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Chancellor of Justice Act

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12.06.2013	RT I, 03.07.2013, 2	01.10.2013

Chapter 1 GENERAL PROVISIONS

§ 1. Duties of Chancellor of Justice

(1) The Chancellor of Justice is in his or her activities an independent official who reviews the legislation of general application of the legislative and executive powers and of local governments for conformity with the Constitution of the Republic of Estonia (*hereinafter the Constitution*) and the Acts of the Republic of Estonia.

(2) The Chancellor of Justice shall analyse the proposals made to him or her concerning the amendment of Acts, passage of new Acts and activities of state agencies, and, if necessary, present reports to the *Riigikogu*.

(3) The Chancellor of Justice shall make a proposal to the *Riigikogu* that criminal charges be brought against a member of the *Riigikogu*, the President of the Republic, a member of the Government of the Republic, the Auditor General, the Chief Justice of the Supreme Court or a justice of the Supreme Court pursuant to law.

(3¹) The Chancellor of Justice shall make a proposal to the President of the European Parliament to waive immunity prescribed by the Protocol on the privileges and immunities of the European Communities from Members of the European Parliament elected from Estonia.

(4) The Chancellor of Justice submits a request to the Supreme Court *en bancto* declare of the President of the Republic incapable of performing his or her duties for an indeterminate period.

(5) The Chancellor of Justice resolves discrimination disputes which arise between persons in private law on the basis of the Constitution and other Acts.

(6) The Chancellor of Justice exercises supervision over the compliance of the legislation with international agreements.

[RT I 2007, 11, 52 - entry into force 18.02.2007]

(7) The Chancellor of Justice is the national preventive mechanism provided for in Article 3 of the Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

[RT I 2007, 11, 52 - entry into force 18.02.2007]

(8) The Chancellor of Justice performs the functions of protection of the rights of children and promotion thereof according to Article 4 of the Convention on the Rights of the Child.

[RT I, 09.03.2011, 1 - entry into force 19.03.2011]

(9) The Chancellor of Justice exercises supervision over observance of fundamental rights and freedoms in organisation of covert collection of personal data and information related thereto, processing, use and supervision thereof by authorities of executive power.

[RT I, 22.12.2014, 2 - entry into force 01.01.2015]

§ 2. Participation of Chancellor of Justice in sessions of *Riigikogu* and Government of the Republic

(1) The Chancellor of Justice may participate in sessions of the *Riigikogu* and the Government of the Republic with the right to speak.

(2) Agendas of sessions of the *Riigikogu* and the Government of the Republic together with the draft legislation to be debated shall be sent to the Chancellor of Justice.

§ 3. Interpellations of members of *Riigikogu*

The Chancellor of Justice shall reply to the interpellations of members of the *Riigikogu* pursuant to the procedure provided by law.

§ 4. Overview of Chancellor of Justice to *Riigikogu*

The Chancellor of Justice shall present an annual report to the *Riigikogu* once a year on the performance of the duties which have been assigned to him or her by this Act.

[RT I, 29.05.2012, 2 - entry into force 08.06.2012]

Chapter 2

STATUS OF CHANCELLOR OF JUSTICE

§ 5. Appointment of Chancellor of Justice to office

The Chancellor of Justice shall be appointed to the office by the *Riigikogu* on the proposal of the President of the Republic for a term of seven years.

§ 6. Requirements for Chancellor of Justice

(1) The Chancellor of Justice shall be an Estonian citizen who has active legal capacity, is of high moral character and is fully proficient in the official language.

(2) The Chancellor of Justice shall have completed an academic education in law and he or she shall be an experienced and recognised lawyer.

§ 6¹. Security check of candidate for Chancellor of Justice

(1) The candidate for the Chancellor of Justice shall pass a security check before being appointed the Chancellor of Justice, except if he or she holds a valid access permit to access state secrets classified as top secret or if, at the time of becoming a candidate, he or she holds a position which provides the right by virtue of office to access all levels of state secrets.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(2) A person acquires the status of the candidate for the Chancellor of Justice after the President of the Republic has proposed to the person to apply for the office and the person agrees to it in writing.

(3) The security check of the candidate for Chancellor of Justice shall be performed by the Security Police Board pursuant to the procedure provided for in the Security Authorities Act.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(4) In order to pass the security check, the candidate for the Chancellor of Justice shall submit a completed form for an applicant for a permit to access state secrets to the Security Police Board through the Office of the President of the Republic, and a written consent which permits the agency which performs security checks to obtain information concerning the person from natural and legal persons and state and local government agencies and bodies during the performance of the security check.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(5) The Security Police Board shall, within three months as of receipt of the documents specified in subsection (4) of this section, deliver the information gathered as a result of the security check to the President of the Republic and provide an opinion concerning the compliance of the candidate for the Chancellor of Justice with the conditions for the issue of a permit for access to state secrets.

(6) In the cases where the authority of the Chancellor of Justice has terminated prematurely, the security check of the candidate for the Chancellor of Justice shall be performed within one month as of the receipt of the documents specified in subsection (4) of this section. With the permission of the Security Committee of the Government of Republic, the term for performing the security check may be extended by one month if a circumstance specified in clause 33 (4) 1) or 2) of the State Secrets and Classified Information of Foreign States Act become evident or a circumstance specified in clause 3) or 4) may become evident within one month.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(7) Relying on the data collected in the course of the security check, the candidate for the Chancellor of Justice may be appointed to the office within nine months as of the time when the agency which performed the security check delivered the information collected in the course of the security check to the President of the Republic. After the expiry of the specified term, the candidate for the Chancellor of Justice may be appointed to the office after passing a new security check.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

§ 7. Oath of office of Chancellor of Justice

(1) The Chancellor of Justice shall assume office during the first plenary working week of the *Riigikogu* following his or her appointment by taking the following oath of office before the *Riigikogu*: "I swear to remain faithful to the people of Estonia, the Republic of Estonia and its constitutional order, and to perform, in an impartial manner, all the duties required of my office according to my conscience and in conformity with the Constitution of the Republic of Estonia and the law."

(2) The text of the oath of office shall be signed by the Chancellor of Justice and deposited in the Chancellery of the *Riigikogu* during the term of office of the Chancellor of Justice; after the Chancellor of Justice leaves office, the text shall be deposited in the State Archives.

