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## Courts Act

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Amended by the following acts

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29.01.2003	RT I 2003, 21, 121	15.03.2003
18.12.2003	RT I 2003, 90, 601	01.01.2008
07.04.2004	RT I 2004, 27, 176	01.05.2004
19.05.2004	RT I 2004, 46, 329	01.07.2004
28.06.2004	RT I 2004, 56, 403	01.03.2005
22.02.2005	RT I 2005, 15, 85	01.01.2006
15.06.2005	RT I 2005, 39, 308	01.01.2006
15.12.2005	RT I 2005, 71, 549	01.01.2006
26.01.2006	RT I 2006, 7, 42	04.02.2006
15.03.2006	RT I 2006, 15, 118	14.04.2006
11.10.2006	RT I 2006, 48, 357	18.11.2006
23.11.2006	RT I 2006, 55, 411	23.12.2006
06.12.2006	RT I 2006, 61, 456	01.01.2007
25.01.2007	RT I 2007, 16, 77	01.01.2008
21.11.2007	RT I 2007, 67, 413	28.12.2007
20.02.2008	RT I 2008, 13, 85	24.03.2008
20.02.2008	RT I 2008, 13, 85	01.01.2009
20.03.2008	RT I 2008, 17, 118	01.06.2008
08.05.2008	RT I 2008, 20, 139	01.01.2009
19.06.2008	RT I 2008, 29, 189	01.07.2008
10.12.2008	RT I 2008, 59, 330	01.01.2009
18.12.2008	RT I 2009, 4, 27	26.01.2009
20.02.2009	RT I 2009, 15, 93	01.03.2009
18.02.2009	RT I 2009, 15, 94	10.03.2009, applied to persons in respect to whom criminal conviction enters into force after entry into force of the Act.
16.12.2009	RT I 2009, 67, 460	01.01.2010
09.12.2009	RT I 2009, 68, 463	10.01.2010
16.12.2009	RT I 2010, 1, 2	enters into force on the starting date of authority of XII composition of the Riigikogu, date of entry into force changed to 01.01.2012; date of entry into force partially changed to 01.01.2013 [RT I, 28.12.2011, 1]; 01.07.2013 [RT I, 29.12.2012, 1]
24.11.2010	RT I, 20.12.2010, 1	01.01.2011
08.12.2010	RT I, 28.12.2010, 6	01.01.2012
27.01.2011	RT I, 23.02.2011, 1	01.09.2011
27.01.2011	RT I, 23.02.2011, 3	01.01.2012
09.02.2011	RT I, 04.03.2011, 1	01.04.2011

07.12.2011	RT I, 28.12.2011, 1	01.01.2012, partially on the tenth day following the date of publication of this Act in Riigi Teataja.
06.06.2012	RT I, 29.06.2012, 3	01.01.2013, partially01.07.2012
13.06.2012	RT I, 06.07.2012, 1	01.04.2013
13.06.2012	RT I, 10.07.2012, 3	01.04.2013
12.12.2012	RT I, 29.12.2012, 1	01.01.2013, partially01.04.2013 and 01.07.2013
12.12.2012	RT I, 29.12.2012, 2	01.01.2013
11.12.2013	RT I, 23.12.2013, 1	01.01.2014, partially01.01.2015 and 01.01.2020
04.02.2014	RT I, 06.02.2014, 13	04.02.2014 - The decision of the Supreme Court en banc declares to be in conflict with the Constitution and repeals subsection 125 <sup>1</sup> (2) of the Courts Act and subsection 174 (8) of the Code of Civil Procedure to the extent pursuant to which the judicial clerk may determine the procedure expenses in civil proceedings.
11.06.2014	RT I, 21.06.2014, 8	01.01.2015, partially01.07.2014
12.06.2014	RT I, 21.06.2014, 11	01.07.2014
26.06.2014	RT I, 04.07.2014, 34	26.06.2014 - The decision of the Supreme Court en banc declares to be in conflict with the Constitution and repeals subsection 132.7 (2) of the Courts Act and the revocation of § 82 of the Courts Act by clause 3 (2) of the Payment of Salaries Related to Estonian Average Wages Temporary Organisation Act to the extent these did not allow to recalculate the judges' old-age pensions based on the judges' salaries on 1 July 2013.
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the titles of ministers replaced on the basis of subsection 107 <sup>3</sup> (4) of the Government of the Republic Act.
19.11.2014	RT I, 13.12.2014, 1	01.01.2016, date of entry into force changed to 01.07.2016 [RT I, 17.12.2015, 1]
02.12.2014	RT I, 23.12.2014, 1	01.01.2015
09.12.2014	RT I, 22.12.2014, 9	01.01.2015
18.02.2015	RT I, 10.03.2015, 3	01.04.2015
22.10.2015	RT I, 24.10.2015, 1	22.10.2015
25.11.2015	RT I, 17.12.2015, 1	20.12.2015, partially01.07.2016
07.06.2016	RT I, 22.06.2016, 21	01.08.2016
15.12.2016	RT I, 28.12.2016, 14	07.01.2017, partially 11.01.2017
19.12.2017	RT I, 21.12.2017, 46	19.12.2017 - The resolution of the Constitutional Review Chamber declares subsection 132 <sup>2</sup> (2 <sup>1</sup> ) of the Courts Act to be contrary to the Constitution to the extent that this provision does not provide the right to apply for the judge's old-age pension pursuant to subsection 132 <sup>2</sup> (2) of the Courts Act which was in force up to 1 July 2016 to a judge whose 100, 90 or 80 per cent permanent loss of capacity for work which arose before 1 July 2016 was not established due to objective reasons deriving from the state of health of the judge pursuant to the State Pension Insurance Act before 1 July 2016, and does not enable

16.03.2021

RT I, 17.03.2021, 2

retroactive establishment of the time when the judge permanently lost their capacity for work.

16.03.2021 - The resolution of the Constitutional Review Chamber repeals § 132.5 of the Courts Act to the extent that precludes the grant and payment of the judge's survivor's pension to the family members of a judge who held the office after 31 December 1991 and before 2 July 2013.

## **Chapter 1 GENERAL PROVISIONS**

### **§ 1. Scope of application of Act**

This Act provides the legal bases for courts administration and court service.

### **§ 2. Administration of justice and independence of court**

(1) Justice shall be administered solely by the courts.

(2) No one has the right to interfere with the administration of justice.

(3) Acts which are directed at disturbing the administration of justice are prohibited in courts and in the vicinity thereof.

### **§ 3. Main guarantees for independence of judges**

(1) Judges shall be appointed for life.

(2) Judges may be removed from office only by a court judgment.

(3) Criminal charges against a judge of a court of the first instance and a court of appeal may be brought during their term of office only on the proposal of the Supreme Court *en banc* with the consent of the President of the Republic.

(4) Criminal charges against a justice of the Supreme Court may be brought during his or her term of office only on the proposal of the Chancellor of Justice with the consent of the majority of the composition of the Riigikogu.

### **§ 4. Jurisdiction of court**

(1) Jurisdiction of a court shall be provided by law.

(2) A case may be transferred from the jurisdiction of one court to the jurisdiction of another court only on the bases and pursuant to the procedure provided by law.

### **§ 5. Working language of courts**

(1) Judicial proceedings and operations procedure in court shall be conducted in Estonian.

(2) The use of another language in judicial proceedings shall be provided by the Codes of procedure.

### **§ 6. Working hours of court**

(1) Judges shall organise their working hours independently. A judge shall perform his or her duties within reasonable time, having regard to the terms for proceedings prescribed by law.

(2) Court sessions shall be held on working days during the period between 9 a.m. and 6 p.m. A court session may continue after such time if the court finds it justified in the interests of administration of justice.

(3) For the adjudication of a criminal matter by way of expedited procedure, in order to decide the imposition of a punishment for a misdemeanour, or the grant of permission to apply a preventive measure or to take an administrative measure, a court session may also be held at another time.  
[RT I 2006, 15, 118 - entry into force 14.04.2006]

## **§ 7. Judicial institution**

(1) County courts, administrative courts, circuit courts and the Supreme Court are judicial institutions.

(2) A judicial institution shall have its own budget and a seal bearing the small national coat of arms.

(3) A judicial institution 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.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

## **§ 8. Court service**

(1) Court service is employment in a judicial institution. Judges and court officers are in court service.

(2) The Public Service Act applies to judges only in cases which are provided for in this Act.

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

(3) The Public Service Act applies to court officers unless otherwise prescribed by this Act.

## **§ 8<sup>1</sup>. Access of judges to state secrets and classified information of foreign states**

(1) Judges have 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 them 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 conducting the security check is a mandatory precondition for granting the right of access to classified information of foreign states, the security check shall be conducted also in respect to judges.

(3) To conduct the security check specified in subsection (2) of this section, the judge 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 Supreme Court *en banc*.

(4) The Supreme Court *en banc* determines the agency conducting the security check in respect to the judge to which the Supreme Court forwards the documents specified in subsection (3) of this section.

(5) The security check agency submits the information collected in respect to the judge 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 the Supreme Court *en banc* to decide whether the judge has passed the security check. The access certificate to classified information of foreign states is 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]

## **§ 8<sup>2</sup>. Registration of procedural documents in court**

(1) Any procedural documents received in and sent from court are registered in the courts information system and court file. The specific procedure of registration is prescribed in the internal rules of the court office.

(2) Procedural documents received in and sent from court are not registered in the documents register in case the participant in proceedings is provided with access to the procedural documents through webpage or information system.

[RT I 2009, 68, 463 - entry into force 10.01.2010]

# **Chapter 2 COURTS OF FIRST INSTANCE**

## **Division 1 County courts**

[RT I 2005, 15, 85 - entry into force 01.01.2006]

## **§ 9. County courts**

(1) A county court shall hear civil, criminal and misdemeanour matters as court of first instance. A county court shall also perform other acts the performance of which is placed within the jurisdiction of the courts by law.

(2) The following are county courts:

- 1) Harju County Court;
- 2) Viru County Court;
- 3) Pärnu County Court;
- 4) Tartu County Court.

(2<sup>1</sup>) A county court shall have one or several courthouses.

(3) Courthouses shall be located in the territorial jurisdiction of a county court. The minister responsible for the area shall determine the exact location and service areas of courthouses. The location of every courthouse is also the location of the county court.

(4) The structure of county courts and the composition of the staff of court officers shall be determined by the director of court, except in the field related to the performance of the function of administration of justice. In such field, the structure of the court and the composition of the staff of court officers shall be determined by the chairman of the court. In determination of the structure of a court and the composition of the staff of court officers, the provisions of § 43 of this Act shall be taken into consideration.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

## **§ 10. Territorial jurisdiction of county courts**

(1) The territorial jurisdiction of county courts shall be determined by the minister responsible for the area.

(2) Courts which adjudicate matters of a particular type without considering the territorial jurisdiction may be provided by law.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

## **§ 10<sup>1</sup>. Location of hearing civil, criminal or misdemeanour matters**

[Repealed - RT I, 23.02.2011, 1 - entry into force 01.09.2011]

## **§ 11. Number of county judges**

The number of judges in each county court and their division among courthouses shall be determined by the minister responsible for the area after having considered the opinions of the chairman of the county court and the chairman of the circuit court in whose territorial jurisdiction the court is located.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

## **§ 11<sup>1</sup>. Permanent place of service of a county court judge**

[RT I 2005, 15, 85 - entry into force 01.01.2006]

(1) The permanent place of service of a county court judge shall be in the courthouse where he or she is appointed by the Supreme Court *en banc* (subsection 55 (3)), the full court (subsection 57 (1)) or the chairman of the court (subsection 57 (2)).

