be paid in or submitted.

(2) The submitter is entitled to pay in a deposit as the sum of money or submit it in the form of a credit institution guarantee or insurance policy.

(3) A deposit shall form 0.5 per cent of the estimated contract price, however not more than EUR 15 000 in case of a works contract and EUR 840 in case of a service contract and a supply contract. If it is not possible to determine the estimated contract price or it is not indicated in the procurement procedure documents, the deposit shall be EUR 3400 in case of a works contract, and EUR 840 – in case of a service contract and a supply contract.

(4) After receipt of the complaint the Procurement Monitoring Bureau shall, within one working day, verify the fact of receipt or submitting of a deposit payment. Where the payment of the deposit is not received or submitted, the Procurement Monitoring Bureau is entitled to leave the complaint unexamined.

(5) The Procurement Monitoring Bureau shall repay the deposit payment or return the deposit to the submitter within five working days after:

1) the day of revocation of the complaint if the submitter has revoked the complaint prior to examination thereof in the commission, on the basis of the fact that the public service provider has eliminated the violations referred to in the complaint;

2) the receipt of the true copy of the court judgment, if the court by the final judgment assigns to repay the paid-in deposit payment to the submitter;

3) the decision on leaving the complaint unexamined has been communicated;

4) the decision to prohibit the public service provider to conclude the procurement contract or the framework agreement or to cancel the decision of the public service provider on termination of the procurement procedure has entered into effect.

(6) This Section shall not be applicable if the lawfulness of termination of the procurement procedure or the requirements laid down in the procurement procedure documents are contested in the complaint.

(7) The procedures for the payment or submitting and repayment or return of the deposit shall be determined by the Cabinet.

[*21 February 2019*]

**Section 75. Examination of a Complaint**

(1) The commission shall examine a complaint within one month after receipt thereof in the Procurement Monitoring Bureau. If due to objective reasons it is not possible to conform to this time limit, the commission may extend it, notifying the submitter of the complaint , the tenderer whose tender has been selected according to the specified tender evaluation criteria (hereinafter – the participants), and the public service provider thereof.

(2) Upon examining a complaint regarding violations of the procurement procedure, the commission may, by a decision thereof:

1) allow to conclude a procurement contract or framework agreement and to leave the requirements laid down in the procurement procedure documents or the decision of the procurement commission in effect, if the complaint is not justified or is justified, however, the violations established by the commission cannot affect the decision on awarding of the procurement contract;

2) prohibit to conclude a procurement contract or a framework agreement if the public service provider has not complied with the requirements laid down in Section 37 of this Law;

3) prohibit conclusion of a procurement contract or a framework agreement and cancel the requirements laid down in the procurement procedure documents or the decision of the procurement commission in full or any part thereof, if the complaint is justified and the violations established by the commission can affect the decision on awarding of the procurement contract;

4) leave the decision of the procurement commission on termination or suspension of the procurement procedure in effect, if the complaint is not justified;

5) cancel the decision of the procurement commission on termination or suspension of the procurement procedure, if the complaint is justified.

(3) In the cases referred to in Paragraph two, Clauses 2, 3, and 5 of this Section the commission may take the decision on measures for elimination of the violations established. The commission may assign the public service provider to suspend the procurement procedure only in case if it is not possible to otherwise eliminate the violations of the procurement procedure committed by the public service provider.

(4) If during examination of a complaint the commission establishes that the complaint should be left unexamined, it may take the decision on termination of the administrative case. If the submitter withdraws the complaint, the relevant administrative proceedings shall be considered terminated.

(5) The Procurement Monitoring Bureau shall invite the participants to the complaint examination meeting by publishing an invitation on its website at least three working days in advance. The invitation shall be considered notified on the next working day of publication thereof on the website of the Procurement Monitoring Bureau. If the electronic mail address to which an invitation can be sent has been notified by participants to the Procurement Monitoring Bureau, the Procurement Monitoring Bureau shall send the information on the complaint examination meeting to the participants also by electronic mail not later than on the day when the invitation is published on the website of the Procurement Monitoring Bureau.

(6) The commission shall hear the opinion of all participants present. After hearing the participants, it shall continue work without the presence of the participants.

(7) The commission shall evaluate a complaint on the basis of the facts referred to by the submitter thereof and the participants, the explanations of the public service provider, and the opinion or statement of the expert. If the participants have not arrived to the complaint examination meeting, the commission shall examine the complaint on the basis of the facts available thereto. The commission shall take a decision and, within three working days after taking thereof, prepare and post it on the website of the Procurement Monitoring Bureau, and send it to the public service provider and the submitter of the complaint, provided that they have indicated electronic mail address. The decision shall be considered notified on the next working day after publication thereof on the website of the Procurement Monitoring Bureau.

(8) The following information shall be indicated in the decision of the commission:

1) the justification for the establishment of the commission;

2) the members of the commission and the expert who has participated in the meeting of the commission;

3) representatives of the submitter of the complaint, the public service provider, and other participants who have participated in the meeting of the commission;

4) the identification number of the procurement procedure regarding which the complaint has been submitted;

5) the facts regarding which the complaint has been submitted, and the claim of the submitter of the complaint;

6) the most important arguments of the submitter of the complaint and the public service provider;

7) the justification of the decision;

8) the legal norms applied;

9) the duty delegated to the public service provider and the deadline by which it must be fulfilled if the commission takes a decision on measures for elimination of the violations established;

10) the prohibition or authorisation for the public service provider to conclude a procurement contract;

11) where and in what term this decision may be appealed.

(9) If the commission has decided on the measures for elimination of the violations established, the public service provider shall eliminate the violations, take a decision, notify on the amendments to the procurement procedure documents, and submit the amendments thereto, and also notify on the contract awarding. The decision shall be published in accordance with the procedures laid down in Section 40 of this Law, and also all information on taking of the decision and elimination of the violations established by the commission shall be sent to the Procurement Monitoring Bureau. In such case the procurement contract shall be concluded in conformity with Section 65, Paragraph five of this Law.