§ 8. Termination of authority of Chancellor of Justice

The authority of the Chancellor of Justice shall be deemed to be terminated:

- 1) as of the date of expiry of the seven-year term referred to in § 5 of this Act;
- 2) as of the date of his or her resignation from office;
- 3) as of the date of entry into force of a judgment of the Supreme Court *en banc* in the case of his or her extended inability to perform his or her functions for more than six consecutive months;
- 4) as of the date of entry into force of a judgment of conviction against him or her for an intentionally committed criminal offence;
- 5) as of the date of entry into force of a judgment of conviction against him or her which prescribes imprisonment for a criminal offence committed due to negligence;
- 6) upon his or her death.

§ 9. Resignation of Chancellor of Justice

The Chancellor of Justice shall notify the President of the Republic of his or her resignation from office at least four months in advance.

§ 10. Extended inability of Chancellor of Justice to perform functions

(1) If the Chancellor of Justice is continually unable to perform his or her functions for six consecutive months due to illness or for any other reason, the President of the Republic shall file a reasoned petition with the Supreme Court to declare it by its decision.

(2) The Supreme Court *en banc* shall review the petition and make a decision promptly.

(3) A judgment of the Supreme Court *en banc* by which the Chancellor of Justice is declared continually unable to perform his or her functions enters into force on the date of proclamation of the decision.

(4) A decision of the Supreme Court *en banc*, which has entered into force, releases the Chancellor of Justice from office.

§ 11. Bringing criminal charges against Chancellor of Justice

(1) Criminal charges may be brought against the Chancellor of Justice only on the proposal of the President of the Republic and with the consent of the majority of the composition of the *Riigikogu*.

(2) The authority of the Chancellor of Justice shall be suspended as of the date of a resolution of the *Riigikogu* to approve the bringing of criminal charges against the Chancellor of Justice.

(3) The authority of the Chancellor of Justice shall be restored as of the date of entry into force of a judgment of acquittal or a judgement of conviction against him or her for a criminal offence committed due to negligence (except if he or she is punished by imprisonment), or as of the date of termination of criminal procedure in his or her criminal matter.

(4) The Chancellor of Justice shall be removed from office:

- 1) as of the date of entry into force of a judgement of conviction against him or her for an intentionally committed criminal offence;
- 2) as of the date of entry into force of a judgment of conviction against him or her which prescribes imprisonment for a criminal offence committed due to negligence.

(5) The procedure for bringing criminal charges against the Chancellor of Justice is provided for in the Code of Criminal Procedure.

[RT I, 29.05.2012, 2 - entry into force 08.06.2012]

§ 11¹. Access of Chancellor of Justice to state secrets and classified information of foreign states

(1) The Chancellor of Justice has the right by virtue of office to access state secrets and classified information of foreign states in order to perform duties which have been assigned to him or her by the Constitution or Acts of the Republic of Estonia and by legislation issued on the basis thereof.

(2) If pursuant to an international agreement performance of a security check is a mandatory precondition for granting the right of access to classified information of foreign states, the security check shall be also performed in respect to the Chancellor of Justice.

(3) In order to pass the security check specified in subsection (2) of this section, the Chancellor of Justice shall complete the form for an applicant for a permit to access state secrets and sign a consent which permits the agency which performs security checks to obtain information concerning him or her from natural and legal

persons and state and local government agencies and bodies during the performance of the security check, and submit these to the security authorities surveillance committee of the *Riigikogu*.

(4) The security authorities surveillance committee of the *Riigikogu* shall appoint the agency which performs a security check with respect to the Chancellor of Justice and deliver the documents specified in subsection (3) of this section to the agency.

(5) The security check agency shall submit the information collected in respect to the Chancellor of Justice in the course of the performed security check within three months as of the delivery of the documents specified in subsection (3) of this section to the security authorities surveillance committee of the *Riigikogu* for making a decision concerning the fact whether the Chancellor of Justice has passed the security check. A certificate for access to the classified information of foreign states shall be issued pursuant to the procedure prescribed in the State Secrets and Classified Information of Foreign States Act.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(6) The Chancellor of Justice has no access to classified information of foreign states or state secrets about:

- 1) persons recruited for secret co-operation;
- 2) methods of the activities of surveillance agencies classified as secret or top secret;
- 3) collection of information by a security authority in the manner provided for in § 25 or 26 of the Security Authorities Act while such collection is still in progress;
- 4) joint international operations of security agencies or information forwarded by foreign states or international organisations, if the person who forwarded the information has not granted consent for access.

[RT I, 22.12.2014, 2 - entry into force 01.01.2015]

§ 12. Restrictions on activities of Chancellor of Justice

(1) During his or her term of office, the Chancellor of Justice shall not:

- 1) hold another state or local government office or an office of a legal person in public law;
- 2) participate in the activities of political parties;
- 3) belong to the management board, supervisory board or supervisory body of a company;
- 4) engage in enterprise, except his or her personal investments and the interest and dividends received therefrom and income received from the disposal of his or her property.

(2) The Chancellor of Justice is permitted to engage in research or teaching unless this hinders the performance of his or her functions.

[RT I 2006, 48, 357 - entry into force 18.11.2006]

§ 13. Duty of confidentiality of Chancellor of Justice

The Chancellor of Justice is required to maintain state secrets, classified information of foreign states, business secrets and information subject to banking secrecy and not to disclose the information of which he or she becomes aware concerning the family or private life of individuals or other information the disclosure of which is prohibited by law.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

§ 14. Benefits of Chancellor of Justice related to office

(1) The salary of the Chancellor of Justice is provided by the Salaries of Higher State Servants Act.

[RT I 2010, 1, 2 - entry into force 01.01.2014 (entry into force postponed - RT I, 29.12.2012, 1)]

(2) [Repealed - RT I, 29.03.2012, 3 - entry into force 01.01.2013]

(2¹) [Repealed - RT I, 29.03.2012, 3 - entry into force 01.01.2013]

(2²) [Repealed - RT I, 29.03.2012, 3 - entry into force 01.01.2013]

(2³) [Repealed - RT I, 29.03.2012, 3 - entry into force 01.01.2013]

(3) [Repealed - RT I, 29.03.2012, 3 - entry into force 01.01.2013]

(4) [Repealed - RT I, 29.03.2012, 3 - entry into force 01.01.2013]

(4¹) [Repealed - RT I, 29.03.2012, 3 - entry into force 01.01.2013]

(5) [Repealed - RT I, 29.03.2012, 3 - entry into force 01.01.2013]

(6) The Chancellor of Justice whose authority is terminated pursuant to clause 8 1) of this Act or due to illness pursuant to clause 8 3) of this Act has the right to receive compensation in an amount equal to the salary rate for six months.