[RT I 2008, 59, 330 - entry into force 01.01.2009]

(1<sup>1</sup>) If the appointed chairman of a county court is a judge who immediately before the appointment as the judge served in another court, he or she shall independently determine for the chairman's term of office the courthouse of his or her permanent place of service.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(2) A judge shall not refuse to hear a matter in another courthouse of the same county court.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(3) If a judge hears a matter in a courthouse which is not his or her permanent place of service, travel and accommodation expenses shall be reimbursed to him or her. Other mission expenses shall also be reimbursed to the judge on the bases and pursuant to the procedure established by the Government of the Republic.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

## § 12. Chairmen of county courts

(1) The chairman of a county court shall be appointed from among the judges of a court of the first instance and of a court of appeal for a term of seven years. The chairman of a court shall be appointed by the minister responsible for the area after having considered the opinion of the full court, the chairman of which the judge is appointed.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(1<sup>1</sup>) If the appointed chairman of a county court is a judge whose permanent place of service was at another court, the number of judges in a county court may be larger than determined on the basis of § 11 of this Act.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(1<sup>2</sup>) If the appointed chairman of a county court is a judge of a circuit court, he or she shall continue to receive the salary a judge of a circuit court, which shall be added additional remuneration for the performance of the chairman's duties.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(2) The chairman of a county court shall represent and direct the judicial institution within the limits of his or her competence. The chairman of a court is responsible for administration of justice in the court pursuant to the established procedure.

(3) The chairmen of county courts shall:

- 1) organise activities in the area of administration of justice;
- 2) approve the draft budget of the court prepared by the director of court;
- 3) exercise supervisory control prescribed by law;
- 4) prepare the draft of the training plan of judges and submit it for approval to the full court, organise and monitor compliance with the plan and present a review on compliance with the plan to the full court at least once a year;
- 5) perform other duties arising from law and the internal rules of the court.

(4) The minister responsible for the area may release the chairman of a court prematurely:

- 1) at the request of the chairman of the court;
- 2) if the chairman of the court has failed to perform his or her duties wrongfully to a material extent;
- 3) upon his or her election or appointment as a judge of European Court of Human Rights, European Court of Justice or other international court institution (hereinafter international court institution) (§ 58<sup>1</sup>).

[RT I, 04.03.2011, 1 - entry into force 01.04.2011]

(5) In the case specified in clause (2) 4) of this section, the minister responsible for the area shall consider the opinion of the full court and the opinion of the chairman of the circuit court in whose territorial jurisdiction the county court is located.

(6) In the absence of the chairman of a court, a judge designated by the chairman shall substitute for him or her. If the chairman of a court has not designated an acting chairman, a judge who is senior in office shall substitute for him or her, and where there is equal seniority in office, a judge who is senior in age shall substitute for him or her.

(7) If the chairman of a court is released from the office of judge, he or she shall also be released from the duties of the chairman of a court.

(8) Upon release of the chairman of a court from the duties of the chairman of a court, he or she shall retain the authority of a judge.

(9) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(10) No one shall be appointed as chairman of the same court for two consecutive terms.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(11) If the chairman of a county court is released from the duties of the chairman before the expiry of the term of office, the judge shall return to a court of his or her service prior to appointment as the chairman of the county court.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(12) If the term of office of the chairman of a county court expires due to the end of the term, the judge may return to a court of his or her service prior to appointment as the chairman of the county court or continue service as a judge in the county court where he or she was the chairman. The chairman of a county court shall submit a respective application in writing to the minister responsible for the area at least three months before the expiry of the term of office.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(13) If subsections (11) and (12) of this section apply, the number of judges in a county court may be larger than determined on the basis of § 11 of this Act.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

## **§ 12<sup>1</sup>. Deputy chairman of county court and manager of courthouse**

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(1) The chairman of a county court shall appoint the manager of a courthouse from among the judges serving in each courthouse for a term of seven years after having considered the opinion of the judges serving in the courthouse. In the courthouse where the permanent place of service of the chairman of the court is located a manager of the courthouse is not appointed.

(2) The chairman of a county court whose permanent place of service is in a courthouse where the number of positions of judges is over 30 shall appoint a deputy chairman from among the judges serving in this courthouse for a term of seven years after having considered the opinion of the judges serving in the courthouse. If the number of positions of judges in a courthouse is over 60, the chairman of a county court may appoint up to two deputy chairmen.

(3) The manager of a courthouse and a deputy chairman shall arrange the communication between the courthouse and the chairman of the county court and shall perform other duties arising from law and the internal rules of the court.

(4) The chairman of a county court may release the manager of a courthouse and a deputy chairman prematurely from the duties of the manager of a courthouse and a deputy chairman:

- 1) at the request of the manager of a courthouse or a deputy chairman;
- 2) due to failure of co-operation with the chairman of the county court.

(5) In the absence of the manager of a courthouse or a deputy chairman, a judge designated by the chairman of a county court may substitute for him or her.

(6) If the manager of a courthouse or a deputy chairman is released from the office of judge, he or she shall also be released from the duties of the manager of the courthouse.

(7) Upon release of a judge from the duties of the manager of a courthouse and a deputy chairman, he or she shall retain the authority of a judge.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

## **§ 13. [Repealed - RT I 2005, 15, 85 - entry into force 01.01.2006]**

## **§ 14. Lay judges**

The number of lay judges in each county court shall be determined by the minister responsible for the area with the approval of the Council for Administration of Courts after having considered the opinion of the full court of the county court.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

## **§ 15. Land registry department**

(1) Tartu County Court shall comprise the land registry department. The land registry department shall have regional services.

[RT I, 21.06.2014, 8 - entry into force 01.01.2015]

(2) The land register, ship register and marital property register shall be maintained in the land registry department.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(3) [Repealed - RT I 2005, 15, 85 - entry into force 01.01.2006]

(4) The land registry department shall be comprised of assistant judges and other court officers. The director of court may appoint the head of the land registry department and the heads of the regional services of the land registry department. The head of the land registry department and the head of the regional service of the land registry department shall be appointed from among assistant judges. Unless the director of court appoints the head of the land registry department, he or she shall appoint the head of the regional service of the land registry department.

[RT I, 21.06.2014, 8 - entry into force 01.01.2015]

## **§ 16. Registration department**

(1) Tartu County Court shall comprise the registration department. The registration department shall have regional services.

[RT I, 21.06.2014, 8 - entry into force 01.01.2015]

(2) The commercial register, non-profit associations and foundations register and commercial pledge register shall be maintained in the registration department.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(2<sup>1</sup>) In addition to the registers specified in subsection (2) of this section, Tartu County Court registration department shall maintain the informative state register of state and local government agencies, which objective is keeping record of the state and local government agencies within the public sector and making the registry data available. The procedure for maintaining the register shall be established by the minister responsible for the area.

[RT I, 28.12.2016, 14 - entry into force 11.01.2017]

(3) [Repealed - RT I 2005, 15, 85 - entry into force 01.01.2006]

(4) The registration department shall be comprised of assistant judges and other court officers. The director of court may appoint the head of the registration department and the heads of the regional services of the registration department. The head of the registration department and the head of the regional service of the registration department shall be appointed from among assistant judges. Unless the director of court appoints the head of the registration department, he or she shall appoint the head of the regional service of the registration department.

[RT I, 21.06.2014, 8 - entry into force 01.01.2015]

## **§ 16<sup>1</sup>. Payment orders department**

(1) Pärnu County Court has a payment orders department.

(2) The payment orders department hears petitions for expedited procedure in a matter of a payment order.

(3) An assistant judge designated by the director of court shall be the head of the payment orders department. A payment orders department shall be comprised of assistant judges and other court officers.

[RT I 2009, 67, 460 - entry into force 01.01.2010]

## **§ 17. [Repealed - RT I 2008, 17, 118 - entry into force 01.06.2008]**

# **Division 2 Administrative courts**

## **§ 18. Administrative courts**

(1) Administrative courts shall hear administrative matters placed within the jurisdiction thereof as courts of first instance. Administrative courts shall also perform other acts the performance of which is placed within the jurisdiction of the courts by law.

(2) The following are administrative courts:

- 1) Tallinn Administrative Court;
- 2) Tartu Administrative Court.

(2<sup>1</sup>) An administrative court shall have one or several courthouses.

(3) Courthouses shall be located in the territorial jurisdiction of the administrative court which shall be determined by the minister responsible for the area. The minister responsible for the area shall determine the exact location and service areas of courthouses. The location of every courthouse is also the location of the administrative court.

(4) The structure of administrative courts and the composition of the staff of court officers shall be determined by the director of court, except in the field related to the performance of the function of administration of justice. In such field, the structure of the court and the composition of the staff of court officers shall be determined by the chairman of the court. In determination of the structure of a court and the composition of the staff of court officers, the provisions of § 43 of this Act shall be taken into consideration.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

## **§ 18<sup>1</sup>. Location of hearing of administrative matters**

[Repealed - RT I, 23.02.2011, 3 - entry into force 01.01.2012]



## **§ 19. Number of administrative court judges**

The number of judges in each administrative court and their division among courthouses shall be determined by the minister responsible for the area after having considered the opinions of the chairman of the administrative court and the chairman of the circuit court in whose territorial jurisdiction the court is located.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

## **§ 19<sup>1</sup>. Permanent place of service of administrative court judge**

(1) The permanent place of service of an administrative court judge shall be in the courthouse where he or she is appointed by the Supreme Court *en banc* (subsection 55 (3)) or the full court (§ 57).

(1<sup>1</sup>) If the appointed chairman of an administrative court is a judge who immediately before the appointment as the judge served in another court, he or she shall independently determine for the chairman's term of office the courthouse of his or her permanent place of service.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(2) A judge shall not refuse to hear a matter in another courthouse of the same administrative court.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(3) If a judge hears a matter in a courthouse which is not his or her permanent place of service, travel and accommodation expenses shall be reimbursed to him or her. Other mission expenses shall also be reimbursed to the judge on the bases and pursuant to the procedure established by the Government of the Republic.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

## **§ 20. Chairmen of administrative courts**

(1) The chairman of an administrative court shall be appointed from among the judges of a court of the first instance and of a court of appeal for a term of seven years. The provisions of § 12 of this Act shall apply in other aspects to the chairman of an administrative court.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(2) [Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(3) [Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(4) [Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(5) [Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(6) [Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(7) [Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(8) [Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(9) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]

## **§ 20<sup>1</sup>. Manager of courthouse**

(1) The chairman of an administrative court shall appoint a manager of the courthouse from among the judges serving in the courthouse for a term of seven years after having considered the opinion of the judges serving in the courthouse. In the courthouse where the permanent place of service of the chairman of the court is located a manager of the courthouse is not appointed.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(2) The manager of the courthouse shall arrange the communication between the courthouse and the chairman of the administrative court and shall perform other duties arising from law and the internal rules of the court.

(3) The chairman of an administrative court may release a manager of a courthouse prematurely:

- 1) at the request of the manager of the courthouse;
- 2) due to failure of co-operation with the chairman of the administrative court.