**Section 76. Appealing a Decision of the Commission**

(1) A decision of the commission may be appealed in the District Administrative Court in accordance with the procedures laid down in the Administrative Procedure Law. The case shall be heard by the court in the composition of three judges.

(2) A ruling of the District Administrative Court may be appealed in accordance with cassation procedures in the Department of Administrative Cases of the Supreme Court.

(3) The appeal of the decision of the commission shall not suspend the operation thereof.

**Chapter XIII. Recognition of a Procurement Contract or Framework Agreement as Invalid, Amending or Repealing of the Provisions Thereof, Reduction of the Term of a Procurement Contract or Framework Agreement**

**Section 77. Submission of an Application and Examination of a Matter Regarding Recognition of a Procurement Contract or Framework Agreement as Invalid, Amending or Repealing of the Provisions Thereof, or Reduction of the Term of a Procurement Contract or Framework Agreement**

(1) An application regarding recognition of a procurement contract or framework agreement as invalid, amending or repealing of the provisions thereof, or reduction of the term of a procurement contract or framework agreement may be submitted by the persons referred to in Section 72, Paragraph one of this Law in the cases referred to in of Section 78, Paragraph one of this Law.

(2) The application shall be submitted to the District Administrative Court and it shall examine the case in the composition of three judges. The examination of the application and the case shall be subject to the norms of the Administrative Procedure Law, inter alia, the norms regarding examination of the public law contract in the court, insofar as it is not laid down otherwise in this Law.

(3) An application in relation to the violations referred to in Section 78, Paragraph one of this Law may be submitted within the following time limits:

1) within six months after the day of conclusion of the procurement contract or framework agreement (except for the cases referred to in Clause 2, Sub-clauses “a” and “b” of this Paragraph);

2) within 30 days after the day when:

a) a notice is published in the Official Journal of the European Union on the contract awarding in which the public service provider has included the justification for the decision to award a procurement contract or framework agreement without publishing a contract notice,

b) the public service provider has informed the relevant tenderer of the conclusion of the procurement contract or framework agreement, indicating the information referred to in Section 37, Paragraph two, Clause 1 or 2 of this Law thereto, or the relevant candidate of the conclusion of the contract or framework agreement, indicating the reasons for rejecting the application submitted thereby. The abovementioned shall also apply to the cases specified in Section 78, Paragraph one, Clauses 5 and 6 of this Law.

(4) Concurrently with submission of an application or during examination of a case, the applicant may, in the cases and in accordance with the procedures laid down in the Administrative Procedure Law, request that an interim measure is applied.

(5) A ruling of the District Administrative Court may be appealed in accordance with cassation procedures in the Department of Administrative Cases of the Supreme Court.

(6) If an application regarding recognition of the procurement contract or framework agreement as invalid, amending or repealing the provisions thereof or reduction of the term of the procurement contract or framework agreement is based on the case not referred to in Section 78 of this Law, the claim shall be brought to the court of general jurisdiction in accordance with the procedures laid down in the Civil Procedure Law.

**Section 78. Cases when a Procurement Contract or Framework Agreement may be Recognised as Invalid, the Provisions Thereof may be Amended or Repealed, or the Term of a Procurement Contract or Framework Agreement may be Reduced**

(1) The court may recognise the procurement contract or framework agreement as invalid, amend or repeal the provisions thereof, or reduce the term of the procurement contract or framework agreement in any of the following cases:

1) the procurement contract or framework agreement has been concluded without applying the procurement procedures referred to in Section 13, Paragraph one of this Law if the public service provider had to apply them;

2) the procurement contract or framework agreement has been concluded by unjustifiably awarding the rights to enter into a procurement contract or framework agreement without publishing contract notice in the Official Journal of the European Union;

3) the procurement contract or framework agreement has been concluded without conforming to the term determined in Section 65, Paragraph six of this Law;

4) the procurement contract or framework agreement has been concluded by violating the prohibition referred to in Section 72, Paragraph six of this Law to conclude a procurement contract or framework agreement;

5) the procurement contract has been concluded without conforming to the requirements referred to in Section 61 of this Law if the contract price of the particular procurement contract is equal to or exceeds the thresholds of contract prices stipulated by the Cabinet;

6) the procurement contract has been concluded without conforming to the procedures referred to in the Cabinet regulations governing the establishment and operation of the dynamic purchasing system if the contract price of the particular procurement contract is equal to or exceeds the thresholds of contract prices stipulated by the Cabinet.

(2) In the cases referred to in Paragraph one, Clause 1 or 2 of this Section a procurement contract or framework agreement shall not be recognised as invalid, the provisions thereof shall not be amended or repealed, the term of a procurement contract or framework agreement shall not be reduced, even though the law has been violated, if all of the following conditions are fulfilled:

1) the public service provider has published the notice referred to in Section 39, Paragraph one of this Law;

2) the procurement contract or framework agreement was concluded not earlier than 10 days and additionally one working day after the day when the notice referred to in Section 39, Paragraph one of this Law has been published on the website of the Procurement Monitoring Bureau;

3) the prohibition referred to in Section 72, Paragraph six of this Law to conclude a procurement contract or framework agreement has been conformed to.

(3) In the cases referred to in Paragraph one, Clause 5 or 6 of this Section a procurement contract shall not be recognised as invalid, the provisions thereof shall not be amended or repealed, the term thereof shall not be reduced, even though the law has been violated, if all of the following conditions are fulfilled:

1) the public service provider has informed the tenderers in accordance with Section 37 of this Law;

2) the particular procurement contract has been concluded in conformity with the time limit referred to in Section 65, Paragraph six of this Law;

3) the prohibition referred to in Section 72, Paragraph six of this Law to conclude a procurement contract has been conformed to.