Chapter 3

CONSTITUTIONAL REVIEW AND SUPERVISION OF LEGALITY OF LEGISLATION OF GENERAL APPLICATION

§ 15. Commencement of proceedings for review of conformity of legislation of general application with Constitution and law

(1) Everyone has the right of recourse to the Chancellor of Justice to review the conformity of an Act or other legislation of general application with the Constitution or the law. A petitioner shall state in his or her petition the reasons why he or she considers the legislation to be in conflict with the Constitution or any Act.

(2) The Chancellor of Justice may commence proceedings on own initiative.
[RT I, 29.05.2012, 2 - entry into force 08.06.2012]

§ 15¹. Processing of petition for review of conformity of legislation of general application with Constitution and law

(1) The Chancellor of Justice shall review a petition submitted for review of the conformity of legislation of general application with Constitution and law pursuant to the procedure provided for in Divisions 1 and 2 of Chapter 4 of this Act, taking into consideration the specifications provided for in this Chapter.

(2) The Chancellor of Justice may refuse to review a petition if any of the circumstances specified in subsection 25 (2) or clauses 25 (3) 1), 2), 4) and 5) of this Act exist or if no significant public interest is involved for the processing thereof.
[RT I, 29.05.2012, 2 - entry into force 08.06.2012]

§ 16. Duty to submit legislation of general application

[Repealed - RT I 2010, 19, 101 - entry into force 13.05.2010]

§ 17. Proposal to bring legislation of general application into conformity

If the Chancellor of Justice finds that legislation of general application is in full or in part contrary to the Constitution or the law, he or she shall propose to the body which passed the legislation that the legislation or a provision thereof be brought within twenty days into conformity with the Constitution and the law.

§ 18. Proposal to repeal legislation of general application

(1) If a body which passed legislation of general application has not brought the legislation or a provision thereof into conformity with the Constitution or the law within 20 days after the date of receipt of a proposal of the Chancellor of Justice, the Chancellor of Justice shall propose to the Supreme Court that the legislation of general application or a provision thereof be repealed.

(1¹) If the Chancellor of Justice finds that a draft Act, except a draft Act to amend the Constitution, or other national issue which is submitted to a referendum is in conflict with the Constitution or that the *Riigikogu* has significantly violated the established procedure upon passage of the resolution to hold the referendum, he or she shall, within fourteen days as of receipt of the resolution of the *Riigikogu*, make a proposal to the Supreme Court to repeal the resolution of the *Riigikogu* concerning the submission of a draft Act or other national issue to a referendum.

(2) The procedure for participation of the Chancellor of Justice and his or her rights in the constitutional review proceedings shall be provided by law.
[RT I 2002, 30, 176 - entry into force 06.04.2002]

Chapter 4

SUPERVISION OVER OBSERVANCE OF FUNDAMENTAL RIGHTS AND FREEDOMS

[RT I 2003, 23, 142 - entry into force 01.01.2004]

Division 1

General Provisions

§ 19. Right of recourse to Chancellor of Justice

(1) Everyone has the right of recourse to the Chancellor of Justice in order to have his or her rights protected by way of filing a petition to request verification whether or not a state agency, local government agency or body, legal person in public law, natural person or legal persons in private law performing public duties (hereinafter *agency under supervision*) adheres to the principles of observance of the fundamental rights and freedoms and good administrative practice.

(2) Everyone has the right of recourse to the Chancellor of Justice for the conduct a conciliation procedure if he or she finds that a natural person or a legal person in private law has discriminated against him or her on the basis of:

- 1) sex;
- 2) race;
- 3) nationality (ethnic origin),
- 4) colour;
- 5) language;
- 6) origin;
- 7) religion or religious beliefs;
- 8) political or other opinion;
- 9) property or social status;
- 10) age;
- 11) disability;
- 12) sexual orientation, or
- 13) other discrimination attributes specified by law.

(3) [Repealed - RT I, 29.05.2012, 2 - entry into force 08.06.2012]

§ 20. Choice of form and purposefulness of proceedings by Chancellor of Justice

(1) Unless the form and other details of a procedural act are provided by law, the form and details of procedural acts shall be determined by the Chancellor of Justice based on the principles of purposeful, efficient, straightforward performance without undue delay, avoiding superfluous costs and inconveniences to persons.

(2) The Chancellor of Justice may authorise the Deputy Chancellor of Justice-Adviser or adviser to the Chancellor of Justice to perform acts which performance is prescribed for the Chancellor of Justice in this Chapter.

§ 21. Principle of investigation and specialists

(1) During proceedings in a matter, the Chancellor of Justice shall establish the facts relevant to the matter and, if necessary, collect evidence on his or her own initiative.

(2) The Chancellor of Justice may obtain the opinion of specialists in issues relevant to the adjudication of a matter.

§ 22. Removal

A Deputy Chancellor of Justice-Adviser or adviser to the Chancellor of Justice shall remove himself or herself from the conduct of the proceedings in a matter if he or she doubts his or her impartiality. A petition of challenge regarding a Deputy Chancellor of Justice-Adviser or adviser to the Chancellor of Justice shall be submitted to the Chancellor of Justice by the petitioner or respondent. A petition shall be substantiated.

§ 23. Filing of petitions

(1) A petitioner shall file a petition in person or through an authorised representative.

(2) In conciliation proceedings for resolution of discrimination disputes, a person who has legitimate interest to check compliance with the requirements for equal treatment may also act as a representative.

(3) A petition shall contain the following information:

- 1) the name, postal address, personal identification code or date of birth of the petitioner;
- 2) the name of the agency or person who allegedly violated the rights of the petitioner (hereinafter respondent);
- 3) a sufficiently clear description of the activity specified in the petition.

(4) The representative of the petitioner shall append a document certifying the right of representation to the petition.

(5) If a petition is not in conformity with the requirements set forth in subsections (3) and (4) but the deficiency can be eliminated, the Chancellor of Justice shall require additional clarification from the petitioner or set a term for elimination of the deficiency to the petitioner.

(6) A petitioner has the right to file a petition orally. In such case the Chancellor of Justice shall formalise the petition in writing.

(7) In addition to the information listed in subsection (3) of this section, the Chancellor of Justice may ask petitioners for other information for statistical purposes. Petitioners have the right to decline submission of such information.

(8) The Chancellor of Justice may classify a petition and information contained therein as information intended for internal use if so requested by the petitioner or if the Chancellor of Justice finds that access to the petition shall be restricted in order to protect the rights and freedoms of persons.

§ 24. Filing of petitions

If a petition is filed with the Chancellor of Justice by a prisoner, conscript, or person staying at a psychiatric hospital, special care institution providing twenty-four hour services, general care institution providing twenty-four hour services outside home, at a shelter or substitute home, the relevant agency shall promptly forward the petition to the addressee at the agency's expense without examining the contents of the petition.