(4) In the absence of the manager of the courthouse, a judge designated by the chairman of the administrative court may substitute for him or her.

(5) If the manager of the courthouse is released from the office of judge, he or she shall also be released from the duties of the manager of the courthouse.

(6) Upon release of a judge from the duties of the manager of the courthouse, he or she shall retain the authority of a judge.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

**§ 21. [Repealed - RT I 2005, 15, 85 - entry into force 01.01.2006]**

## **Chapter 3**

# **COURTS OF APPEAL**

### **§ 22. Circuit courts**

(1) A circuit court is the court of appeal which reviews the decisions of county and administrative courts by way of appeal proceedings.

(2) Tallinn Circuit Court and Tartu Circuit Court are circuit courts.

[RT I 2008, 13, 85 - entry into force 01.01.2009]

(3) Harju County Court and Pärnu County Court and Tallinn Administrative Court shall be in the jurisdiction of Tallinn Circuit Court.

(4) Tartu County Court and Viru County Court and Tartu Administrative Court shall be in the jurisdiction of Tartu Circuit Court.

[RT I 2008, 13, 85 - entry into force 01.01.2009]

(5) [Repealed - RT I 2008, 13, 85 - entry into force 01.01.2009]

(6) Tallinn Circuit Court shall be located in Tallinn and Tartu Circuit Court shall be located in Tartu. The minister responsible for the area shall determine the exact location of circuit courts.

[RT I 2008, 13, 85 - entry into force 01.01.2009]

(7) The structure of circuit courts and the composition of the staff of court officers shall be determined by the director of court, except in the field related to the performance of the function of administration of justice. In such field, the structure of the court and the composition of the staff of court officers shall be determined by the chairman of the court. In determination of the structure of a court and the composition of the staff of court officers, the provisions of § 43 of this Act shall be taken into consideration.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

### **§ 23. Number of circuit court judges**

The minister responsible for the area shall determine the number of judges in each circuit court after having considered the opinion of the chairman of the circuit court.

### **§ 24. Chairmen of circuit courts**

(1) The chairman of a circuit court shall be appointed from among the judges of a court of appeal for a term of seven years. The provisions of § 12 of this Act shall apply in other aspects to the chairman of a circuit court.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(2) [Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(3) [Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(3<sup>1</sup>) The Chairman of Tallinn Circuit Court shall grant his or her consent on the basis of a written request of the Prosecutor General for performance of procedural acts with respect to a member of the *Riigikogu* specified in subsection 382<sup>2</sup>(1) of the Code of Criminal Procedure before obtaining consent for preparation of a statement of charges.

[RT I, 22.12.2014, 9 - entry into force 01.01.2015]

(4) The minister responsible for the area may, with the approval of the Supreme Court *en banc*, release the chairman of a court from office prematurely:

- 1) at the request of the chairman of the court;
- 2) if the chairman of the court has failed to perform his or her duties wrongfully to a material extent;
- 3) upon his or her election or appointment as a judge of an international court institution (§ 58<sup>1</sup>).

(5) In the case provided for in clause (4) 2) of this section, the minister responsible for the area shall consider the opinion of the full court.

(6) [Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(7) [Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(8) [Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(9) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]

## **Chapter 4**

### **SUPREME COURT**

#### **§ 25. Supreme Court**

- (1) The Supreme Court is the highest court in the state.
- (2) The Supreme Court shall be located in Tartu.
- (3) The number of justices in the Supreme Court shall be nineteen.

#### **§ 26. Jurisdiction of Supreme Court**

- (1) The Supreme Court shall review decisions by way of cassation proceedings. In the cases and pursuant to the procedure provided by law, the Supreme Court shall review decisions by way of proceedings for revision or proceedings for the correction of court error, and perform other duties arising from law.
- (2) Acceptance for proceedings of matters which fall within the jurisdiction of the Supreme Court shall be decided by a panel of at least three members of the Supreme Court on the basis provided for in law regulating judicial procedure. A matter is accepted for proceedings if the hearing thereof is demanded at least by one justice of the Supreme Court.
- (3) The Supreme Court shall also be the constitutional review court.

#### **§ 27. Chief Justice of Supreme Court**

- (1) The Chief Justice of the Supreme Court shall be appointed by the Riigikogu on the proposal of the President of the Republic for nine years.
- (2) The Chief Justice of the Supreme Court shall:
  - 1) direct and represent the Supreme Court;
  - 2) make a proposal to the Riigikogu to appoint the justices of the Supreme Court to office;
  - 3) exercise supervisory control prescribed by law;
  - 4) perform other duties arising from law and the internal rules of the court.
- (3) Once a year, at the spring session of the Riigikogu, the Chief Justice of the Supreme Court shall present a review to the Riigikogu concerning courts administration, administration of justice and the uniform application of law.
- (4) In the absence of the Chief Justice of the Supreme Court or upon the termination of his or her authority as the Chief Justice of the Supreme Court, a justice of the Supreme Court designated by the Chief Justice shall perform the duties of the Chief Justice of the Supreme Court. If the Chief Justice of the Supreme Court has not designated an acting Chief Justice, the chairman of the Chamber specified in § 28 of this Act who is senior in the office of judge shall substitute for him or her, and where there is equal seniority in office, a chairman of a Chamber who is senior in age shall substitute for him or her.
- (5) On the proposal of the President of the Republic, the Riigikogu may release the Chief Justice of the Supreme Court prematurely at the request of the Chief Justice of the Supreme Court. The Chief Justice of the Supreme Court shall notify the President of the Republic of his or her resignation from office at least four months in advance.
- (5<sup>1</sup>) The Riigikogu shall release the Chief Justice of the Supreme Court from service on the proposal of the President of the Republic upon his or her election or appointment as a judge of an international court institution (§ 58<sup>1</sup>).
- (6) If the Chief Justice of the Supreme Court is unable to perform his or her duties for six consecutive months due to illness or for any other reason, the President of the Republic shall file a reasoned request with the Supreme Court to declare by a judgment that the Justice of the Supreme Court is unable to perform his or her

duties. A judgment of the Supreme Court *en banc* shall release the Chief Justice of the Supreme Court from office.

(7) If the Chief Justice of the Supreme Court is released from the office of judge, he or she shall also be released from the duties of the Chief Justice of the Supreme Court.

(8) Upon release of the Chief Justice of the Supreme Court from the duties of the Chief Justice of the Court, he or she shall retain the authority of a justice of the Supreme Court.

(9) No one shall be appointed as Chief Justice of the Supreme Court for two consecutive terms.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

## **§ 28. Civil Chamber, Criminal Chamber and Administrative Chamber of Supreme Court**

(1) The Supreme Court shall comprise the Civil Chamber, Criminal Chamber and Administrative Chamber.

(2) Each justice of the Supreme Court shall be a member of one Chamber. The Supreme Court *en banc* shall decide into which Chamber a justice of the Supreme Court belongs, as well as the procedure and terms for rotation between the Chambers.

(3) The Chief Justice of the Supreme Court has the right to involve, pursuant to the procedure prescribed by the internal rules of the Supreme Court, justices from different Chambers in the panel of the Court which hears a matter.

(4) The Supreme Court *en banc* shall appoint the chairman of a Chamber from among the members of the Chamber for the term of five years.  
[RT I, 23.12.2014, 1 - entry into force 01.01.2015]

(5) The chairman of a Chamber shall perform duties arising from the internal rules of the Supreme Court.

## **§ 29. Constitutional Review Chamber**

(1) The Supreme Court shall comprise the Constitutional Review Chamber which is comprised of nine justices of the Supreme Court.

(2) The Chief Justice of the Supreme Court shall be the chairman of the Constitutional Review Chamber. Other members of the Chamber shall be appointed by the Supreme Court *en banc*.

(3) The internal rules of the Supreme Court shall provide for the term of authority of the members of the Constitutional Review Chamber and the procedure for the substitution of members of the Constitutional Review Chamber.

## **§ 30. Supreme Court *en banc***

(1) The Supreme Court shall comprise the Supreme Court *en banc*, which is comprised of all justices of the Supreme Court.

(2) The Supreme Court *en banc* shall:

- 1) review decisions on the bases provided by law;
- 2) make a proposal to the President of the Republic to appoint a judge to office or release a judge from office;
- 3) resolve appeals filed against the decisions of the judge's examination committee;
- 4) resolve appeals filed against the decisions of the Disciplinary Chamber;
- 5) decide the commencement of disciplinary proceedings against the Chief Justice of the Supreme Court, and notify the Riigikogu thereof;
- 6) perform other duties arising from law and the internal rules of the Supreme Court.

(3) The Supreme Court *en banc* is convened and chaired by the Chief Justice of the Supreme Court. In order to commence disciplinary proceedings against the Chief Justice of the Supreme Court, a justice who is senior in office shall convene and chair the Supreme Court *en banc*, and where there is equal seniority in office, a justice who is senior in age shall convene and chair the Supreme Court *en banc*.

(4) The Supreme Court *en banc* has a quorum if at least eleven justices are present. The judgements of the Supreme Court *en banc* are adopted by the majority vote of the justices of the Supreme Court who are present. If the votes are divided equally, the Chief Justice of the Supreme Court shall cast the deciding vote.

(5) The minister responsible for the area has the right to participate in the Supreme Court *en banc*, except in case where a court decision being reviewed. The minister responsible for the area has the right to speak in the Supreme Court *en banc*. The Chief Justice of the Supreme Court may also invite to the Supreme Court *en banc* other persons to whom the Supreme Court *en banc* may grant the right to speak.

### **§ 31. Law clerk**

(1) A law clerk is an official of the Supreme Court who generalises judicial practice and participates in the preparation of cases for proceeding.

(2) The specific duties of a law clerk shall be determined in the internal rules of the Supreme Court.

(3) A person who complies with the educational requirements set for judges may be appointed as law clerk.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

(4) A law clerk shall be appointed to office for a term of three years. By agreement of the parties, the service relationship of a law clerk may be extended.  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016 - applies with regard to law clerks appointed to office after 1 August 2016.]

(5) If the service relationship of a law clerk is extended or he or she is appointed to the same position consecutively more than twice, excluding the case specified in clause 23 (2) 1) of the Public Service Act, the law clerk shall be deemed to be appointed to the position for an unspecified term.  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016 - applies with regard to law clerks appointed to office after 1 August 2016.]

(6) If a law clerk is transferred for a fixed term to an agency located in another local authority the Supreme Court shall compensate for his or her travel and accommodation expenses to the extent and pursuant to the procedure established by the Chief Justice of the Supreme Court.  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

### **§ 32. Remuneration for work performed by officers of Supreme Court**

The salaries of the court officers of the Supreme Court, the procedure for payment of additional remuneration, bonuses and benefits shall be determined by the Chief Justice of the Supreme Court within the limits of the budget of the Supreme Court.

### **§ 33. Internal rules of Supreme Court**

(1) The organisation of work of the Supreme Court shall be prescribed in the internal rules of the Supreme Court approved by the Supreme Court *en banc*.

(2) The internal rules shall not include provisions concerning rules of court procedure.

(3) The internal procedure rules of the Supreme Court shall be established pursuant to the Public Service Act.