**Section 79. Court Judgment on a Procurement Contract or Framework Agreement**

(1) If a court establishes that a procurement contract or framework agreement has been concluded in violation of the norms of this Law and concludes that the application should be satisfied, it shall, in conformity with the provisions of this Law, select itself one of the following types of judgment:

1) recognise the procurement contract or framework agreement as invalid from the moment of conclusion thereof;

2) amend or repeal the provisions of the procurement contract or framework agreement. Upon adopting such judgment, the court shall also reduce the term of the procurement contract or framework agreement;

3) reduce the term of the procurement contract or framework agreement.

(2) A court, upon selecting one of the types of the judgment referred to in Paragraph one of this Section, shall not be bound by the subject matter of the application indicated by the applicant and the thresholds of the claim.

(3) A court, upon selecting the type of the judgment referred to in Paragraph one, Clause 1 or 2 of this Section, shall evaluate which type of the judgment is sufficiently commensurate, effective, and preventive in the particular case in order to ensure that the public service provider would not commit the violations of this Law in future. The court shall adopt the judgment referred to in Paragraph one, Clause 3 of this Section only in the cases referred to in Paragraphs four and five of this Section.

(4) A court shall not adopt the judgment referred to in Paragraph one, Clause 1 or 2 of this Section if it is essential for the public interests to preserve the consequences caused by the procurement contract or framework agreement. Financial consequences (for example, costs due to delay of performance, change of the contractor, sanctions or other legal liabilities) shall not be deemed per se sufficient grounds for not adopting the judgment referred to in Paragraph one, Clause 1 or 2 of this Section.

(5) If a procurement contract or framework agreement has been concluded without conforming to the term referred to in Section 65, Paragraph six of this Law or in violation of the prohibition referred to in Section 72, Paragraph six of this Law to conclude a procurement contract or framework agreement, and it is established that the procurement procedure, until taking of the decision on determination of the winner, has been performed in accordance with the requirements of this Law, or the abovementioned decision has not affected the chances of the tenderer who has submitted an application to be awarded with the procurement contract, the court shall adopt the judgment referred to in Paragraph one, Clause 2 or 3 of this Section.

(6) Upon adopting any of the judgments referred to in Paragraph one, Clauses 1 and 2 of this Section, a court shall take the decision on validity of such procurement contracts which have been concluded on the basis of the relevant framework agreement.

(7) A court shall send a true copy of the court judgment to the Procurement Monitoring Bureau and the Ministry of Finance.

[*21 February 2019*]

**Chapter XIV. Compensation for Losses**

**Section 80. Compensation for Losses**

(1) Losses caused within the scope of administrative proceedings shall be compensated in accordance with the laws and regulations governing the administrative procedure and the procedures for the compensation for losses caused by State administration institutions.

(2) If compensation is requested concurrently with the claim referred to in Section 77 of this Law, a court shall adjudge it by examining the relevant application and adopting any of the judgments referred to in Section 79, Paragraph one of this Law. The burden of proof regarding existence of such losses and the amount of compensation shall lie with the applicant. Following the day when the judgment enters into effect, the compensation for such losses may be requested in accordance with the civil law procedures.

(3) Upon submitting a complaint to the Procurement Monitoring Bureau in accordance with Section 72 of this Law, the compensation for losses is not requested. The compensation for losses caused by a public service provider may be requested concurrently with the submission of an application to a court or by turning to the public service provider in accordance with the procedures laid down in the laws and regulations governing compensation for losses caused by State administration institutions.

**Chapter XV. Statistical Report and Administrative Cooperation**

**Section 81. Online Repository of Certificates**

Public service providers can use online repository of certificates (e-Certis) in order to obtain information on the certificates and other documents issued by the competent authorities to the economic operators registered (permanently residing) in a European Union Member State.

**Section 82. Administrative Cooperation for Ensuring Exchange of Information**

To reach the purpose of this Law, the responsible authorities of Latvia shall cooperate with and consult the responsible authorities of other European Union Member States in order to obtain and clarify the necessary information on the documents issued by the European Union Member States and the content thereof.

**Section 83. Statistical Reports**

(1) A public service provider shall, by 1 March every year, submit statistical reports to the Procurement Monitoring Bureau in accordance with the procedures stipulated by the Cabinet. The Cabinet shall determine the content of the statistical reports.

(2) Other information shall also be included in the statistical report, if it is provided for by the Public Procurement Agreement of the World Trade Organisation, and also if it is requested by the European Commission.

**Chapter XVI. Procedures by Which a Particular Activity Shall be Recognised as Being Performed under the Conditions of Free Competition**

**Section 84. Recognition of a Particular Activity as Being Performed under the Conditions of Free Competition**

(1) In order to apply Section 10, Paragraph one, Clause 14 of this Law, the case regarding whether any of the activities referred to in Section 3, 4, 5, 6, or 7 of this Law are being performed under the conditions of free competition shall be decided based on the criteria stipulated by the Cabinet and which conform to the rules on competition of the Treaty on the Functioning of the European Union.

(2) Within the meaning of Section 10, Paragraph one, Clause 14 of this Law, the activities referred to in Section 3, 4, 5, 6, or 7 of this Law are regarded to be performed under the conditions of free competition if in relation to the transportation or distribution of gas or heat energy, the production, transmission, or distribution of electricity, production, transport or distribution of drinking water, in relation to public service providers operating in the field of railway transport services, city railway, tram, trolley bus, or bus services, postal services, in the field of airport services, sea ports, or domestic ports, or in the field of other terminal services, and in relation to the extraction of oil or gas, and exploration and extraction of coal or solid fuel of other type the requirements of the laws and regulations of the relevant sector are applied.

(3) If, based on Paragraph two of this Section, it cannot be accepted that the relevant market is freely available, the free availability of the particular market shall be proved factually and legally.