[RT I, 30.12.2015, 5 - entry into force 01.01.2016]

§ 25. Refusal to review petition

(1) The Chancellor of Justice shall refuse to review a petition if resolution thereof does not fall within the competence of the Chancellor of Justice.

(2) No court judgment, ruling on termination of the misdemeanour proceedings or judicial proceedings or decisions of extra-judicial bodies in misdemeanour proceedings shall have entered into force in the matter of the petition, and at the time of filing the petition the matter shall not be subject to judicial proceedings, offence proceedings or mandatory pre-trial complaint proceedings.

[RT I, 29.05.2012, 2 - entry into force 08.06.2012]

(3) The Chancellor of Justice may refuse to review a petition if:

- 1) the petition is not in conformity with the requirements provided for in this Act and the petitioner has failed to eliminate the deficiencies within the term;
- 2) the petition is clearly unfounded;
- 3) the petition is filed after one year as of the date when the person became aware or should have become aware of the violation of his or her rights;
- 4) the person has the possibility to file a challenge or resort to other legal remedies or if the person failed to exercise such opportunity;
- 5) challenge proceedings or other non-obligatory pre-trial proceedings are conducted.

[RT I, 29.05.2012, 2 - entry into force 08.06.2012]

(4) The Chancellor of Justice may forward petitions for adjudication to a relevant supervisory body, where this is expedient for the protection of the rights of the petitioner. The petitioner shall be notified of forwarding of the petition. Petitions containing sensitive personal data may be forwarded only with the consent of the petitioner. Agencies under supervision shall notify the Chancellor of Justice of the adjudication of the petition.

[RT I, 29.05.2012, 2 - entry into force 08.06.2012]

(5) The Chancellor of Justice shall notify a petitioner of the refusal to review the petition in writing. The notice shall contain the reasons for the refusal to review the petition.

[RT I, 29.05.2012, 2 - entry into force 08.06.2012]

§ 26. Commencement of proceedings

If the Chancellor of Justice accepts a petition, he or she shall notify the petitioner thereof and set out the acts which he or she has performed or deems necessary to perform for the conduct of proceedings in connection with the petition.

§ 27. Unrestricted access, verification visit and professional assistance

[RT I 2007, 11, 52 - entry into force 18.02.2007]

(1) In the course of proceedings in a matter, the Chancellor of Justice shall have unrestricted access to documents, other materials and areas which are in the possession of the agencies under supervision and the parties to conciliation proceedings. Agencies and persons shall enable the Chancellor of Justice unconditional

and immediate opportunity to receive all documents and other materials in the possession of the agencies and persons and access to relevant places.

[RT I 2007, 11, 52 - entry into force 18.02.2007]

(2) The Chancellor of Justice may pay verification visits to a prison, military unit, house of detention, detention centre, accommodation centre for refugees, premises of the Police and Border Guard Board where temporary housing is provided for asylum seekers, psychiatric hospital, special care institution providing twenty-four hour services, school for students with special needs, general institution providing twenty-four hour services outside home, shelter, substitute home and any other agency under supervision. Verification visits may be paid without giving prior notice and specialists, interpreters or translators may be involved in the visits.

[RT I, 30.12.2015, 5 - entry into force 01.01.2016]

(3) During a verification visit the agency under supervision shall ensure the following to the Chancellor of Justice:

[RT I 2007, 11, 52 - entry into force 18.02.2007]

1) unrestricted access to the information required in order to verify whether the agency under supervision adheres to the principles of observance of the fundamental rights and freedoms and good administrative practice;

2) unrestricted access to the information concerning the persons staying in the agencies under supervision, their detention conditions and location;

3) access to the buildings and territory of the agency under supervision;

4) possibility to interview each person with restricted rights staying in and staff of the agency under supervision without the presence of other persons.

[RT I 2007, 11, 52 - entry into force 18.02.2007]

(4) Agencies under supervision shall provide professional assistance to the Chancellor of Justice in the course of proceedings.

[RT I 2007, 11, 52 - entry into force 18.02.2007]

§ 28. Request for information

The Chancellor of Justice has the right to request information necessary for the performance of his or her duties. Agencies under supervision, parties to conciliation proceedings, other persons and agencies shall communicate such information within the term set by the Chancellor of Justice.

§ 29. Collection of explanations

The Chancellor of Justice may request that agencies under supervision and parties to conciliation proceedings submit written explanations concerning a petition. Agencies and persons shall comply with such demand within the term prescribed by the Chancellor of Justice.

§ 30. Taking of testimony

(1) In the course of proceedings, the Chancellor of Justice may take testimonies from persons concerning whom there is information that they know facts relevant to the matter and are capable of providing truthful testimonies concerning such facts.

(2) Persons specified in subsections §§ 71-73 of the Code of Criminal Procedure may refuse to provide a testimony except in the cases where provision of testimony is requested by the person concerning whom the information is disclosed.

(3) A person asked to provide testimony is required to appear following a summons from the Chancellor of Justice. The following information concerning a person shall be set forth in a summons:

1) name;

2) the place and time of appearance;

3) the matter concerning which the person is summoned, the role of the person in the proceedings and the purpose of the summons;

4) description of consequences of failure to appear.

[RT I 2006, 7, 42 - entry into force 04.02.2006]

§ 31. Reimbursement of expenses of specialists, interpreters or translators and witnesses

(1) If the work performed by a specialist, interpreter or translator in the proceedings conducted by the Chancellor of Justice is not part of his or her official duties, the specialist, interpreter or translator shall be reimbursed out of the budget of the Chancellor of Justice.

[RT I, 29.05.2012, 2 - entry into force 08.06.2012]

(2) If the employer of a witness involved by the Chancellor of Justice is any other than the state or agency under supervision, the person shall be paid compensation for absence from work or his or her everyday activities from the budget of the Chancellor of Justice on the bases and pursuant to the procedure provided for in the Code of Civil Procedure.

(3) Agencies and persons participating in proceedings may involve specialists, interpreters or translators and witnesses at their own expense.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 32. Public disclosure of case concerning which proceedings are conducted

(1) The Chancellor of Justice may disclose the content of a petition concerning which proceedings are conducted and the final result of the proceedings in the media or through other channels without disclosing any information which would allow the persons involved to be identified.

(2) The Chancellor of Justice may disclose the names of persons who refuse to give testimony without good reason.

Division 2 Supervision over Legality and Observance of Good Administrative Practice

§ 33. Scope of supervision

The Chancellor of Justice verifies whether or not agencies under supervision adhere to the principles of observance of the fundamental rights and freedoms and good administrative practice.