### **§ 34. Courts information system**

(1) Courts information system is a state agency database founded by the minister responsible for the area the purpose of which is the organisation of the work of courts, the collection of statistics, the collection and systematisation of court decisions and making these available to courts and the public.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

(2) The chief processor of the database is the Ministry of Justice. The authorised processors of the database are the Ministry of Justice and courts of the Republic of Estonia.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

(3) The composition of the register data, the procedure for submission of the data and specific procedure for application for access right to the data shall be established by the minister responsible for the area with the approval of the Council for Administration of Courts.  
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(4) The following shall have access right to the data in the courts information system:  
1) state and local government authorities and legal or natural persons for the performance of the duties prescribed by law;  
2) foreign authorities and persons if this right is provided for in an international agreement.  
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(5) The chief processor of the courts information system, the authorised processors and the data recipients specified in subsection (4) of this section is required to maintain the confidentiality of the information which become known to them in the performance of their duties also after the completion of the duties related to the processing of the information or expiry of the service relationship. It is prohibited to disclose the received information to any third parties unless it is prescribed by law. Data recipients are required to use data only for

the purpose applied for and observe the conditions provided for in this Act and the Personal Data Protection Act and the conditions arising from restrictions on the use of data established when data are transferred to a data recipient, and ensure that data shall not be accessible by persons who have no right to process data.  
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(6) Data recipients who use data for performing the duties prescribed by law are required to immediately notify the chief processor and the authorised processor of any inaccurate, suspicious or incomplete data discovered.  
[RT I 2009, 67, 460 - entry into force 01.01.2010]

## **Chapter 5**

# **SELF-GOVERNMENT AND DIVISION OF TASKS OF JUDGES**

### **§ 35. Full court**

- (1) Every court shall comprise a full court which is comprised of all the judges of the court.
- (2) A full court shall have a quorum if the majority of the judges are present.
- (3) A full court is convened by the chairman of the court either independently or at the request of at least two thirds of the judges of the court. The chairman of the court shall be the presiding judge of the full court.
- (4) The decisions of the full court shall be adopted by the majority vote of judges who are present. If the votes are divided equally, the chairman of the court shall cast the deciding vote.
- (5) The activities of the Supreme Court *en banc* are regulated by § 30 of this Act.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 36. Jurisdiction of full court**

- A full court shall:
- 1) approve the division of tasks plan of judges;
  - 2) provide an opinion to the minister responsible for the area on the appointment to office, and in cases provided by law, also on the release from office of the chairman of the court;
  - 3) make recommendations to the chairman of the court concerning issues related to the organisation of work;
  - 4) perform other duties arising from law and the internal rules of the court.
- [RT I 2005, 71, 549 - entry into force 01.01.2006]

### **§ 37. Division of tasks between judges**

(1) The division of tasks between judges of courts of the first instance and courts of appeal shall be prescribed in the division of tasks plan.

(1<sup>1</sup>) A chairman of a court may, by a directive, reduce his or her work load in administration of justice to the extent necessary for performing the duties of the chairman.  
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(1<sup>2</sup>) Upon the assumption of office by a judge of a court of the first instance, his or her workload in administration of justice in the first six months shall be 90%.  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

- (2) Tasks shall be divided between judges on the basis of the following principles:
- 1) each matter received by the court for hearing shall be divided between judges according to the division of tasks plan;
  - 2) matters shall be divided between judges at random and on bases determined in the division of tasks plan;
  - 3) in the distribution of matters, as many matters as possible shall be distributed between the judges serving in the courthouse where the matter will be heard.
  - 4) the distribution of the matters shall ensure equal work load of judges within a court;
  - 4<sup>1</sup>) the distribution of the matters to a chairman of a court shall take into account the reduced work load in administration of justice on the basis of subsection (1<sup>1</sup>) of this section;  
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]
- 5) The Council for Administration of Courts may adopt additional principles for the preparing of the division of tasks plan of judges. When approving the division of tasks plan, courts shall be guided by the principles adopted by the Council for Administration of Courts.

(3) The division of tasks plan shall prescribe the procedure for formation of court panels and for the substitution of judges.

(4) The division of tasks plan shall be approved for one calendar year. During a working year, the full court may amend the division of tasks plan only with good reason.

(5) Everyone can access the division of tasks plan in the court office.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 37<sup>1</sup>. Employment of judges with partial work load**

(1) The chairman of the court shall provide the judge with an opportunity to work with partial work load due to:  
1) necessity to raise a child under three years of age;  
2) partial capacity for work.

(2) The chairman of the court may permit a judge to work with partial work load for up to one year also in a case not specified in subsection (1) of this section. Before deciding on the reduction of a judge's work load, the chairman of the court shall consider the opinion of the full court.

(3) An application for employment with partial work load shall be submitted to the chairman of the court at least two weeks before the requested commencement of employment with partial work load. The reason for and time of employment with partial work load shall be specified in the application. Documents which prove the facts which are the basis of the application shall be enclosed to the application.

(4) Upon employment with partial work load on the basis specified in this section, a judge's salary shall be reduced in proportion to the work load.

(5) A judge's employment with partial work load shall be formalised by a directive of the chairman of the court. The directive shall contain the information on a judge's work load, the period during which a judge is employed with partial work load and the amount of his or her salary upon employment with partial work.  
[RT I, 23.12.2014, 1 - entry into force 01.01.2015]

### **§ 38. *Courten banc***

[RT I 2005, 71, 549 - entry into force 01.01.2006]

(1) The Court *en bancis* comprised of all Estonian judges.

(2) The Court *en banc* shall be convened every year on the second Friday of February. The extraordinary Court *en banc* may be convened by the minister responsible for the area or the Chief Justice of the Supreme Court.

(3) Court *en banc* shall:

- 1) hear reports by the Chief Justice of the Supreme Court and the minister responsible for the area concerning the development of the legal and court system;
- 2) discuss problems of administration of justice and other issues concerning courts and the work of judges;
- 3) elect, pursuant to subsection 40 (1) of this Act, members and alternate members of the Council for Administration of Courts who are judges;
- 4) elect five circuit court judges and five judges of courts of first instance to participate in the adjudication of disciplinary matters in the Disciplinary Chamber of the Supreme Court;
- 5) elect members of the judge's examination committee who are judges;

[RT I, 23.12.2014, 1 - entry into force 01.01.2015]

6) elect members and alternate members of the assistant judge's competition committee (hereinafter *competition committee*) who are judges;

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

- 7) elect members and alternate members of the training committee who are judges;
- 8) elect members and alternate members of the court of honour of the Estonian Bar Association, the advocates' professional suitability assessment committee, prosecutors' competition and evaluation committee and sworn translators examination committee who are judges;
- 9) approve the code of ethics of judges.

(4) The Court *en banc* shall be chaired by the Chief Justice of the Supreme Court unless the Court *en banc* decides otherwise.

(5) The procedure of the Court *en banc* shall be established by a majority of votes of the judges participating in the Court *en banc*.

(6) The Supreme Court shall organise the clerical support to the Court *en banc*.

(7) [Repealed - RT I 2005, 71, 549 - entry into force 01.01.2006]

## **Chapter 6**

# **ADMINISTRATION OF COURTS; TRAINING AND SUPERVISORY CONTROL**

### **§ 39. Administration of courts**

(1) Courts of the first instance and courts of appeal are administered in co-operation between the Council for Administration of Courts and the Ministry of Justice. Courts shall perform court administration duties if so provided by law.

(2) The minister responsible for the area may transfer the court administration duties which fall within his or her competence to a court.

(3) The minister responsible for the area has no right of command or disciplinary authority over the judges.

(4) Administration of courts shall ensure:

- 1) the possibility for independent administration of justice;
- 2) the working conditions necessary for administration of justice;
- 3) adequate training of court officers;
- 4) the availability of administration of justice.

### **§ 40. Council for Administration of Courts**

(1) The Council for Administration of Courts (hereinafter *Council*) is comprised of the Chief Justice of the Supreme Court, five judges elected by the Court *en banc* for three years, two members of the Riigikogu, a sworn advocate appointed by the Board of the Bar Association, the Prosecutor General or a public prosecutor appointed by him or her, and the Chancellor of Justice or a representative appointed by him or her. The minister responsible for the area or a representative appointed by him or her shall participate in the Council with the right to speak.

(2) Council sessions shall be convened by the Chief Justice of the Supreme Court or by the minister responsible for the area. The person who convenes a session shall also determine the agenda thereof. The Council shall be chaired by the Chief Justice of the Supreme Court.

(3) The Council has a quorum if more than half of its members are present. Decisions of the Council shall be made by a majority vote of the members present. The Council shall approve its rules of procedure at the first session. The Ministry of Justice shall organise the clerical support to the Council.

### **§ 41. Competence of Council for Administration of Courts**

(1) The council grants approval for:

- 1) the determination of the territorial jurisdiction of courts (subsection 10 (1), subsection 18 (3));
- 2) [repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]
- 3) the determination of the exact location of courts and courthouses (subsection 9 (3); subsection 18 (3); subsection 22 (6));
- 4) the determination of the number of judges in courts (§ 11; § 19; § 23) and judges in permanent service in a courthouse;
- 5) the appointment to office and premature release of chairmen of courts (subsection 12 (1) and clause 12 (4) 2), § 20, subsection 24 (1) and clause 24 (4) 2));  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]
- 5<sup>1</sup>) the increase of the maximum age of a judge (subsection 99<sup>1</sup>(2));  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]  
[RT I, 21.06.2014, 8 - entry into force 01.07.2014]
- 6) the determination of the number of lay judges (§14);
- 7) [Repealed - RT I, 23.12.2014, 1 - entry into force 01.01.2015]
- 8) [repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]
- 9) [Repealed - RT I 2005, 71, 549 - entry into force 01.01.2006]
- 10) [Repealed - RT I, 21.06.2014, 8 - entry into force 01.07.2014]
- 11) the establishing of the composition of the register data of the courts information system and the procedure for the submission thereof (subsection 34 (3)).
- 12) the conscription of judges into active service in the defence forces (subsection 86 (4)).
- 13) the determination of the amount of remuneration paid to lay judges and payment procedure (subsection 112 (1)).  
[RT I 2006, 55, 411 - entry into force 23.12.2006]

(2) The Council shall provide a preliminary opinion on the principles of the formation and amendment of annual budgets of courts.

(3) The Council shall:



- 1) provide an opinion on the candidates for a vacant position of a justice of the Supreme Court (subsection 55 (4));
- 2) provide an opinion on the release of a judge (clauses 99 (1) 5)-8));  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]
- 3) deliberate, in advance, the review to be presented to the Riigikogu by the Chief Justice of the Supreme Court concerning courts administration, administration of justice and the uniform application of law (subsection 27 (3));
- 4) discuss other issues at the initiative of the Chief Justice of the Supreme Court or the minister responsible for the area.

#### **§ 42. Internal rules of courts**

(1) The internal organisation of work of courts of the first instance and courts of appeal shall be prescribed in the internal rules of the courts. The internal rules of a court shall be established by the chairman of the court with the approval of the full court. The internal rules of land registry departments of county courts, registration departments and offices of county courts, administrative courts and circuit courts shall be established by the minister responsible for the area.

[RT I 2008, 17, 118 - entry into force 01.06.2008]

(2) The duties of the chairman of the court and other judges arising from the organisation of work of the court and the duties of court officers subordinate to the chairman of the court shall be prescribed in the internal rules of the courts.

(2<sup>1</sup>) The duties of court officers, the operations procedure of the court and other issues concerning the internal organisation of work of the court shall be prescribed in the internal rules of the court offices.