(4) Section 10, Paragraph one, Clause 14 of this Law shall be applicable if one of the following is fulfilled:

1) if the requirements of the laws and regulations of the relevant sector referred to in Paragraph two of this Section are applied in order to establish that the activities referred to in Section 3, 4, 5, 6, or 7 of this Law are regarded to be performed under the conditions of free competition, the European Commission shall, within the time limit stipulated thereby which is not less than 90 working days from the day when it, upon receipt of the requirement referred to in Section 85, Paragraph one, Clause 1 or 2 of this Law (except for the case when the extension of the time limit is determined), has taken the decision by which it recognises that the particular activity referred to in Section 3, 4, 5, 6, or 7 of this Law is performed in Latvia under the conditions of free competition;

2) if the requirements of the laws and regulations of the relevant sector referred to in Paragraph two of this Section are not applied in order to establish that the activities referred to in Section 3, 4, 5, 6, or 7 of this Law are regarded to be performed under the conditions of free competition, the European Commission shall, within the time limit stipulated thereby which is not less than 130 working days from the day when it, upon receipt of the requirement referred to in Section 85, Paragraph one, Clause 1 or 2 of this Law (except for the case when the extension of the time limit is determined), has taken the decision by which it recognises that the particular activity referred to in Section 3, 4, 5, 6, or 7 of this Law is performed in Latvia under the conditions of free competition;

3) the European Commission has not taken a decision within the time limit referred to in Clause 1 or 2 of this Paragraph.

(5) The ministry responsible for the sector or the public service provider may significantly amend its claim upon consent of the European Commission, especially in relation to the activities or particular geographic regions. If the ministry responsible for the sector or the public service provider significantly amend its claim, the claim shall be regarded to be submitted anew and shall be examined within the time limits referred to in Paragraph four of this Section, unless the ministry responsible for the sector or the public service provider has agreed on a shorter time limit for the examination thereof.

(6) If the responsible ministry of the relevant sector or the public service provider fails to append the opinion of the authority competent for monitoring of the relevant activity referred to in Section 3, 4, 5, 6, or 7 of this Law to the request, it shall be the basis for the extension of the time limits referred to in Paragraph four, Clauses 1 and 2 of this Section for 15 working days.

(7) The time limits referred to in Paragraph four, Clauses 1 and 2 and Paragraph six of this Section shall start on the next working day after the day when the European Commission has received all the necessary information. If the requested information is incomplete, the counting of the time limits shall start on the next working day after submission of complete information. The time limits referred to in Paragraph four, Clauses 1 and 2 of this Section may be extended if the ministry responsible for the sector or the public service provider has agreed thereon with the European Commission.

(8) The ministry responsible for the sector, the public service provider, and the competent authorities shall provide the opinion, supplement or clarify the submitted information upon request of the European Commission within the time limit stipulated thereby. Provision of delayed or incomplete replies provides the grounds to suspend the counting of the time limits referred to in Paragraph four Clauses 1 and 2 and Paragraph six of this Section from expiry of the time limit specified in the information request until receipt of complete and correct information in the European Commission.

**Section 85. Submission of a Claim to the European Commission**

(1) In order to apply Section 10, Paragraph one, Clause 14 of this Law:

1) the ministry responsible for the sector is entitled to take a decision that the particular activity referred to in Section 3, 4, 5, 6, or 7 of this Law is performed in Latvia under the conditions of free competition. The relevant ministry shall notify the European Commission on the decision taken, requesting an evaluation and recognition that the particular activity referred to in Section 3, 4, 5, 6, or 7 of this Law is performed in Latvia under the conditions of free competition;

2) the public service provider is entitled to submit a claim to the European Commission that it recognises that the particular activity referred to in Section 3, 4, 5, 6, or 7 of this Law is performed in Latvia under the conditions of free competition.

(2) The criteria according to which the ministry responsible for the sector or the public service provider shall evaluate whether the particular activity referred to in Section 3, 4, 5, 6, or 7 of this Law is performed in Latvia under the conditions of free competition, and also the contents of the claims referred to in Paragraph one of this Section and the procedures by which they shall be submitted to the European Commission shall be determined by the Cabinet.

(3) If during examination of a claim, a new claim is submitted regarding the same object, it shall be examined concurrently with the previously submitted claim within the scope of one procedure.

**Section 86. Co-operation with the European Commission**

If a public service provider has submitted a claim to the European Commission to which the opinion of the authority competent for monitoring of the particular activity is not appended, the ministry responsible for the sector, upon request of the European Commission, shall provide the necessary information thereto by appending, where possible, the opinion of the authority competent for monitoring of the particular activity.

**Chapter XVII. Other Provisions**

**Section 87. Procedures for the Enforcement of the Decision on the Prohibition to Hold Offices of Public Officials**

[5 December 2019 / See Paragraph 10 of Transitional Provisions]

**Section 88. Application of the Works Contract Vocabulary**

If the CPV data of the procurement vocabulary referred to in Annex 1 to this Law differ from the NACE nomenclature which is specified in Commission Regulation (EC) No 29/2002 of 19 December 2001 amending Council Regulation (EEC) No 3037/90 on the statistical classification of economic activities in the European Community, the relevant CVP nomenclature shall be applied.

**Section 89. Electronic Invoices**

A public service provider shall accept an electronic invoice conforming to the laws and regulations regarding the applicable standard of an electronic invoice and the specifications for the use of its key elements and the procedures for its handling, and, if it is provided for in the procurement contract, shall include additional elements according to the abovementioned laws and regulations. The Cabinet shall determine the applicable standard for an electronic invoice and the specifications for the use of its key elements and the procedures for its handling.

[*21 February 2019* / *See Paragraph 9 of Transitional Provisions*]

**Chapter XVIII. Administrative Offences in the Field of Procurements of Public Service Providers and Competence in the Administrative Offence Proceedings**

[*5 December 2019 /* *Chapter shall come into force on 1 July 2020.* *See Paragraph 10 of Transitional Provisions*]

**Section 90. Unlawful Conclusion of a Contract**

(1) For conclusion of a procurement contract or a framework agreement or for the performance of any other such transaction which conforms to the nature of a procurement contract or a framework agreement, if the procurement procedure specified in this Law or other procedures for the contract awarding laid down in this Law which had to be applied have not been applied, a fine from thirty to two hundred and forty units of fine shall be imposed.