§ 34. Commencement of proceedings

(1) The Chancellor of Justice shall commence proceedings on the basis of a petition filed by a person or on his or her own initiative.

[RT I, 22.12.2014, 2 - entry into force 01.01.2015]

(2) [Repealed - RT I, 29.05.2012, 2 - entry into force 08.06.2012]

(3) If the Chancellor of Justice commences the proceedings on his or her own initiative, he or she shall notify the relevant agency of the reasons for and purpose of the commencement of proceedings.

§ 35. Obstruction of activities of Chancellor of Justice

(1) Obstruction of the activities of the Chancellor of Justice means:

- 1) concealment of information from the Chancellor of Justice which is necessary for the performance of his or her duties, evading provision of such information and refusal to provide such information without good reason;
- 2) evading provision of explanation or testimony, or refusal to provide explanation or testimony without good reason;
- 3) provision of insufficient or incorrect explanation, testimony or information;
- 4) hindrance of unrestricted access.

(2) The Chancellor of Justice has the right to apply for commencement of disciplinary proceedings against officials who obstruct the activities of the Chancellor of Justice or his or her advisers.

(3) The Chancellor of Justice may inform the public of obstruction of his or her activities.

§ 35¹. Completion of proceedings

(1) Proceedings are completed when the Chancellor of Justice formulates his or her position, assessing whether the activities of the agency under supervision are legal and in compliance with good administrative practice.

(2) The Chancellor of Justice may provide criticism, suggestions and express his or her opinion in other ways or make proposals for the elimination of the violation.

(3) The position of the Chancellor of Justice shall be communicated in writing to the petitioner and to the agency under supervision which participated in the proceedings. The position is final and cannot be contested in court.

§ 35². Ensuring compliance with proposal of Chancellor of Justice

(1) An agency who receives a suggestion or proposal from the Chancellor of Justice shall inform the Chancellor of Justice, within the term set by him or her, of the details of compliance with the suggestion or proposal.

(2) The Chancellor of Justice has the right to make inquiries concerning compliance with his or her suggestions and proposals. An agency who receives an inquiry shall respond without delay.

(3) Upon non-compliance with a suggestion or proposal of the Chancellor of Justice or failure by an agency to respond to an inquiry of the Chancellor of Justice, the Chancellor of Justice may report such fact to the authority which exercises supervision over the agency, the Government of the Republic or *the Riigikogu*.

(4) The Chancellor of Justice may inform the public of his or her suggestions or proposals and compliance or failure to comply therewith.

§ 35³. Legal aid and exemption from state fees

[Repealed - RT I, 29.05.2012, 2 - entry into force 08.06.2012]

§ 35⁴. Notification of offence

If the Chancellor of Justice finds that an official has violated the Constitution or law, he or she shall notify either an investigative body or another competent body thereof in writing and, if necessary, forward all relevant information and documents to the body.

Division 3 Conciliation Proceedings for Resolution of Discrimination Disputes

§ 35⁵. Competence to resolve discrimination disputes

(1) The Chancellor of Justice supervises the activities of natural persons and legal persons in private law and conducts conciliatory proceedings based on petitions filed by persons who find that they are discriminated on the basis of an attribute specified in subsection 19 (2).

(2) Petitions concerning the activities of natural persons or legal persons in private law do not fall within the competence of the Chancellor of Justice if they concern:

- 1) professing and practising of faith or working as a minister of a religion in religious associations with registered articles of association;
- 2) relations in family or private life;
- 3) performance of right of succession.

§ 35⁶. Term of recourse to Chancellor of Justice

The Chancellor of Justice may refuse to review a filed petition if it is filed later than four months as of the date on which the person became aware or should have become aware of the alleged discrimination.

§ 35⁷. Commencement of conciliation proceedings

(1) After accepting a petition, the Chancellor of Justice shall send a copy of the petition to the respondent whose activities are contested in the petition and set a term for submission of a written response. In the written response, the respondent may propose to resolve the dispute.

(2) The Chancellor of Justice shall send a copy of the written response specified in subsection (1) to the petitioner. The petitioner shall inform the Chancellor of Justice within the set term whether or not the petitioner consents to the proposal of the respondent to resolve the dispute.

(3) If the petitioner consents to the proposal to resolve the dispute specified in subsection (2) and such resolution ensures a fair balance in the rights of the parties, the Chancellor of Justice shall deem the petition to be resolved and shall conclude the proceedings.

§ 35⁸. Conduct of proceedings

(1) Sessions conducted in the course of conciliation proceedings shall be closed. Documents and information pertaining to conciliation proceedings shall not be disclosed.

(2) Information pertaining to conciliation proceedings may be disclosed in the manner prescribed in § 32.

(3) Taking of explanations and oral testimonies and use of unrestricted access shall be recorded pursuant to the procedure prescribed in § 18 of the Administrative Procedure Act.

§ 35⁹. Review of petition in session

(1) A petition filed by a person may be reviewed in a session in the presence of the petitioner and respondent or their representatives. The Chancellor of Justice may obligate the parties to appear in person.

(2) The Chancellor of Justice shall set the time and place for holding a session and notify the petitioner and respondent thereof.

(3) A session shall be chaired by the Chancellor of Justice who shall:

- 1) explain the content of the petition and the corresponding rules of law;
- 2) grant the petitioner a possibility to provide his or her position and provide reasons therefor;
- 3) grant the respondent a possibility to provide his or her position as to whether the respondent accepts or contests the petitioner's allegations.

(4) At a session, documents and other evidence are examined and assessed. With the Chancellor of Justice's consent, witnesses and specialists may be summoned to and heard at a session.

(5) Minutes shall be taken of a session in the manner prescribed in § 18 of the Administrative Procedure Act.

§ 35¹⁰. Conclusion of conciliation proceedings

Conciliation proceedings shall be concluded if:

- 1) proceedings are terminated,
- 2) the parties fail to reach an agreement, or
- 3) the Chancellor of Justice approves the agreement.

§ 35¹¹. Termination of conciliation proceedings

(1) Conciliation proceedings are terminated if:

- 1) the petitioner submits a written notice concerning his or her withdrawal of the petition filed with the Chancellor of Justice,
- 2) the respondent fails to submit the written response specified in § 35⁷ within the term set by the Chancellor of Justice or communicates refusal to participate in the conciliation proceedings in the response, or
- 3) the petitioner or respondent fails to perform procedural acts without good reason within the term set by the Chancellor of Justice, refuses to perform the acts or obstructs the organisation of the conciliation proceedings in any other manner.

(2) The Chancellor of Justice shall give written notice of termination of the conciliation proceedings to the petitioner and respondent.