(3) The internal rules shall not include provisions concerning rules of court procedure.

(4) The internal procedure rules and job descriptions of judicial institutions shall be established pursuant to the Public Service Act.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

#### **§ 43. Budget of court**

(1) The minister responsible for the area shall approve the budgets of courts of the first instance or courts of appeal within two months after the state budget is passed as an Act, considering the opinion formulated by the Council for Administration of Courts (subsection 41 (2)).

(2) A budget of a county court shall set out the expenditure for the performance of the function of administration of justice separately from the expenditure of the land registry departments and registration departments.

[RT I 2008, 17, 118 - entry into force 01.06.2008]

(3) During a budgetary year, the minister responsible for the area may amend the budget expenditure of a court only with good reason after having considered the opinion of the chairman of the court and the director of the court and pursuant to the principles formulated by the Council for Administration of Courts.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

(4) The budget of the Supreme Court shall be passed pursuant to the procedure provided for in the State Budget Act.

#### **§ 44. Training of judges**

(1) The Training Council is responsible for the training of judges. The term of the authority of members of the Training Council shall be three years. The Training Council shall be comprised of two judges of a court of the first instance, two judges of a court of appeal, two justices of the Supreme Court, and a representative of the Prosecutor's Office, the minister responsible for the area and the University of Tartu. The Training Council shall approve its rules of procedure and elect the chairman. Support services shall be provided to the Training Council by the Supreme Court.

(2) Training of judges shall be based on the strategies for training of judges, annual training programs and the program for judge's examination. The strategies for training of judges, annual training programs and the program for judge's examination shall be prepared by the Supreme Court and approved by the Training Council. The Supreme Court shall submit the training program for the next year to the Training Council no later than by 15 August. Taking into consideration the training needs of judges and the state budget funds allocated for the training of judges, the Training Council shall approve the training program not later than by 1 October. The study and methodological materials necessary for the training of judges shall be prepared and the agreements with the trainers shall be entered into by the Supreme Court.

(3) The basis for the preparation of the strategy for training of judges and the training programs is the training needs of judges and the analysis of the training results. The training needs of judges shall be determined and the training results shall be analysed by the Supreme Court. The methodology for determining the training needs of judges and analysing the training results shall be developed by the Supreme Court and approved by the Training Council. The Training Council shall provide on the basis of the annual overview submitted by the Supreme Court an assessment of the training results of judges.

(4) The Supreme Court may, by a contract under public law, authorise another person or institution to partially or completely fulfil the duties imposed on the Supreme Court in this section if the Training Council has previously approved it.

(5) The Training Council shall annually determine a part of the training program, the completion of which is mandatory to judges.

(6) Judges participate in training on the basis of an annual training plan. The full court of a court shall approve the training plan for the court. Records of participation in training shall be kept concerning each judge in a court pursuant to the internal rules of the court. The chairman of a court shall monitor compliance with the training plan.

(7) The funds intended for the preparation of the training program of judges and organisation of training shall be allocated in the budget of the Supreme Court.

[RT I 2008, 20, 139 - entry into force 01.01.2009]

#### **§ 45. Supervisory control**

(1) Supervisory control over the administration of justice pursuant to the requirements, over the performance of duties by judges and over the forwarding of the data of the courts information system pursuant to the established procedure shall be exercised by the chairman of the court. The chairman of a court has the right to demand explanations from judges, inspect compliance with the operations procedure and collect other necessary information. The manager of courthouse may, on the order of the chairman of a court of first instance or on his or her own initiative, demand explanations from judges of a courthouse and collect other necessary information to ensure the administration of justice in the court pursuant to the requirements. Chairmen of circuit courts shall also exercise supervisory control over judges of the courts of the first instance.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

(1<sup>1</sup>) If a judge without a good reason fails to perform a necessary procedural act, inter alia fails to appoint a session in due time to ensure the conducting of court proceedings within a reasonable period of time, or if it is evident that the time planned by the judge for performing the procedural act or other organisation of proceedings does not ensure the conducting of proceedings within a reasonable period of time, a chairman of a court shall decide on the implementation of such measure organising the administration of justice, which presumably provides the opportunity to finalise the proceedings within a reasonable period of time. The chairman of the court may, inter alia:

- 1) establish a reasonable term for the judge to perform the procedural act or finalise the proceedings depending on the circumstances;
- 2) provide the judge with other organisational guidelines for conducting the proceedings and organising the work and working time;
- 3) redistribute the court cases among the judges taking account of the division of tasks plan;
- 4) in exceptional case, also deviate from the division of tasks plan in the distribution of work, primarily taking into account the peculiarities of the court case, the specialisation of the judge and different work load of the judges.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(2) The minister responsible for the area shall exercise supervisory control over the performance of the duties by the chairmen of courts of first instance and chairmen of courts of appeal. The minister responsible for the area may demand explanations from the chairman of a court concerning the administration of justice in a court pursuant to the requirements.

(3) Supervisory control over the area of activity of land registry departments and registration departments shall be exercised by the directors of court and the minister responsible for the area. The minister responsible for the area shall exercise supervisory control over directors of court. The minister responsible for the area has the right to demand explanations from the employees of the departments mentioned above and from the directors of court, to inspect compliance with the operations procedure and the budget and to collect other necessary information. The minister responsible for the area shall establish the procedure for supervisory control.

[RT I 2008, 17, 118 - entry into force 01.06.2008]

#### **§ 46. Reporting of courts**

Courts of the first instance and courts of appeal shall submit a statistical report on cases to the minister responsible for the area. The minister responsible for the area shall approve the standard format for reporting and the term for submission thereof.

## **Chapter 7**

# **APPOINTMENT AS JUDGE**

### **§ 47. Requirements for judges**

(1) A citizen of the Republic of Estonia may be appointed as a judge if he or she:

- 1) has acquired in the field of law at least an officially certified Master's degree, a corresponding qualification for the purposes of subsection 28 (2<sup>2</sup>) of the Republic of Estonia Education Act or a corresponding foreign qualification;

[RT I 2008, 29, 189 - entry into force 01.07.2008]

- 2) has proficiency of the Estonian language at the level C1 provided for by the Language Act or a corresponding level;

[RT I 2009, 4, 27 - entry into force 26.01.2009]

- 3) is of high moral character;

- 4) has the abilities and personal characteristics necessary for working as a judge.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(1<sup>1</sup>) [Repealed - RT I 2008, 29, 189 - entered into force 01.07.2008]

(2) The following shall not be appointed as a judge:

- 1) persons who are convicted of a criminal offence;

- 2) persons who have been removed from the office of judge, notary or bailiff;

[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

- 3) persons who have been expelled from the Estonian Bar Association;

- 4) persons who have been released from the public service for a disciplinary offence;

- 5) persons who are bankrupt;

- 6) persons whose professional activities as an auditor have been terminated except termination on the basis of the application of an auditor;

- 7) persons who have been deprived of the qualification of a patent agent, except deprivation of qualification on the basis of the application of a patent agent.

- 8) who have been deprived of the profession of a sworn translator on the basis of clause 28 (3) 3) of the Sworn Translators Act.

[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

### **§ 48. Judge's age**

The maximum age of a judge is 67 years, unless otherwise provided for in this Act.

[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

### **§ 49. Restrictions on holding office of judge**

(1) Judges shall not be employed other than in the office of judge, except for teaching or research. A judge shall notify of his or her employment other than in the office to the chairman of the court. Employment other than in the office of judge shall not damage the performance of official duties of a judge or the independence of a judge upon administration of justice.

(2) A judge shall not be:

- 1) a member of the Riigikogu or member of a rural municipality or city council;

- 2) a member of a political party;

- 3) a founder, managing partner, member of the management board or supervisory board of a company, or director of a branch of a foreign company;

- 4) a trustee in bankruptcy, member of a bankruptcy committee or compulsory administrator of immovable;

- 5) an arbitrator chosen by the parties to a dispute.

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

### **§ 50. Judge of court of first instance**

(1) The following person may be appointed as a judge of a county or administrative court (county judge or administrative judge):

- 1) who has at least five years of work experience in an office or position, the prerequisite for working in which is the qualification specified in clause 47 (1) 1) of this Act, or who has worked as a law clerk or judicial clerk for at least three years and

- 2) who has passed a judge's examination or who has been exempted therefrom.

(2) The compliance of a candidate for judicial office with the requirements specified in subsection (1) of this section shall be evaluated by the judge's examination committee.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

### **§ 51. Judge of circuit court**

(1) The following person may be appointed as a judge of a circuit court (circuit court judge):

- 1) who is an experienced and recognised lawyer and
- 2) who has passed a judge's examination or who has been exempted therefrom.

(2) The compliance of a candidate for judicial office with the requirements specified in subsection (1) of this section shall be evaluated by the judge's examination committee.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

### **§ 52. Justice of Supreme Court**

A person who is an experienced and recognised lawyer may be appointed as a justice of the Supreme Court (Supreme Court justice).

### **§ 53. Public competition**

(1) Judges shall be appointed to office on the basis of a public competition.

(2) The minister responsible for the area shall announce a public competition for a vacant position of judge of a county court, administrative court and circuit court. The Chief Justice of the Supreme Court shall announce a public competition for a vacant position of justice of the Supreme Court.

(3) A competition for a vacant position of judge shall be announced in the official publication *Ametlikud Teadaanded*. An application shall be submitted to the Chief Justice of the Supreme Court within one month after the publication of the notice concerning the competition.

(4) If the vacant position of judge is filled pursuant to the procedure provided for in § 57 or § 58 of this Act, a competition shall not be announced.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

### **§ 54. Assessment of suitability of personal characteristics of candidates for judicial office**

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(1) The suitability of the personal characteristics of a candidate for judicial office shall be evaluated by the judge's examination committee. The judge's examination committee shall take into account in the evaluation of the personal characteristics of a candidate for judicial office the information which is important for the performance of the duties of a judge and the committee can make inquiries.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(1<sup>1</sup>) The forms and procedure for the evaluation of the personal characteristics shall be stipulated in the rules of procedure of the judge's examination committee.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(2) A candidate for judicial office shall pass a security check before being appointed judge, excluding the case if he or she holds a valid access permit to access state secrets classified as top secret or if the time of becoming a candidate he or she occupies 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]

(3) To pass the security check, a candidate for judicial office 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 through the judge's examination committee to the Estonian Internal Security Service.

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

(4) The Estonian Internal Security Service performs the security check of a candidate for judicial office pursuant to the procedure prescribed in the Security Authorities Act.

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

(5) The Estonian Internal Security Service shall, within three months as of receipt of the documents specified in subsection (3) of this section, present the information gathered as a result of the security check to the judge's examination committee and shall provide an opinion on whether a person who submitted the application meets the conditions for the issue of a permit for access to state secrets.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(6) Relying on the data collected in the course of the security check, a candidate for judicial office may be appointed judge within three years as of the time when the Estonian Internal Security Service forwarded the

information collected in the course of the security check to the judge's examination committee. A person may be appointed judge later than the above term after passing a new security check.  
[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(6<sup>1</sup>) The examination committee may apply for:

- 1) specification and modification of the information gathered in the course of the security check;
- 2) verification of existence of individual circumstances specified in § 32 of the State Secrets and Classified Information of Foreign States Act within the term specified in subsection (6) of this section.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(6<sup>2</sup>) To specify and modify the information specified in subsection (6<sup>1</sup>) of this section and verify the existence of circumstances specified in § 32 of the State Secrets and Classified Information of Foreign States Act, a candidate for judicial office shall sign the consent specified in subsection (3) of this section.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(7) The judge's examination committee shall forward its decision and the documents specified in subsections (3) and (5) of this section to the Supreme Court *en banc* and notify the examinee of the decision.