(2) For conclusion of a procurement contract or a framework agreement if inappropriately selected procurement procedure or other procedures for the contract awarding laid down in this Law have been applied, a fine from thirty to two hundred and forty units of fine shall be imposed.

(3) For conclusion of a procurement contract or a framework agreement if the notice specified in this Law has not been published on the website of the Procurement Monitoring Bureau and in the Official Journal of the European Union, if it should have been posted on both websites upon commencement of the procurement, a fine from thirty to two hundred and forty units of fine shall be imposed.

(4) For the activities referred to in Paragraph one, two, or three of this Section if the contract price of the concluded procurement contract or framework agreement or of other transaction performed is EUR 145 000 or more, a fine from seventy to four hundred units of fine and a prohibition to exercise rights – a prohibition to hold such offices for the time period from one to two years the duties of which include taking of decisions in the field of public procurements and public-private partnership or conclusion of procurement contracts, framework agreements, partnership procurement contracts, or concession contracts – shall be imposed.

[*5 December 2019* / *Section shall come into force on 1 July 2020.* *See Paragraph 10 of Transitional Provisions*]

**Section 91. Failure to Conform to the Provisions for the Prevention of a Conflict of Interests**

(1) For failure to ensure the signing of the certification specified in this Law on non-existence of such circumstances due to which it could be regarded that the person preparing the procurement procedure documents, members of the procurement commission, or experts are interested in the selection or activity of a particular candidate or tenderer, or are related to a particular candidate or tenderer, a warning or a fine from fourteen to seventy units of fine shall be imposed.

(2) For failure to conform to the prohibition specified in this Law in relation to the officials and employees of the public service provider who are preparing the procurement procedure documents, to the members of the procurement commission and experts to represent the interests of a candidate or tenderer, and also for failing to conform to the prohibition to be related to a candidate or tenderer, a fine from fourteen to one hundred and forty units of fine shall be imposed.

[*5 December 2019* / *Section shall come into force on 1 July 2020.* *See Paragraph 10 of Transitional Provisions*]

**Section 92. Failure to Conform to the Provisions for the Exclusion of Candidates and Tenderers, the Requirements for Their Selection, and the Requirements of Technical Specifications**

(1) For failure to conform to the provisions for the exclusion of candidates and tenderers specified in this Law if the candidate or tenderer has been unjustifiably excluded or has not been unjustifiably excluded from participation in the procurement and it has affected the decision on the results of candidate selection or the decision on awarding the contract, a fine from fourteen to seventy units of fine shall be imposed.

(2) For failure to conform to the requirements for the selection of candidates and tenderers or the requirements of technical specifications laid down in the procurement procedure documents if the application of the candidate or tender of the tenderer has been unjustifiably rejected or unjustifiably recognised as non-conforming to the requirements laid down in the procurement procedure documents and it has affected the decision on the results of candidate selection or the decision on awarding the contract, a fine from fourteen to seventy units of fine shall be imposed.

[*5 December 2019* / *Section shall come into force on 1 July 2020.* *See Paragraph 10 of Transitional Provisions*]

**Section 93. Failure to Conform to the Provisions for the Conclusion of a Procurement Contract and a Framework Agreement and for the Making Amendments Thereto**

(1) For conclusion of a procurement contract or a framework agreement if the waiting period specified in this Law has not been conformed to, however, it should have been conformed to, a fine from thirty to two hundred and forty units of fine shall be imposed.

(2) For conclusion of a procurement contract or a framework agreement if the prohibition specified in this Law to conclude s procurement contract or a framework agreement after the Procurement Monitoring Bureau has received a complaint on violations of the procurement procedure, or the prohibition stipulated by the complaint examination commission of the Procurement Monitoring Bureau to conclude the relevant procurement contract or framework agreement has not been conformed to, a fine from thirty to two hundred and forty units of fine shall be imposed.

(3) For conclusion of a procurement contract or a framework agreement if the provisions provided for in the procurement procedure documents have not been included or different provisions have been included therein, and if such possibility has not been provided for in the procurement procedure documents in accordance with the requirements of this Law or other provisions for amending a procurement contract and a framework agreement specified in this Law have not been conformed to, a fine from thirty to two hundred and forty units of fine shall be imposed.

(4) For making amendments to a procurement contract or the text of a framework agreement if the provisions for amending a procurement contract or a framework agreement specified in this Law have not been conformed to, a fine from thirty to two hundred and forty units of fine shall be imposed.

(5) For the activities referred to in Paragraph one, two, three, or four of this Section if the contract price of the concluded procurement contract or framework agreement or the total contract price of amendments is EUR 145 000 or more, a fine from seventy to four hundred units of fine and a prohibition to exercise rights – a prohibition to hold such offices for the time period from one to two years the duties of which include taking of the decisions in the field of public procurements and public-private partnership or conclusion of procurement contracts, framework agreements, partnership procurement contracts, or concession contracts – shall be imposed.

[*5 December 2019* / *Section shall come into force on 1 July 2020.* *See Paragraph 10 of Transitional Provisions*]

**Section 94. Failure to Provide Documents and Information**

(1) For failure to conform to the provisions included in this Law and the laws and regulations issued on the basis of this Law during preparation of applications, tenders, or designs or establishment or maintenance of the qualification system in relation to ensuring the accessibility of the procurement procedure documents, the issuing of the procurement procedure documents, or the provision of additional information, a warning or a fine from fourteen to seventy units of fine shall be imposed.

(2) For failure to conform to the procedures by which candidates, tenderers, and participants of a design contest shall be informed of the results of a procurement or economic operators shall be informed of their inclusion in the qualification system or exclusion therefrom, a warning or a fine from fourteen to seventy units of fine shall be imposed.

(3) For failure to conform to the requirements in relation to the issuing of the minutes of the procurement commission, and also failure to conform to the requirements for the preparation, publishing, or issuing of the procurement procedure or design contest report, a warning or a fine from fourteen to seventy units of fine shall be imposed.