§ 35¹². Proposal to resolve dispute and enter into agreement

(1) The Chancellor of Justice shall make a proposal to resolve the dispute and enter into an agreement and communicate such proposal to the parties to the conciliation proceedings at the end of a session or shall set a term during the session within which he or she will communicate the proposal to the petitioner and respondent.

(2) In the proposal, the Chancellor of Justice shall present his or her substantiated opinion on the discrimination allegations formed by him or her in the course of the proceedings based on obtained evidence and established facts. In the proposal, the Chancellor of Justice may suggest that the respondent perform appropriate acts and take measures for payment of compensation and restitution of the petitioner's rights. The Chancellor of Justice may propose to the respondent to compensate for the reasonable expenses which the petitioner has borne or will bear for the services of specialists, interpreters or translators or witnesses.

(3) The Chancellor of Justice shall explain the consequences of approval of the agreement specified in § 35¹⁴ to the parties.

(4) The petitioner and respondent may, within ten working days as of the receipt of the proposal of the Chancellor of Justice, present their positions expressing consent or opposition to the content of the proposal. Failure to present a position shall be considered as consent to the proposal.

§ 35¹³. Approval of agreement

(1) If the petitioner and respondent consent to the proposal of the Chancellor of Justice, the Chancellor of Justice shall approve the agreement and notify the parties thereof in writing.

(2) If the petitioner or the respondent fails to consent to the proposal of the Chancellor of Justice, the Chancellor of Justice shall state the failure to reach an agreement and shall notify the parties thereof in writing.

§ 35¹⁴. Performance of agreement

(1) Performance of an agreement approved by the Chancellor of Justice is mandatory to the parties to conciliation proceedings. An agreement shall be performed within thirty days as of the day following the day on which a copy of the agreement is received, unless another term is prescribed in the agreement.

(2) If an agreement is not performed within the term specified in subsection (1), the petitioner or respondent may submit the agreement approved by the Chancellor of Justice to a bailiff for enforcement pursuant to the procedure provided by the Code of Enforcement Procedure.

§ 35¹⁵. Recourse to courts

(1) If conciliation proceedings are terminated or the Chancellor of Justice has stated failure to reach an agreement, the petitioner has, within 30 days as of the receipt of the notice, the right of recourse to a court or to an authority conducting pre-trial proceedings as provided by law for the protection of his or her rights.

(2) An agreement approved by the Chancellor of Justice shall be final and cannot be contested in court, except if the Chancellor of Justice has materially violated a provision of conciliation procedure and such violation affects or may affect the content of the agreement.

(3) An action may be filed with an administrative court for establishment of the Chancellor of Justice's material violation of a provision of conciliation procedure within thirty days after the date on which approval of an agreement is communicated.

(4) If a court establishes material violation by the Chancellor of Justice of a provision of conciliation procedure which affects or may affect the content of the agreement, the agreement approved by the Chancellor of Justice shall be deemed to be null and void and the person has the right to recourse to court for the protection of his or her rights within 30 days as of the entry into force of the court judgment.

Division 4 Activities of Chancellor of Justice in Application of Principles of Equality and Equal Treatment

§ 35¹⁶. Promotion of principles of equality and equal treatment

The Chancellor of Justice shall perform the following duties for application of the principles of equality and equal treatment:

- 1) analyse the effect of the implementation of legislation to the condition of the members of the society;
- 2) inform the *Riigikogu*, Government of the Republic, governmental agencies, local government agencies and bodies, other interested persons and the public of application of the principles of equality and equal treatment;
- 3) make proposals for amendment of legislation to the *Riigikogu*, Government of the Republic, governmental agencies, local government agencies, local government bodies and employers;
- 4) promote, in the interests of adherence to the principles of equality and equal treatment, the development of national and international co-operation between individuals, legal persons and agencies;
- 5) promote, in co-operation with other persons, the principles of equality and equal treatment.

Chapter 5 OFFICE OF CHANCELLOR OF JUSTICE

[RT I 2003, 23, 142 - entry into force 01.01.2004]

§ 36. Office of Chancellor of Justice

(1) The Office of the Chancellor of Justice is the agency servicing the Chancellor of Justice as a constitutional institution.

(2) The Office of the Chancellor of Justice is directed by the Chancellor of Justice who establishes the statutes, structure and staff positions of the Office and the structural units thereof and may establish the classification of the staff positions into staff groups.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(2¹) The Chancellor of Justice shall establish the requirements set for the education, work experience, knowledge and skills of officials which are required for the performance of their duties and the procedure for the recruitment, choice, assessment, development and training of officials.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(3) The Chancellor of Justice decides on grant of right of signature to the officials and employees of the office and the extent of such right.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(4) The Office of the Chancellor of Justice shall be registered in the state register of state and local government agencies pursuant to the procedure provided for in the statutes of the register.

(5) [Repealed - RT I, 29.05.2012, 2 - entry into force 08.06.2012]

§ 37. Deputy Chancellor of Justice-Adviser

(1) On the proposal of the Chancellor of Justice, the *Riigikogu* shall appoint two advisers to the Chancellor of Justice to the office as Deputy Chancellor of Justice-Advisers. Upon assumption of office, the Deputy Chancellor of Justice-Advisers shall take the oath of office referred to in § 7 of this Act.

(2) If the Chancellor of Justice is temporarily unable to perform his or her functions, or upon termination of the authority of the Chancellor of Justice on the bases provided for in § 8 of this Act, one of the Deputy Chancellor of Justice-Advisers shall perform the functions of the Chancellor of Justice until a new Chancellor of Justice assumes office, pursuant to the procedure for substitution determined by the Chancellor of Justice.

(3) An adviser to the Chancellor of Justice shall be released from the office of Deputy Chancellor of Justice-Adviser:

- 1) as of the date of his or her resignation from office;
- 2) in the case of his or her extended inability to perform his or her functions for more than six consecutive months, as of the date on which a new Deputy Chancellor of Justice-Adviser assumes office on the proposal of the Chancellor of Justice;
- 3) as of the date on which a new Deputy Chancellor of Justice-Adviser appointed by a new Chancellor of Justice assumes office;
- 4) as of the date of entry into force of a judgment of conviction against him or her for an intentionally committed criminal offence;
- 5) as of the date of entry into force of a judgment of conviction against him or her which prescribes imprisonment for a criminal offence committed due to negligence;
- 6) upon his or her death.