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

### **§ 54<sup>1</sup>. Security check of candidate for Chief Justice of Supreme Court**

(1) A candidate for the Chief Justice of the Supreme Court shall pass a security check before being appointed the Chief Justice of the Supreme Court, excluding the case if he or she holds a valid access permit to access state secrets classified as top secret or if the time of becoming a candidate he or she occupies 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 Chief Justice of the Supreme Court 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 Estonian Internal Security Service performs the security check of a candidate for the Chief Justice of the Supreme Court pursuant to the procedure prescribed 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 Chief Justice of the Supreme Court shall submit a completed form for an applicant for a permit to access state secrets to the Estonian Internal Security Service through the Office of the President of the Republic, and also 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 Estonian Internal Security Service shall, within three months as of receipt of the documents specified in subsection (4) of this section, present the information collected as a result of the security check to the President of the Republic and shall provide an opinion concerning the compliance of the candidate for the Chief Justice of the Supreme Court with the conditions for the issue of a permit for access to state secrets.

(6) In the cases where the authority of the Chief Justice of Supreme Court have terminated prematurely, the security check of the candidate for Chief Justice of Supreme Court shall be performed within one month after 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 circumstances specified in clause 33 (24) 1) or 2) of the State Secrets and Classified Information of Foreign States Act arise or if it is possible that circumstances specified in clause 30 (21) 3) or 4) of the State Secrets and Classified Information of Foreign States Act may arise 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, a candidate for the Chief Justice of the Supreme Court may be appointed to office within nine months as of the time when the agency which performed the security check forwarded the information collected in the course of the security check to President of the Republic. A candidate for the Chief Justice of the Supreme Court may be appointed to office later than the above term after passing a new security check.

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

### **§ 55. Appointment as judge**

(1) Judges of a court of the first instance and judges of a court of appeal shall be appointed by the President of the Republic on the proposal of the Supreme Court *en banc*. The Supreme Court *en banc* shall first consider the opinion of the full court of the court for which the person runs as a candidate.

(2) If several persons run as candidates for the vacant position of judge, the Supreme Court *en banc* shall decide who to propose to the President of the Republic to be appointed to office as judge. The decision of the Supreme Court *en banc* shall be communicated to the candidate.

(3) A judge of a court of the first instance or a judge of the court of appeal appointed to office by the President of the Republic shall be appointed to court service by the Supreme Court *en banc*. Upon appointing a judge of a court of first instance to service the Supreme Court *en banc* shall also determine the courthouse which shall be the permanent place of service of the judge.

(3<sup>1</sup>) A judge in the service of a court of first instance shall be transferred to the position of a judge of a court of appeal by a resolution of the Supreme Court *en banc*. The authority of a judge at a court of appeal shall commence as of the date specified in a resolution of the Supreme Court *en banc*.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(4) Justices of the Supreme Court shall be appointed to office by the Riigikogu on the proposal of the Chief Justice of the Supreme Court. The Chief Justice of the Supreme Court shall first consider the opinion of the Supreme Court *en banc* and the Council for Administration of Courts concerning a candidate.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

(5) Upon the appointment of a judge of a court of the first instance as a judge of a court of appeal, he or she shall be paid no compensation for unexpired unused annual holiday, and the calculation of the holiday shall be continued at the court of appeal.

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

## **§ 56. Judge's oath of office**

(1) Upon appointment to office, a judge shall take the following oath:

“I swear to remain faithful to the Republic of Estonia and its constitutional order. I swear to administer justice according to my conscience and in conformity with the Constitution of the Republic of Estonia and other Acts.”

(2) The justices of the Supreme Court shall take the oath before the Riigikogu, and other judges shall take the oath before the President of the Republic.

(3) The text of the judge's oath of office shall be maintained in the personal file of the judge.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

## **§ 57. Transfer of judges**

(1) The Supreme Court *en banc* may appoint a judge to office to another court of the same or a lower instance with the consent of the judge and on the proposal of the minister responsible for the area. The Supreme Court *en banc* may appoint a judge of a court of first instance with his or her consent to permanent service in another courthouse of the same court.

[RT I 2008, 59, 330 - entry into force 01.01.2009]

(1<sup>1</sup>) If a vacant position of the chairman of a court is filled pursuant to the procedure provided for in §§ 12, 20 and 24 of this Act, subsection (1) of this section does not apply. The transfer of a judge shall be documented by a directive of the minister responsible for the area.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(2) Within the same settlement, a chairman of a court in the interests of the organisation of administration of justice may appoint a judge to permanent office without his or her consent to another courthouse of the same court. The chairman of the court shall first consider the opinion of the full court.

[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) Upon the transfer of a judge to another court of the same instance or a lower instance, excluding the transfer of a justice of the Supreme Court to a court of a lower instance, he or she shall be paid no compensation for unexpired unused annual holiday, and the calculation of the holiday shall be continued at a court where the judge was transferred.

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

## **§ 58. Employment of judges in Supreme Court and Ministry of Justice and appointment as Prosecutor General**

[RT I, 21.06.2014, 11 - entry into force 01.07.2014]

(1) A judge may be transferred, without a competition, to the service of the Supreme Court or the Ministry of Justice at his or her request and with the consent of the chairman of the court. A judge may be appointed as the Prosecutor General at his or her request. During service in the Supreme Court or the Ministry of Justice or as the Prosecutor General, the authority of the judge shall be suspended. The judge shall retain the judge's salary and other guarantees during service in the Supreme Court or the Ministry of Justice. Upon appointment as the Prosecutor General, the judge shall be paid the salary of the Prosecutor General and he or she shall retain other judge's guarantees.

[RT I, 10.03.2015, 3 - entry into force 01.04.2015]

(2) A judge may return to the same court to a vacant position of judge by giving at least one month's advance notice thereof to the chairman of the corresponding court.

(3) The Supreme Court *en banc* may appoint a judge who leaves the service in the Supreme Court or the Ministry of Justice or the position of the Prosecutor General to another court of the same instance or a lower instance as a judge with his or her consent. If the salary paid to the judge would be lower in comparison with the salary which the judge would have received on returning to the same court to a vacant position of judge, he or she shall continue to receive higher salary for six months.

[RT I, 21.06.2014, 11 - entry into force 01.07.2014]

(4) If after leaving the service in the Supreme Court or the Ministry of Justice or the position of the Prosecutor General, a judge does not have the opportunity to return to his or her former position of judge, and he or she does not wish to be transferred to another court, the judge shall be released from office and shall receive compensation in an amount equal to his or her six months' salary. Compensation shall be calculated from the salary valid at the time of grant of the compensation in the position of judge in which the judge was last employed as a judge before taking up employment at the Ministry of Justice or the Supreme Court or appointment as the Prosecutor General.

[RT I, 21.06.2014, 11 - entry into force 01.07.2014]

### **§ 58<sup>1</sup>. Employment of judges in international court institutions and participation as experts in international civil missions**

(1) Upon election or appointment of a judge as a judge of an international court institution or participation as expert in international civil mission the authority and service relationship of the judge shall be suspended.

(1<sup>1</sup>) Participation of a judge as expert in an international civil mission shall be coordinated with a chairman of a court and in case of judges of the courts of the first instance and judges of courts of appeal also with the minister responsible for the area. In case of participation of a judge in an international civil mission, the Participation in International Civil Missions Act shall apply unless this Act prescribes otherwise.

(2) A judge may return to the same court to a vacant position of judge. A judge shall give notice of the wish to return to the chairman of the corresponding court in writing:

1) no later than one month before the regular termination of the judge's service at an international court institution or returning from an international civil mission;

2) no later than one month after the early termination of the judge's service in an international court institution or returning from an international civil mission;

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(2<sup>1</sup>) Upon failure to notify in due time of the wish to return specified in subsection (2) of this section it shall be considered that the judge does not wish to return to the same court.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(3) If after leaving the service in an international court institution or returning from an international civil mission, a judge does not have the opportunity to return to the same court to a vacant position of judge, the Supreme Court *en banc* may appoint a judge to a vacant position of judge at another court of the same instance or a lower instance as a judge with his or her consent. If the salary paid to the judge would be lower in comparison with the salary which the judge would have received on returning to the same court to a vacant position of judge, he or she shall continue to receive higher salary for six months.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(4) If after leaving the service in an international court institution or returning from an international civil mission, a judge does not have the opportunity to return to his or her former position of judge, and he or she does not wish to be transferred to another court, the judge shall be released from office pursuant to clause 99 (1) 6) and shall receive compensation in an amount equal to his or her six months' salary. Compensation shall be calculated on the basis of the salary valid at the time of grant thereof in the position of judge in which the judge was last employed prior to assuming office in the international court institution or taking part in the international civil mission.

(5) The period of employment in the service in an international court institution or as an expert in an international civil mission shall be included in the period of employment as a judge.

[RT I, 04.03.2011, 1 - entry into force 01.04.2011]

## **§ 58<sup>2</sup>. Official travel of judge**

When sending a judge on official travel, § 44 of the Public Service Act shall apply insofar as this is not regulated by the provisions of this Act.

[RT I, 29.12.2012, 1 - entry into force 01.04.2013]

## **§ 59. Service record of judge**

(1) A service record shall be maintained with regard to a judge which sets out:

- 1) his or her name and personal identification code of the judge;
- 2) his or her date and place of birth;
- 3) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]
- 4) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]
- 5) information concerning his or her education in law and academic degree;
- 6) the date on which he or she takes the oath of office;
- 7) his or her career;
- 8) [Repealed - RT I 2005, 71, 549 - entry into force 01.01.2006]
- 9) decisions of the Disciplinary Chamber and the date of expiry of the punishment.

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

(2) The Chief Justice of the Supreme Court shall organise the maintenance of service records of judges.

(3) [Repealed - RT I 2005, 71, 549 - entry into force 01.01.2006]

(4) At the request of a judge who is leaving the service, he or she shall be given a copy of his or her service record.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

## **§ 60. Personal file of judge**

[RT I 2005, 71, 549 - entry into force 01.01.2006]

(1) A personal file shall be maintained with regard to a judge which contains:

- 1) a copy of the document certifying education in law and an academic degree;
- 2) the decision of the judge's examination committee;
- 3) a copy of the identity card;
- 4) the decision of appointment as a judge;
- 5) decisions of the Disciplinary Chamber;
- 6) the decision of release or removal of judge from office.

(2) Other documents which reflect the professional activity of the judge may be added to the personal file.

(3) The Chief Justice of the Supreme Court shall organise the maintenance of the personal files of judges.

(4) [Repealed - RT I 2005, 71, 549 - entry into force 01.01.2006]

# **Chapter 8 JUDGE'S EXAMINATION**

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

**§ 61.–§ 65.**[Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

## **§ 66. Judge's examination**

(1) A judge's examination shall evaluate the legal knowledge of a candidate for judicial office and the ability to use these.

(2) A judge's examination shall consist of a written and oral part.