(4) For failure to publish the procurement contract, framework agreement, or amendments thereto, a warning or a fine from fourteen to seventy units of fine shall be imposed.

(5) For failure to submit a statistical report within the time period specified in this Law or for the submission of an incomplete report, a warning or a fine from fourteen to seventy units of fine shall be imposed.

[*5 December 2019* / *Section shall come into force on 1 July 2020.* *See Paragraph 10 of Transitional Provisions*]

**Section 95. Competence within the Administrative Offence Proceedings**

Administrative offence proceedings for the offences referred to in Sections 90, 91, 92, 93, and 94 of this Law shall be conducted by the Procurement Monitoring Bureau.

[*5 December 2019* / *Section shall come into force on 1 July 2020.* *See Paragraph 10 of Transitional Provisions*]

**Section 96. Procedures for the Execution of the Decision to Prohibit the Exercising of the Right to Hold Offices**

(1) The Procurement Monitoring Bureau shall, within one working day after the decision in an administrative offence case has been communicated to the person upon whom a prohibition to exercise the rights has been imposed – the prohibition to hold such offices the duties of which include taking of the decisions in the field of public procurements and public-private partnership or conclusion of procurement contracts, framework agreements, partnership procurement contracts, or concession contracts, inform all the authorities known to the Procurement Monitoring Bureau in which the relevant person holds such office, and also the higher authorities of such authorities (except for the case when there is no higher authority or the Cabinet is the higher authority) or owners or holders of capital shares, if the relevant authority is a capital company, of the decision taken.

(2) The Procurement Monitoring Bureau shall, within three working days after receipt of the information on the fact that the decision in the administrative offence case in which a prohibition to exercise the rights has been imposed – the prohibition to hold such offices the duties of which include taking of the decisions in the field of public procurements and public-private partnership or conclusion of procurement contracts, framework agreements, partnership procurement contracts, or concession contracts, has entered into effect, send the relevant information to the authorities referred to in Paragraph one of this Section, and also publish on the publication management system the given name, surname, personal identity number of the person held administratively liable and the time period for execution of the penalty. The abovementioned information shall be available in the publication management system for the users registered therein for the performance of the duties specified in the law until the day when the enforcement of the penalty ends.

(3) The authority in which the person upon whom a prohibition to exercise the rights has been imposed – the prohibition to hold such offices the duties of which include taking of the decisions in the field of public procurements and public-private partnership or conclusion of procurement contracts, framework agreements, partnership procurement contracts, or concession contracts, holds such offices, has an obligation to ensure that after entering into effect of the decision in the administrative offence case the relevant person does not hold such office, does not take the decisions, and does not conclude contracts.

[*5 December 2019* / *Section shall come into force on 1 July 2020.* *See Paragraph 10 of Transitional Provisions*]

**Transitional Provisions**

1. With the coming into force of this Law, the Law on the Procurements of Public Service Providers (*Latvijas Vēstnesis*, 2010, No. 140; 2013, No. 188, 191; 2015, No. 107; 2016, No. 57, 95) is repealed.

2. If, unless it is laid down otherwise in Paragraph 3 of Transitional Provisions, the procurement or the procurement procedure has been announced or the decision on commencement of the procurement or the procurement procedure, if it is not required to announce the procurement or the procurement procedure, has been taken prior to the day of coming into force of this Law, then the procurement or the procurement procedure shall be completed, including contested or appealed, in accordance with the provisions of the law which was in force on the day of announcement of the relevant procurement or the procurement procedure or taking of the decision on commencement thereof, except for the provisions included in Section 33, Paragraph two, Section 34, Paragraph two, Section 36, Paragraph five, Section 38, and Section 39, Paragraph one of this Law. The framework agreements concluded shall be administered in accordance with the provisions of the law which was in force on the day of announcement of the relevant procurement or the procurement procedure and as a result whereof the framework agreement was concluded.

3. The provisions of Section 48, Paragraph one, Clause 6 and Clause 7, Sub-clause “b” of this Law shall also be referred to those procurement procedures and procurements (if it has been intended to apply the relevant provisions of Section 48 of this Law) which had been announced until 31 March 2017, unless the candidate or tenderer has not been excluded from participation in the procurement procedure or procurement until 31 March 2017. Section 42, Paragraph one, Clauses 2 and 3 of the Law on the Procurements of Public Service Providers which was in force until 31 March 2017 shall not be applied to the procurement procedures or procurements which had been announced until 31 March 2017, unless the candidate or tenderer has not been excluded from participation in the procurement procedure until 31 March 2017.

4. Section 44, Paragraph one of this Law shall be applied:

1) in relation to the procurement procedures implemented by the central purchasing bodies where the estimated contract price is equal to or higher than the thresholds of contract prices stipulated by the Cabinet – starting from 18 April 2017;

2) in relation to the procurement procedures where the estimated contract price is equal to or higher than the contract price thresholds stipulated by the Cabinet – starting from 1 October 2017.

5. The Procurement Monitoring Bureau shall publish in the publication management system the information referred to in Section 87, Paragraph three of this Law on all decisions in the administrative offence cases in the field of public procurements and public-private partnership, where the prohibition is imposed to hold the offices of a public official, which have entered into effect and the execution whereof has not been terminated.

6. If the decision taken in the administrative offence case in the field of public procurements and public-private partnership where the prohibition is imposed to hold the offices of a public official has been communicated to the person who has been held administratively liable prior to coming into force of this Law and it has not yet come into force, the Procurement Monitoring Bureau shall fulfil the duty referred to in Section 87, Paragraph one of this Law in relation to such decision by 10 April 2017.

7. The public service providers shall submit the statistical reports for 2016, applying Cabinet Regulation No. 121 of 1 March 2016, Regulations Regarding the Templates for Official Statistical Forms in the Field of Procurement and the Procedures for Submitting and Completing the Forms.