§ 37¹. Security check of candidate for Deputy Chancellor of Justice-Adviser

(1) A candidate for the office of the Deputy Chancellor of Justice-Adviser shall pass a security check before being appointed the Deputy Chancellor of Justice-Adviser, excluding the case if he or she holds a valid access permit to access state secrets classified as top secret or if he or she occupies a position at the time of becoming a candidate which provides the right by virtue of office to access all levels of state secrets.

(2) A person acquires the status of a candidate for the Deputy Chancellor of Justice-Adviser after the Chancellor of Justice has proposed to the person to run as a candidate for the office and the person agrees in writing to run as a candidate.

(3) The security check of a candidate for the Deputy Chancellor of Justice-Adviser shall be performed by the Security Police Board pursuant to the procedure provided for in the Security Authorities Act.

(4) To conduct the security check specified in subsection (1) of this section, the candidate for the Deputy Chancellor of Justice-Adviser shall complete the form used to apply for an access permit to state secrets and sign the consent which permits the agency which performs security checks to obtain information concerning the person from natural and legal persons and state and local government agencies and bodies during the performance of the security check, and submit these to the Security Police Board through the Office of the Chancellor of Justice.

(5) The Security Police Board shall, within three months as of receipt of the documents specified in subsection (4) of this section, present the information gathered as a result of the security check to the Office of the Chancellor of Justice and provide an opinion concerning the compliance of the candidate for the Deputy Chancellor of Justice-Adviser with the conditions for the issue of a permit for access to state secrets.

(6) Relying on the data collected in the course of the security check, a candidate for the Deputy Chancellor of Justice-Adviser may be appointed to the office within nine months as of the time when the agency which performed the security check delivered the information collected in the course of the security check to the Office of the Chancellor of Justice. A candidate for the Deputy Chancellor of Justice-Adviser may be appointed to the office later than the above term after passing a new security check.
[RT I 2007, 16, 77 - entry into force 01.01.2008]

§ 37². Access of Deputy Chancellor of Justice-Adviser to state secrets and classified information of foreign states

(1) The Deputy Chancellor of Justice-Adviser has the right by virtue of office to access state secrets and classified information of foreign states in order to perform duties which have been assigned to him or her by the Constitution or Acts of the Republic of Estonia and by legislation issued on the basis thereof.

(2) If conducting of a security check is a mandatory precondition for granting the right of access to classified information of foreign states pursuant to an international agreement, the security check shall be also conducted in respect to the Deputy Chancellor of Justice-Adviser.

(3) To conduct the security check specified in subsection (1) of this section, the Deputy Chancellor of Justice-Adviser shall complete the form used to apply for an access permit to state secrets and sign the consent which permits the agency which performs security checks to obtain information concerning the person from natural and legal persons and state and local government agencies and bodies during the performance of the security check, and submit these to the security authorities surveillance committee of the *Riigikogu* through the Office of the Chancellor of Justice.

(4) The security authorities surveillance committee of the *Riigikogu* shall appoint the agency which performs a security check with respect to the Deputy Chancellor of Justice-Adviser and deliver the documents specified in subsection (3) of this section to the agency.

(5) The security check agency submits the information collected in respect to the Deputy Chancellor of Justice-Adviser in the course of the performed security check within three months as of the sending of the documents specified in subsection (3) of this section to the security authorities surveillance committee of the *Riigikogu* to decide whether the Deputy Chancellor of Justice-Adviser has passed the security check. A certificate for access to the classified information of foreign states shall be issued pursuant to the procedure prescribed in the State Secrets and Classified Information of Foreign States Act.
[RT I 2007, 16, 77 - entry into force 01.01.2008]

(6) Deputy Chancellor of Justice-Adviser the Chancellor of Justice have no access to classified information of foreign states or state secrets about:

- 1) persons recruited for secret co-operation;
 - 2) methods of the activities of surveillance agencies classified as secret or top secret;
 - 3) collection of information by a security authority in the manner provided for in § 25 or 26 of the Security Authorities Act while such collection is still in progress;
 - 4) joint international operations of security agencies or information forwarded by foreign states or international organisations, if the person who forwarded the information has not granted consent for access.
- [RT I, 22.12.2014, 2 - entry into force 01.01.2015]

§ 38. Adviser to Chancellor of Justice

(1) A person who has higher education may be appointed as an adviser to the Chancellor of Justice.

(2) Advisers to the Chancellor of Justice are junior advisers, advisers and senior advisers.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(3) A person who has or acquires higher education may be appointed as a junior adviser to the Chancellor of Justice.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(3¹) A person with higher education who has been employed as a judge, notary, sworn advocate or teacher at an institution of higher education for at least three years or who has been employed in other public service for at least three years may be appointed as an adviser to the Chancellor of Justice.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(4) A person who has been employed as an adviser to the Chancellor of Justice or as a judge, notary, sworn advocate, or teacher at an institution of higher education for at least five years or who has been employed in other public service for at least five years may be appointed as a senior adviser to the Chancellor of Justice.

(5) The Chancellor of Justice may designate certain advisers to work on the review of specific areas of fundamental rights.

(6) The Chancellor of Justice may designate advisers to counties.

§ 39. Restrictions on activities of Deputy Chancellor of Justice-Advisers and advisers to Chancellor of Justice

(1) The restrictions provided for in §§ 12 and 13 of this Act apply to Deputy Chancellor of Justice-Advisers.

(2) The restrictions provided for in clauses 12 (1) 1) and 2), subsection (2) and § 13 of this Act apply to advisers of the Chancellor of Justice. With the permission of the Chancellor of Justice, advisers to the Chancellor of Justice may hold the office provided for in clause 12 (1) 1) of this Act if the office involves research or teaching.

(3) With the consent of the Chancellor of Justice, advisers to the Chancellor of Justice may work outside their duties of employment based on a contract of employment or another contract, operate as an undertaking, be a general partner in a general partnership or limited partnership or be a member of the management or controlling body of a legal person, except if the volume of labour spent on the ancillary activities or the nature thereof hinders regular performance of his or her duties of employment or if the ancillary activity may bring about a breach of the duties of employment, hinder the performance of the public duties or harm the reputation thereof. [RT I, 06.07.2012, 1 - entry into force 01.04.2013]

§ 40. Remuneration for work

The work of the Deputy Chancellor of Justice-Advisers, advisers, officials and employees of the Office of the Chancellor of Justice shall be remunerated for on the basis of the Public Service Act and the Employment Contracts Act.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

§ 41. Occupational pension of Deputy Chancellor of Justice-Adviser

[Repealed - RT I, 29.03.2012, 3 - entry into force 01.01.2013]

§ 42. Budget of Office of the Chancellor of Justice

(1) The budget of the Office of the Chancellor of Justice shall be approved by the Chancellor of Justice based on the state budget.