(3) A judge's examination shall be organised as necessary but at least once a year. The judge's examination committee shall determine the time and place of a judge's examination.

(4) More specific organisation of a judge's examination shall be stipulated in the rules of procedure of the judge's examination committee.

(5) If a person has not been appointed as a judge within five years after passing the judge's examination, he or she shall re-pass the examination in order to run as a candidate for judicial office.

(6) A person who was worked for at least three years as a sworn advocate or prosecutor, excluding an assistant prosecutor, and runs as a candidate for judicial office within three years after terminating the activities of a



sworn advocate or prosecutor shall be exempted from passing a judge's examination. The judge's examination committee may exempt from a judge's examination also a person who has worked in another office or position, if the complexity and responsibility of the office or position correspond to the complexity and responsibility of judicial office.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

#### **§ 67. Re-examination**

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(1) If a candidate for judicial office does not pass a judge's examination, he or she may re-take the examination after six months have passed from the judge's examination that was failed.

(2) A judge's examination may be taken for a third time or more after three years have passed from the last judge's examination that was failed.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

#### **§ 68. Assessment of examination results**

[Repealed - RT I, 22.06.2016, 21 - entry into force 01.08.2016]

#### **§ 69. Judge's examination committee**

(1) The judge's examination committee shall have sixteen members and be formed for three years.

[RT I, 23.12.2014, 1 - entry into force 01.01.2015]

(2) The judge's examination committee shall be comprised of four judges of the court of first instance elected by the Court *en banc*, four circuit court judges, four justices of the Supreme Court, one jurist designated by the council of the Law Faculty of the University of Tartu, a representative of the Ministry of Justice designated by the minister responsible for the area, a sworn advocate designated by the leadership of the Bar Association and the State Prosecutor designated by the Prosecutor General. The judge's examination committee shall elect the chairman of the judge's examination committee from among its members.

[RT I, 23.12.2014, 1 - entry into force 01.01.2015]

(3) In order to resolve matters within the competence of the judge's examination committee, the chairman of the committee shall form committee panels comprising at least five members, and at least three of the members shall be judges. The principles of formation of the panels shall be established in the rules of procedure of the judge's examination committee.

[RT I, 23.12.2014, 1 - entry into force 01.01.2015]

(3<sup>1</sup>) A person affected by a decision of the judge's examination committee may file an appeal against the decision with the Supreme Court *en banc* within 14 days after the date when he or she received the decision.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(4) The judge's examination committee shall approve the rules of procedure of the judge's examination committee.

(5) The Supreme Court shall organise the clerical support to the judge's examination committee.

## **Chapter 9 DUTIES OF JUDGES**

#### **§ 70. General duties**

(1) A judge shall perform his or her official duties in an impartial manner and without self-interest and shall comply with service interests also outside service.

(2) A judge shall behave impeccably in service and outside service and refrain from acts which may damage the reputation of court.

(3) Judges shall follow §§ 55 and 56, subsection 58 (1) and § 59 of the Public Service Act in the performance of his or her duties.

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

### **§ 71. Duty of confidentiality**

(1) A judge shall not disclose information which becomes known to him or her at a court session held *in camera*.

(2) A judge may disclose facts to which the duty of confidentiality applies in judicial proceedings or pre-trial procedure in criminal matters only with the permission of the Supreme Court *en banc*.

(3) In order to obtain the permission specified in subsection (2) of this section, the court or investigative agency conducting the proceeding or a judge bound by the duty of confidentiality may address the Supreme Court *en banc*.

(4) The duty of confidentiality applies for an unspecified term and remains in force also after termination of the service relationship.

### **§ 72. Duty of confidentiality of deliberations**

(1) A judge shall not disclose discussions which take place at the time the decision is made.

(2) The duty of confidentiality of deliberations applies for an unspecified term and remains in force also after termination of the service relationship.

### **§ 73. Duty to supervise**

(1) A judge shall supervise judges of a court of first instance with less than three years length of service and persons completing the preparatory service plan of an assistant judge. The chairman of a court shall appoint a judge's supervisor for one year upon the assumption of office by the judge. A judge cannot have more than two supervised persons at the same time.

(2) A judge supervising a judge with less than three years length of service shall submit once a quarter until the expiry of the term of supervision to the chairman of a court a report regarding the supervised judge, assessing his or her suitability for the office of judge and the development of the proceedings management skills, and, if necessary, provide other information.

(3) The judge's examination committee shall establish the format of the report specified in subsection (2) of this section.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

### **§ 74. Professional development**

(1) A judge is required to develop knowledge and skills of his or her speciality on a regular basis and to participate in training.

(2) A judge of a court of the first instance and of a court of appeal who assumes office is required to undergo the professional skills training program approved by the Training Council at the time determined by the Training Council.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

## **Chapter 10**

## **SOCIAL GUARANTEES FOR JUDGES**

### **§ 75. Judge's salary**

(1) A judge's salary is provided by the High-Ranking State Public Servants Salaries Act.

(2) The salary of a judge of a court of first instance with less than three years length of service during the first six months as of the assumption of the office shall be 90% of the salary determined by the High-Ranking State Public Servants Salaries Act.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(3) The salary and additional remuneration of a judge, the chairman of a Chamber, the manager of a courthouse and the deputy chairman of a court shall be paid on the basis of a directive of the chairman of a court. The salary and additional remuneration of the chairman of a court shall be paid on the basis of a directive of the minister responsible for the area or an official authorised by the minister responsible for the area.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

### **§ 76. Additional remuneration of judges**

(1) A chairman of the court of the first instance or court of appeal shall receive additional remuneration for the performance of the duties of chairman of the court in the amount of:

- 1) 15 per cent of his or her salary if the number of judges in the court is fourteen;
  - 2) 25 per cent of his or her salary if the number of judges in the court is at least fifteen;
  - 3) 35 per cent of his or her salary if the number of judges in the court is at least thirty;
- [RT I, 23.12.2014, 1 - entry into force 01.01.2015]
- 4) 45 per cent of his or her salary if the number of judges in the court is at least forty-five.
- [RT I, 23.12.2014, 1 - entry into force 01.01.2015]

(1<sup>1</sup>) The chairman of Viru County Court shall be paid additional remuneration at twice the rate provided for in subsection (1) of this section.  
[RT I, 28.12.2016, 14 - entry into force 11.01.2017]

(2) The chairman of a chamber of the Supreme Court or a circuit court shall receive additional remuneration for the performance of the duties of chairman of the chamber in the amount of 15 per cent of his or her salary.

(3) The chairman of a court shall determine additional remuneration for the manager of a courthouse in the amount of:

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

- 1) 5% of the salary of a judge if there are up to ten judges in permanent service in the courthouse;
  - 2) 10% of the salary of a judge if there are eleven to fourteen judges in permanent service in the courthouse;
  - 3) 15% of the salary of a judge if there are more than fourteen judges in permanent service in the courthouse.
- [RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(3<sup>1</sup>) The chairman of a court shall determine additional remuneration for the deputy chairman of a court in the amount of 15 per cent of his or her salary.  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(4) Judges supervising judges and persons completing the preparatory service plan of an assistant judge shall receive additional remuneration equal to 5 per cent of the salary for each supervised person during supervision. At the time when the completion of the preparatory service plan of an assistant judge is suspended, no additional remuneration shall be paid to the supervisor.  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(5) Additional remuneration shall be paid to a judge who performs the duties related to Estonia's presidency in the Council of the European Union during the period of Estonia's presidency in the Council of the European Union.  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

## **§ 76<sup>1</sup>. Representation expenses of Chief Justice of Supreme Court**

The Chief Justice of the Supreme Court shall be paid 20 per cent of his or her salary on a monthly basis for representation expenses.

[RT I, 23.12.2014, 1 - entry into force 01.01.2015]

**§ 77.–§ 81.**[Repealed - RT I, 29.12.2012, 1 - entry into force 01.07.2013]

## **§ 82. Change in amount of pension**

(1) A judge's pension shall be recalculated upon a change in the amount of the salary payable for the position according to which the judge's pension has been calculated.

(2) In the case specified in subsection (1) of this section, a pension shall be recalculated as of the date on which the amount of the salary of a judge changes.

[RT I, 04.07.2014, 34 - entry into force 26.06.2014 - The decision of the Supreme Court *en banc* declares to be in conflict with the Constitution and repeals subsection 132.7 (2) of the Courts Act and the revocation of § 82 of the Courts Act by clause 3 (2) of the Payment of Salaries Related to Estonian Average Wages Temporary Organisation Act to the extent these did not allow to recalculate the judges' old-age pensions based on the judges' salaries on 1 July 2013.]

## **§ 83. Compensation upon death and work decrement of judge**

[RT I, 13.12.2014, 1 - entry into force 01.07.2016 (entry into force changed - RT I, 17.12.2015, 1)]

If a judge is killed or deceases or a judge's capacity for work is reduced in connection with the performance of the judge's duties, the state shall pay a compensation on the basis and pursuant to the procedure of § 49 of the Public Service Act.

[RT I, 13.12.2014, 1 - entry into force 01.07.2016 (entry into force changed - RT I, 17.12.2015, 1)]

## **§ 84. Judge's holiday**

(1) Judges have the right to receive an annual holiday.

(2) A judge's annual holiday is 35 calendar days. A judge shall be granted an additional holiday in total up to seven calendar days for the time of employment as a judge as follows:

- 1) two calendar days when five years length of service as a judge is reached;
- 2) four calendar days when ten years length of service as a judge is reached;
- 3) seven calendar days when fifteen years length of service as a judge is reached;

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(2<sup>1</sup>) The provisions of §§ 68–71 of the Employment Contracts Act shall apply with regard to an additional holiday provided for in subsection (2) of this section.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(3) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(4) The chairman of the court shall approve the holiday schedule of judges.

(5) An extraordinary holiday for up to one year without pay may be granted to a judge by the Chief Justice of the Supreme Court with the consent of the full court of the court where the judge is employed.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

(6) Subsections 43 (1), (3) and (4) and § 48 of the Public Service Act shall apply in the part not regulated by this section.

[RT I, 29.12.2012, 1 - entry into force 01.04.2013]

## **§ 85. Official attire of judge**

(1) Judges shall wear robes as official attire at court sessions.

(2) The state shall give the robes to judges without charge.

(3) The minister responsible for the area shall approve the description of the robes.

## **§ 86. Other social guarantees**

(1) A judge who is released from office due to liquidation of the court or closure of a courthouse or reduction of the number of judges shall be paid the six months' salary of his or her last position.

(2) The chairman of a court who after being released from the position of the chairman of the court resumes work as a judge and the manager of courthouse who after being released from the duties of the manager of the courthouse resumes work as a judge shall not be paid compensation.

(3) If a judge of a higher court is appointed, due to liquidation of the court or reduction of the number of judges, as a judge of a lower court with his or her consent, he or she shall retain the salary of the previous position together with additional remuneration during one year.

(4) The consent of the Council for Administration of Courts is required for conscription of a judge into active service in the defence forces.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

# **Chapter 11**

## **DISCIPLINARY LIABILITY OF JUDGES**

## **§ 87. Bases for imposing disciplinary punishment**

(1) A disciplinary punishment may be imposed on a judge for a disciplinary offence.

(2) A disciplinary offence is a wrongful act of a judge which consists of failure to perform or inappropriate performance of official duties. An indecent act of a judge is also a disciplinary offence.