8. [30 April 2020]

9. Section 65, Paragraph two, Clause 8.1 and Section 89 of this Law shall be applied to the payment of such procurement contracts for which the procurement or the procurement procedure has been announced or the decision on commencement of the procurement or the procurement procedure, if it is not required to announce the procurement or the procurement procedure, has been taken starting from 18 April 2020.

[*21 February 2019*]

10. Amendment to this Law which provides for the replacement of the words “prohibition to hold the office of public official” with the words “prohibition to exercise rights – a prohibition to hold such offices the duties of which include taking the decisions in the field of public procurements and public-private partnership or conclusion of procurement contracts, framework agreements, partnership procurement contracts, or concession contracts” in Clause 26 of Section 1, amendment regarding the rewording of Section 29, Paragraph one, amendment regarding the exclusion of Section 87, and Chapter XVIII shall come into force concurrently with the Law on Administrative Liability.

[*5 December 2019*]

**Informative Reference to Directives of the European Union**

[*21 February 2019*]

This Law contains norms arising from:

1) Council Directive 92/13/EEC of 25 February 1992 co-ordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors;

2) Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts;

3) Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles;

4) Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC;

5) Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement.

This Law shall come into force on 1 April 2017.

This Law has been adopted by the *Saeima* on 2 February 2017.

President R. Vējonis

Rīga, 16 February 2017

Law on the Procurement of Public Service Providers

**Annex 1**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Works Contract Vocabulary** | | | | | |
| **Classification of Economic Activities in the European Union (NACE)** | | | | | **CPV code** |
| SECTION F | | | CONSTRUCTION | |
| Division | Group | Class | Subject | Notes |
| 45 |  |  | Construction | This division includes:  construction of new buildings and construction work, restoration and common repairs | 45000000 |
|  | 45.1 |  | Site preparation |  | 45100000 |
|  |  | 45.11 | Demolition and wrecking of buildings; earth moving | This class includes:  1) demolition of buildings and other structures;  2) clearing of building sites;  3) earth moving: excavation, landfill, levelling and grading of construction sites, trench digging, rock removal, blasting, etc.;  4) site preparation for mining: overburden removal and other development and preparation of mineral properties and sites.  This class also includes:  1) building site drainage;  2) drainage of agricultural or forestry land. | 45110000 |
|  |  | 45.12 | Test drilling and boring | This class includes: test drilling, test boring and core sampling for construction, geophysical, geological or similar purposes.  This class excludes:  1) drilling of production oil or gas wells,  see 11.20;  2) water well drilling,  see 45.25;  3) shaft sinking,  see 45.25;  4) oil and gas field exploration, geophysical, geological and seismic surveying,  see 74.20. | 45120000 |
|  | 45.2 |  | Building of complete constructions or parts thereof; civil engineering |  | 45200000 |
|  |  | 45.21 | General construction of buildings and civil engineering works | This class includes:  1) construction of all types of buildings construction and civil engineering constructions;  2) bridges, including those for elevated highways, viaducts, tunnels and subways;  3) long-distance pipelines, communication and power lines;  4) urban pipelines, urban communication and power lines;  5) ancillary urban work;  6) assembly and erection of prefabricated constructions on the site.  This class excludes:  1) service activities incidental to oil and gas extraction,  see 11.20;  2) erection of complete prefabricated constructions from self-manufactured parts not of concrete,  see divisions 20, 26 and 28;  3) construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations;  see 45.23;  4) building installation,  see 45.3;  5) building completion,  see 45.4;  6) architectural and engineering activities,  see 74.20;  7) project management for construction,  see 74.20. | 45210000  Excluding:  45213316  45220000  45231000  45232000 |
|  |  | 45.22 | Erection of roof covering and frames | This class includes:  1) erection of roofs;  2) roof covering;  3) waterproofing. | 45261000 |
|  |  | 45.23 | Construction of highways, roads, airfields and sport facilities | This class includes:  1) construction of highways, streets, roads and other vehicular and pedestrian ways;  2) construction of railways;  3) construction of airfield runways;  4) construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations;  5) painting of markings on road surfaces and car parks.  This class excludes preliminary earth moving,  see 45.11 | 45212212  and DA03  45230000  Excluding:  45231000  45232000  45234115 |
|  |  | 45.24 | Construction of water projects | This class includes:  1) construction of waterways, harbour and river works, pleasure ports (marinas), locks, etc.;  2) dams and dykes;  3) dredging;  4) subsurface work. | 45240000 |
|  |  | 45.25 | Other construction work involving special trades | This class includes:  1) construction activities specialising in one aspect common to different kinds of structures, requiring specialised skill or equipment;  2) construction of foundations, including pile driving;  3) water well drilling and construction, shaft sinking;  4) assembly of non-self-manufactured steel elements;  5) steel bending;  6) bricklaying and stone setting;  7) scaffolds and work platform erecting and dismantling, including renting of scaffolds and work platforms;  8) erection of chimneys and industrial ovens.  This class excludes renting of scaffolds without erection and dismantling,  see 71.32 | 45250000  45262000 |
|  | 45.3 |  | Building installation |  | 45300000 |
|  |  | 45.31 | Installation of electrical wiring and fittings | This class includes installation in buildings or other construction projects of:  1) electrical wiring and fittings;  2) telecommunications systems;  3) electrical heating systems;  4) residential antennae;  5) fire alarms;  6) burglar alarm systems;  7) lifts and escalators;  8) lightning conductors, etc. | 45213316  45310000  Excluding:  45316000 |
|  |  | 45.32 | Insulation work activities | This class includes installation in buildings or other construction projects of thermal, sound or vibration insulation.  This class excludes waterproofing,  see 45.22 | 45320000 |
|  |  | 45.33 | Plumbing | This class includes installation in buildings or other construction projects of:  1) plumbing and sanitary equipment;  2) gas fittings;  3) heating,  ventilation, refrigeration or air-conditioning equipment and ducts;  4) sprinkler systems.  This class excludes installation of electrical heating systems,  see 45.31 | 45330000 |
|  |  | 45.34 | Other building installation | This class includes:  1) installation of illumination and signalling systems for roads, railways, airports and harbours;  2) installation in buildings or other construction projects of fittings and fixtures not elsewhere classified | 45234115  45316000  45340000 |
|  | 45.4 |  | Building completion |  | 45400000 |
|  |  | 45.41 | Plastering | This class includes application in buildings or other construction projects of interior and exterior plaster or stucco, including related lathing materials. | 45410000 |
|  |  | 45.42 | Joinery installation | This class includes:  1) installation of not self-manufactured doors, windows, door and window frames, fitted kitchens, staircases, shop fittings and the like, of wood or other materials;  2) interior completion (ceilings, wooden wall coverings, movable partitions, etc.).  This class excludes laying of parquet and other wood floor coverings,  see 45.43 | 45420000 |
|  |  | 45.43 | Floor and wall coverings | This class includes laying, tiling, hanging or fitting in buildings or other construction projects of:  1) ceramic, concrete or cut stone floor or wall tiles;  2) parquet and other wood floor coverings carpets and linoleum floor coverings (including of rubber or plastic);  3) terrazzo, marble, granite or slate floor or wall coverings;  4) wallpaper. | 45430000 |
|  |  | 45.44 | Painting and glazing | This class includes:  1) interior and exterior painting of buildings;  2) painting of civil engineering structures;  3) installation (glass, mirrors, etc.).  This class excludes installation of windows,  see 45.42 | 45440000 |
|  |  | 45.45 | Other building completion | This class includes:  1) installation of private swimming pools;  2) steam cleaning, sand blasting and similar activities for building exteriors;  3) other building completion and finishing work not elsewhere classified.  This class excludes interior cleaning of buildings and other structures,  see 74.70 | 45212212  and DA04  45450000 |
|  | 45.5 |  | Renting of construction or demolition equipment with operator |  | 45500000 |
|  |  | 45.50 | Renting of construction or demolition equipment with operator | This class excludes renting of construction or demolition machinery and equipment without operators,  see 71.32 | 45500000 |