(2) The procedure for payment of remuneration to consultants, translators or interpreters and specialists shall be established by the Chancellor of Justice.

[RT I, 29.05.2012, 2 - entry into force 08.06.2012]

Chapter 6 IMPLEMENTING PROVISIONS

§ 43. Amendment of Salaries of State Public Servants Appointed by *Riigikogu* President of the Republic Act

[Omitted from this text.]

§ 43¹. Right to receive occupational pension of Chancellor of Justice

The following persons have the right to receive the occupational pension of the Chancellor of Justice when they attain the pensionable age:

- 1) who have worked by 1 January 2013 as the Chancellor of Justice for at least five years;
- 2) who hold the office of the Chancellor of Justice on 1 January 2013 and who hold the office for at least five years.

[RT I, 29.03.2012, 3 - entry into force 01.01.2013]

§ 43². Right to receive survivor's pension of dependants of Chancellor of Justice

Family members incapacitated for work and maintained by the Chancellor of Justice have the right to receive survivor's pension if the Chancellor of Justice who holds the office on 1 January 2013 dies during his or her term of office.

[RT I, 29.03.2012, 3 - entry into force 01.01.2013]

§ 43³. Right to receive occupational pension of Deputy Chancellor of Justice-Adviser

The following persons have the right to receive the occupational pension of the Deputy Chancellor of Justice-Adviser when they attain the pensionable age:

- 1) who has worked by 1 January 2013 as the Deputy Chancellor of Justice-Adviser, judge, notary, sworn advocate, teacher at an institution of higher education or has been employed in public service for at least 20 years, including at least five years as the Deputy Chancellor of Justice-Adviser;

2) who holds the office of the Deputy Chancellor of Justice-Adviser on 1 January 2013 and who has completed by such time at least 50 per cent of both the pension qualifying periods required for the grant of the occupational pension provided for in clause 1) of this section and who completes the specified pension qualifying periods by the time of retirement;

3) who is a judge, notary, sworn advocate, teacher at an institution of higher education or is employed in public service and who has completed by this time at least five-year length of service as the Deputy Chancellor of Justice-Adviser and at least 50 per cent of the 20-year length of service as a Deputy Chancellor of Justice-Adviser, judge, notary, sworn advocate, teacher at an institution of higher education or employment in public service and who complete the specified pension qualifying period by the time of retirement.
[RT I, 29.03.2012, 3 - entry into force 01.01.2013]

§ 43⁴. Amount of occupational pension of Chancellor of Justice

The amount of the occupational pension of the Chancellor of Justice is 70 per cent of the salary for the position of the Chancellor of Justice which was in force on the day as of which the occupational pension is granted.
[RT I, 29.03.2012, 3 - entry into force 01.01.2013]

§ 43⁵. Amount of survivor's pension of dependants of Chancellor of Justice

The amount of the survivor's pension payable upon the death of the Chancellor of Justice to every family member of the Chancellor of Justice who is incapacitated for work and who was maintained by him or her is 17.5 per cent of the salary for the position of the Chancellor of Justice which was in force on the day as of which the survivor's pension is granted. The survivor's pensions of the family members of the Chancellor of Justice in total shall not exceed 52.5 per cent of the salary for the position of the Chancellor of Justice on the specified date.
[RT I, 29.03.2012, 3 - entry into force 01.01.2013]

§ 43⁶. Amount of occupational pension of Deputy Chancellor of Justice-Adviser

The amount of the occupational pension of the Deputy Chancellor of Justice-Adviser is 65 per cent of the salary for the position of the Deputy Chancellor of Justice-Adviser which was in force on the day as of which the occupational pension is granted.
[RT I, 29.03.2012, 3 - entry into force 01.01.2013]

§ 43⁷. Grant and payment of occupational pension and survivor's pension

(1) Occupational pensions and survivor's pensions are granted and paid pursuant to the procedure provided for in the State Pension Insurance Act, unless otherwise provided for in this Act.

(2) Occupational pensions and survivor's pensions, except for pensions calculated on the basis of the wage of the current year, shall be indexed by 1 April of each current year by the pension index approved by the Government of the Republic on the basis of § 26 of the State Pension Insurance Act.

(3) The part of the occupational pension and survivor's pension which exceeds the state old-age pension or survivor's pension calculated pursuant to the State Pension Insurance Act shall be paid from the state budget through the Office of the Chancellor of Justice.

(4) While receiving the occupational pension and survivor's pension, a person does not have the right to receive other state pensions. The occupational pension shall not be increased pursuant to § 113 of the Public Service Act. If a person has the right to receive several classes of state pension, one pension shall be granted to the person at his or her choice.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(5) An occupational pension shall not be paid to the Chancellor of Justice and Deputy Chancellor of Justice-Adviser who are employed in a position granting the right to receive such occupational pension or as a member of the *Riigikogu*, the President of the Republic, a member of the Government of the Republic, the Chief Justice or a justice of the Supreme Court, the Commander or Commander-in-Chief of the Defence Forces, the Auditor General or the Governor of *Eesti Pank*.

(6) An occupational pension shall not be paid upon removal from the office of the Chancellor of Justice or upon release of the Deputy Chancellor of Justice-Adviser from his or her position on the basis of §§ 91, 92, 94 or 95 of the Public Service Act, except based on the circumstances provided for in clause 15 4) of the Public Service Act or due to entry into force of a judgment of conviction.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(7) A person convicted for an offence provided for in Chapter 15 or Division 2 of Chapter 17 of the Penal Code, for which the Penal Code prescribes at least up to five years' imprisonment, loses the right to an occupational pension.

(8) If a person was paid the occupational pension provided for in this Act, the payment of the pension is terminated as of the month following the month of entry into force of the judgment. In the case of losing the right to the occupational pension provided for in this section, the person retains the right to apply for a pension pursuant to general principles.

(9) The court shall notify the Social Insurance Board in writing within ten working days as of the entry into force of the court judgment of the fact due to which the person loses the right to the occupational pension of the Chancellor of Justice or the Deputy Chancellor of Justice-Adviser.

(10) The provisions of subsection (7) of this section apply to persons in respect of whom a judgment of conviction entered into force after 10 March 2009.
[RT I, 29.03.2012, 3 - entry into force 01.01.2013]

§ 44. Entry into force of Act

(1) This Act enters into force on 1 June 1999 and the Chancellor of Justice Activities Organisation Act is repealed as of the same date.

(2) Proceedings concerning petitions filed with the Chancellor of Justice before the entry into force of this Act shall be completed pursuant to the procedure which was in force before the entry into force of this Act.