

Latvia

Regulations Regarding the Institution Determined in the National Security Law, the Scope of Information to be Submitted, the Procedures for Submission Thereof, and the Evaluation of the Submitted Information, and also the Taking and Notification of the Decision Determined in the National Security Law (2017)

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Regulation No. 606

Republic of Latvia

Cabinet

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Adopted 3 October 2017

Regulations Regarding the Institution Determined in the National Security Law, the Scope of Information to be Submitted, the Procedures for Submission Thereof, and the Evaluation of the Submitted Information, and also the Taking and Notification of the Decision Determined in the National Security Law

Issued pursuant to

Section 39, Paragraph four and Section 44, Paragraph eight of the National Security Law

1. This Regulation prescribes:

1.1. the institution:

1.1.1. where the information shall be submitted regarding shareholders, stockholders of a commercial company significant for the national security, and persons who exercise indirect holding (voting rights) therein, or members thereof, and also the actual beneficiaries – natural persons who have direct or indirect qualifying holding in this commercial company;

1.1.2. where an application for receipt of the Cabinet permit (hereinafter – the application) shall be submitted:

1.1.2.1. for the transfer of such especially important critical infrastructure of State level (Category A critical infrastructure) into the possession or ownership of another person the destruction of or reduction of operational capabilities of which significantly endangers State administration and national security;

1.1.2.2. for the transfer of such important critical infrastructure of State level (Category B critical infrastructure) into the possession or ownership of another person the destruction of or reduction of operational capabilities of which hinders State administration and endangers public and national security;

1.1.2.3. for the transfer of European critical infrastructure into the possession or ownership of another person;

1.1.2.4. before a person or several persons who act in a coordinated manner acquire qualifying holding or decisive influence in a commercial company significant for the national security, or become a member of such commercial company, or acquires influence in a capital company registered in the Republic of Latvia that is a member of a commercial company significant for the national security;

1.1.2.5. to maintain holding or remain a member in a commercial company significant for the national security if the actual beneficiary thereof changes. The relevant application shall be submitted by a shareholder, a stockholder of a commercial company significant for the national security, a person who exercises indirect holding (voting rights) therein or a member thereof;

1.1.2.6. for the transfer of a company as a result of which another person acquires a company into the ownership from a capital company significant for the national security, and this company includes assets that are used to perform an activity which forms the basis for the recognition of a commercial company as a commercial company significant for the national security;

1.2. the scope of information to be provided by a commercial company significant for the national security, and also the procedures for submission and evaluation of such information;

1.3. the procedures for taking of a decision to issue or refuse to issue a permit and a decision by which an obligation is imposed upon a shareholder, a stockholder of a commercial company, a person who exercises indirect holding (voting rights) therein or a member thereof to dispose of equity capital shares or stocks respectively, or terminate the indirect holding (voting rights), or withdraw from the commercial company within the set period of time, and also the procedures for notification of the said decisions and the information to be included in the notification.

2. A commercial company significant for the national security shall submit the following information to the Ministry of Economics in accordance with Section 39, Paragraph one, Clause 4 of the National Security Law:

2.1. all commercial companies:

2.1.1. the firm name, registration number and legal address;

2.1.2. the information regarding the compliance with the conditions referred to in Section 37 of the National Security Law;

2.1.3. the list of actual beneficiaries in accordance with Section 39, Paragraph one, Clause 4 of the National Security Law. If any of the conditions referred to in Section 39, Paragraph three of the National Security Law occur, the information regarding the actual beneficiary may be indicated according to the relevant Paragraph;

2.1.4. the information regarding the concluded group of companies contracts;

2.1.5. any other information relevant to activity of this company as a commercial company significant for the national security and not required as mandatory information;

2.2. a joint stock company:

2.2.1. the information regarding its equity capital, the total number of stocks and nominal value thereof, class of stocks and stocks with voting rights;

2.2.2. the information regarding stockholders:

2.2.2.1. the stockholders with registered stocks registered with the register of stockholders;