Law On the Procurement of Public Service Providers

**Annex 2**

**Social and other special services**

|  |  |  |
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| No. | Description | CPV code |
| 1. | Health, social and related services | 75200000-8, 75231200-6, 75231240-8, 79611000-0, 79622000-0 (supply services of domestic help personnel), 79624000-4 (supply services of nursing personnel), 79625000-1 (supply services of medical personnel), from 85000000-9 to 85323000-9, 98133100-5, 98133000-4, 98200000-5, 98500000-8 (private households with employed persons), from 98513000-2 to 98514000-9 (manpower services for households, agency staff services for households, clerical staff services for households, temporary staff for households, home-help services and domestic services) |
| 2. | Administrative, social, educational, health care and cultural services | 85321000-5, 85322000-2, 75000000-6 (administration, defence and social security services), 75121000-0, 75122000-7, 75124000-1, from 79995000-5 to 79995200-7, from 80000000-4 (education and training services) to 80660000-8, from 92000000-1 to 92700000-8, 79950000-8 (exhibition, fair and congress organisation services), 79951000-5 (seminar organisation services), 79952000-2 (event organisation services), 79952100-3 (cultural event organisation services), 79953000-9 (festival organisation services), 79954000-6 (party organisation services), 79955000-3 (fashion shows organisation services), 79956000-0 (fair and exhibition organisation services) |
| 3. | Compulsory social security services | 75300000-9 |
| 4. | Benefit services | 75310000-2, 75311000-9, 75312000-6, 75313000-3, 75313100-4, 75314000-0, 75320000-5, 75330000-8, 75340000-1 |
| 5. | Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services | 98000000-3, 98120000-0, 98132000-7, 98133110-8 and 98130000-3 |
| 6. | Religious services | 98131000-0 |
| 7. | Hotel and restaurant services | From 55100000-1 to 55410000-7, from 55521000-8 to 55521200-0 (55521000-8 catering services for private households, 55521100-9 meals-on-wheels services, 55521200-0 meal delivery service), 55520000-1 (catering services), 55522000-5 (catering services for transport enterprises), 55523000-2 (catering services for other enterprises or other institutions), 55524000-9 (school catering services), 55510000-8 (canteen services), 55511000-5 (canteen and other restricted-clientele cafeteria services), 55512000-2 (canteen management services), 55523100-3 (school-meal services) |
| 8. | Legal services | From 79100000-5 to 79140000-7, 75231100-5 |
| 9. | Other administrative services and government services | From 75100000-7 to 75120000-3, 75123000-4, from 75125000-8 to 75131000-3 |
| 10. | Provision of services to the community | From 75200000-8 to 75231000-4 |
| 11. | Prison related services, public security and rescue services, provided that they are not to be excluded in accordance with Section 10, Paragraph one, Clause 13 of this Law | From 75231210-9 to 75231230-5, from 75240000-0 to 75252000-7, 794300000-7, 98113100-9 |
| 12. | Investigation and security services | From 79700000-1 to 79721000-4 (investigation and security services, security services, alarm-monitoring services, guard services, surveillance services, tracing system services, absconder-tracing services, patrol services, identification badge release services, investigation services and detective agency services) 79722000-1 (graphology services), 79723000-8 (waste analysis services) |
| 13. | International services | 98900000-2 (services provided by extra-territorial organisations and bodies) and 98910000-5 (services specific to international organisations and bodies) |
| 14. | Postal services | 64000000-6 (postal and telecommunications services), 64100000-7 (post and courier services), 64110000-0 (postal services), 64111000-7 (postal services related to newspapers and periodicals), 64112000-4 (postal services related to letters), 64113000-1 (postal services related to parcels), 64114000-8 (post office counter services), 64115000-5 (mailbox rental), 64116000-2 (post-restante services), 64122000-7 (internal office mail and messenger services) |
| 15. | Miscellaneous services | 50116510-9 (tyre-remoulding services), 71550000-8 (blacksmith services) |