2.2.2.2. the list of stockholders with bearer stocks received from the Latvian Central Depository at the last meeting of stockholders, and also the information regarding notifications submitted by stockholders after the last meeting of stockholders in accordance with Section 61, Paragraph one of the Financial Instrument Market Law;

2.2.3. the information regarding persons who exercise indirect holding (voting rights);

2.2.4. the information regarding an agreement concluded between stockholders on the exercising of stockholders' rights in the governance of a company;

2.3. a limited liability company:

2.3.1. the information regarding equity capital, the total number of capital shares and nominal value thereof, and also voting rights;

2.3.2. the information regarding the register of shareholders;

2.3.3. the information regarding an agreement concluded between shareholders on the exercising of shareholders' rights in the governance of a company;

2.3.4. the information regarding persons who exercise indirect holding (voting rights);

2.4. a partnership:

2.4.1. the list of members by indicating rights and obligations thereof;

2.4.2. a partnership contract if such has been concluded.

3. By providing the information referred to in Paragraph 2 of this Regulation the following shall be indicated: for a legal person – name, registration number and legal address or country of residence if the legal address is unknown, for a natural person – given name, surname, personal identification number or other personal data, address or country of residence if the address is unknown, and citizenship if it is known.

4. If the application is submitted for the receipt of the permit referred to in Section 22.2, Paragraph seven or Section 40, Paragraph one of the National Security Law, an acquirer shall:

4.1. provide the information indicated in Paragraph 3 of this Regulation if he or she is a natural person;

4.2. provide the information indicated in Paragraphs 2 and 3 of this Regulation if he or she is a legal person.

5. If the application is submitted for the receipt of the permit referred to in Section 41, Paragraph one of the National Security Law, the information referred to in Paragraph 3 of this Regulation shall be indicated in the application with regard to the actual beneficiary. If any of the conditions referred to in Section 39, Paragraph three of the National Security Law occur, the information regarding the actual beneficiary may be indicated according to the relevant Clause.

6. If the application is submitted for the receipt of the permit referred to in Section 42, Paragraph one of the National Security Law, a commercial company significant for the national security shall submit the information indicated in Paragraphs 2 and 3 of this Regulation with regard to an acquirer of the company.

7. If a person may not submit the information referred to in Paragraph 2, 3, 4, 5 or 6 of this Regulation, this person shall indicate the grounds for the failure to submit the said information to the Ministry of Economics. The person shall be obliged to provide the information according to this Regulation as soon as possible.

8. The Ministry of Economics and the State security institutions may request additional information and documents from the applicant which are necessary for evaluation of the application, and also an explanation if the information at the disposal of the Ministry of Economics does not comply with the requirements laid down in this Regulation or the National Security Law.

9. The Ministry of Economics shall immediately send the received application to the State security institutions for provision of an opinion. The State security institutions shall indicate in the opinion whether the issuing of the permit threatens interests of the national security.

10. A draft decision to issue or refuse to issue the permit, and also regarding an obligation of the person who has not received the permit to maintain holding or remain a member in a commercial company dispose of his or her equity capital shares or stocks, or terminate the indirect holding (voting rights), or withdraw from the commercial company shall be prepared by the Ministry of Economics, and the Minister for Economics shall submit it to the Cabinet for examination as a matter of urgency.

11. The Cabinet shall take a decision to refuse to issue the permit if:

11.1. the issuing of the permit threatens interests of the national security;

11.2. the person who has submitted the application has failed to submit additional information or documents necessary for preparation of opinion of the State security institutions within the period of time set by the Ministry of Economics and the State security institutions;

11.3. The Ministry of Economics or the State security institutions establish that they have been provided with false information.

12. The Ministry of Economics shall notify of the Cabinet decision in accordance with the Law on Notification. If the Cabinet decision contains an official secret, the Ministry of Economics shall notify of the decision in a form of extract by including the parts of the decision in the extract which do not contain the official secret.

Prime Minister Māris Kučinskis

Deputy Prime Minister, Minister for Economics Arvils Ašeradens

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