## **§ 88. Disciplinary punishments**

(1) The following are disciplinary punishments:

- 1) a reprimand;
- 2) a fine in an amount of up to one month's salary;
- 3) a reduction in salary;
- 4) removal from office.

(2) If a retired judge does not comply with the duty of confidentiality or the duty of confidentiality of deliberations, his or her judge's pension may be reduced by not more than 25 per cent as a disciplinary punishment. The pension shall not be reduced for longer than one year.

(3) Only one disciplinary punishment may be imposed on a judge for one and the same offence. A criminal punishment or a punishment for a misdemeanour imposed for the same act does not preclude the imposition of disciplinary punishment.

(4) Upon imposition of disciplinary punishment, the nature, gravity and consequences of the disciplinary offence, also the personal characteristics of the judge and other circumstances related to the offence shall be considered.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(5) A disciplinary punishment imposed on a judge shall be entered on his or her service record.

(6) A disciplinary sanction shall expire if the judge does not commit a new disciplinary offence within one year after the entry into force of the decision of the Disciplinary Chamber. The Disciplinary Chamber may also cancel a disciplinary punishment before the prescribed time.

#### **§ 89. Reduction of salary**

As a disciplinary punishment, a judge's salary may be reduced by not more than 30 per cent. The salary shall not be reduced for longer than one year.

#### **§ 90. Expiry of disciplinary offence**

(1) Disciplinary proceedings shall not be commenced if more than one year has passed from the commission of the disciplinary offence or more than six months have passed from the discovery thereof.

(2) The term provided for in subsection (1) of this section shall be suspended:

- 1) until the termination of the criminal proceedings commenced against an act of a judge;
- 2) during the time that the judge is temporarily incapacitated for work and during the holidays of the judge.

#### **§ 91. Commencement of disciplinary proceedings**

(1) Disciplinary proceedings shall be commenced if elements of a disciplinary offence become evident. Disciplinary proceedings are commenced by preparation of disciplinary charges.

(2) The following have the right to commence disciplinary proceedings:

- 1) the Chief Justice of the Supreme Court, against all judges;
- 2) the Chancellor of Justice, against all judges;
- 3) the chairman of a circuit court, against judges of courts of first instance in his territorial jurisdiction.
- 4) the chairman of a court, against the judges of the same court;
- 5) the Supreme Court *en banc* against the Chief Justice of the Supreme Court.

(3) A person who commences a disciplinary proceeding may gather evidence and demand explanations which are necessary to adjudicate the disciplinary matter.

#### **§ 92. Disciplinary charge**

(1) A disciplinary charge is a written document, which sets out:

- 1) the name and position of the accused;
- 2) the description and time of commission of the offence;
- 3) the evidence proving commission of the offence;
- 4) the name of the person who commences a disciplinary proceeding, and the date and place of the preparation of the charge.

(2) The person who commences a disciplinary procedure shall forward the disciplinary charges and the related material to the Disciplinary Chamber, which shall immediately notify the judge against whom the disciplinary proceeding is commenced thereof.

(3) A judge against whom a disciplinary proceeding is commenced shall be served the disciplinary charges at least ten days before the session of the Disciplinary Chamber. The judge or his or her representative has the right to examine the materials of the disciplinary charge.

### **§ 93. Disciplinary Chamber**

(1) For the adjudication of disciplinary matters of judges, the Supreme Court shall comprise the Disciplinary Chamber which is comprised of five justices of the Supreme Court, five circuit court judges and five judges of courts of the first instance.

(2) The Supreme Court *en banc* shall appoint, for the term of three years, the chairman of the Disciplinary Chamber and other members of the Disciplinary Chamber who are justices of the Supreme Court.

(3) The internal rules of the Supreme Court shall prescribe the procedure for the substitution of members of the Disciplinary Chamber who are justices of the Supreme Court.

(4) Pursuant to the internal rules, the Supreme Court shall involve judges of courts of the first instance and judges of courts of appeal elected on the basis of clause 38 (3) 4) of this Act in the adjudication of disciplinary matters.

(5) For the adjudication of a disciplinary matter of a judge, the chairman of the Disciplinary Chamber shall form a five-member panel consisting of three members of the Disciplinary Chamber who are justices of the Supreme Court, one judge of a circuit court and one judge of a court of first instance.

### **§ 94. Hearing of disciplinary matter**

(1) The Disciplinary Chamber of the Supreme Court shall hear matters of disciplinary offences of judges and impose disciplinary punishments to judges.

(2) A five-member panel of the Disciplinary Chamber shall hear a disciplinary matter at a court session.

(3) Upon hearing of a disciplinary matter, the chairman of the Disciplinary Chamber is the presiding judge. If the chairman of the Disciplinary Chamber does not participate in the hearing of a matter, he or she shall appoint a member of the Chamber as the presiding judge.

### **§ 95. Temporary removal from service**

(1) The Disciplinary Chamber may remove a judge from service during the hearing of a disciplinary matter by a ruling of which the Chamber shall immediately notify the judge and the chairman of the court. Upon deciding the removal from service, the Chamber shall consider the nature and gravity of the disciplinary offence of which a judge is accused.

(2) If circumstances related to a judge exist which significantly damage the reputation of the court, the Disciplinary Chamber may remove the judge from service until the commencement of disciplinary proceedings is decided. If it is established that no basis exists for the commencement of disciplinary proceedings against the judge, the judge may resume service on a decision of the Disciplinary Chamber.

(3) The Disciplinary Chamber may decide the removal of a judge from service without holding a court session.

(4) If the Disciplinary Chamber removes a judge from service during the hearing of a disciplinary matter, the Chamber may reduce the judge's salary for such period. The salary shall be reduced by not more than a half.

(5) The chairman of the court may assign duties other than the administration of justice to a judge who is temporarily removed from service.

(6) A judge may file an appeal to the Supreme Court *en banc* against a ruling by which the judge is temporarily removed from service or his or her salary is reduced within ten days after the judge becomes aware of the ruling. [RT I 2005, 71, 549 - entry into force 01.01.2006]

### **§ 96. Session of Disciplinary Chamber**

(1) The judge whose disciplinary offence is heard shall be summoned to the session of the Disciplinary Chamber. The judge may have a representative. If necessary, witnesses and other persons may be summoned to the session.

(2) At the session of the Disciplinary Chamber, the presiding judge shall make a report on the offence in which he or she introduces the disciplinary charge.

(3) The judge, against whom the disciplinary charge is brought, shall give statements with regard to the matter, and the statements from witnesses and other persons present at the session shall be heard. Members of the Disciplinary Chamber may question the judge against whom the charge is brought, the witnesses and other persons summoned to the session.

(4) After examination of the evidence, the judge whose disciplinary matter is heard has the right to express his or her opinion with regard to the matter.

(5) Minutes shall be taken of sessions of the Disciplinary Chamber.

#### **§ 97. Decisions of Disciplinary Chamber**

(1) If the culpability of a judge is proved, the Disciplinary Chamber shall make a decision by which the judge is convicted of the commission of a disciplinary offence and a disciplinary punishment is imposed on the judge.

(2) If the judge has not committed a disciplinary offence, the Disciplinary Chamber shall make a decision by which the judge is acquitted of the disciplinary charge.

(3) A judge on whom a disciplinary punishment is imposed may file an appeal to the Supreme Court *en banc* within thirty days after the decision is pronounced.

(3<sup>1</sup>) The Supreme Court *en banc* may perform the following with regard to a decision of the Disciplinary Chamber:

- 1) refuse amendment;
- 2) amend and convict the judge of the commission of a less serious disciplinary offence and mitigate the disciplinary sanction imposed;
- 3) refuse to make substantive amendments and mitigate the disciplinary sanction imposed;
- 4) annul the decision and acquit the judge.

(4) If the judge has not filed an appeal to the Supreme Court *en banc*, the decision of the Disciplinary Chamber shall enter into force after the expiry of the term specified in subsection (3) of this section. A decision of the Disciplinary Chamber appealed to the Supreme Court *en banc* shall enter into force as a decision of the Supreme Court *en banc* upon pronouncement thereof.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 98. Reimbursement of reduced portion of salary**

(1) If a judge is acquitted of a disciplinary charge, the reduced portion of salary related to the temporary removal from service and the interest provided by law shall be paid to the judge.

(2) If the Disciplinary Chamber convicts a judge of the commission of a disciplinary offence which is considerably less serious than the act against which charge was brought against the judge and for which he or she was temporarily removed from service, the Chamber may decide that the reduced portion of salary shall be reimbursed to the judge in part or in full.

(3) On the bases specified in subsections (1) and (2) of this section, the reduced portion of salary shall be paid to the judge within one month after termination of the disciplinary proceedings or entry into force of the decision of the Disciplinary Chamber.

## **Chapter 12**

### **RELEASE AND REMOVAL OF JUDGES FROM OFFICE**

#### **§ 99. Release of judges from office**

(1) A judge shall be released from office:

- 1) at the request of the judge;
- 2) due to age;

[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

3) due to unsuitability for office – within three years after appointment to office;

4) due to health reasons which hinders work as a judge;

5) upon liquidation of the court or reduction of the number of judges;

6) if after leaving the service in the Supreme Court, the Ministry of Justice, an international court institution or after returning from an international civil mission, a judge does not have the opportunity to return to his or her former position of judge, and he or she does not wish to be transferred to another court.

[RT I, 04.03.2011, 1 - entry into force 01.04.2011]

7) if a judge is appointed or elected to the position or office which is not in accordance with the restrictions on services of judges;

8) if facts become evident which according to law preclude the appointment of the person as a judge.

(1<sup>1</sup>) A judge shall not be released from office on the basis of clauses (1) 1) and 3) of this section at the time of disciplinary proceedings conducted against him or her.

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

(1<sup>2</sup>) The service relationship of a judge shall terminate upon his or her death.  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(1<sup>3</sup>) For the release from office on the basis specified in clause (1) 1) of this section, a judge shall submit a request at least six months prior to the desired date of the release. Based on a judge's request and for good reason, the Chief Justice of the Supreme Court can make a proposal to the President of the Republic or the *Riigikoguto* release the judge from office earlier than six months after the submission of the request.  
[RT I, 23.12.2014, 1 - entry into force 01.01.2015]

(2) Judges of a court of the first instance and judges of a court of appeal shall be released from office by the President of the Republic, on the proposal of the Chief Justice of the Supreme Court.

(3) The Chief justice of the Supreme Court shall be released from office by the Riigikogu on the proposal of the President of the Republic except in the case provided in subsection 27 (6) of this Act. The other justices of the Supreme Court shall be released from office by the Riigikogu on the proposal of the Chief Justice of the Supreme Court.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

### **§ 99<sup>1</sup>. Release from office due to age**

(1) A judge shall be released from office if the judge has attained 68 years of age, unless the maximum age of the judge is increased pursuant to the procedure provided for in subsections (2) and (3) of this section.

(2) The Supreme Court *en banc* may, upon the consent of the Council for Administration of Courts and the judge and on the proposal of the chairman of a court, in exceptional case increase the maximum age of the judge by up to two years, but not more than four years in total. The decision of the Supreme Court *en banc* shall be made by the two-thirds majority vote of the justices of the Supreme Court who are present by secret ballot.  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(3) The maximum age of the judge may be increased in case of substantial public interest from the point of view of administration of justice.

(4) The increase of the maximum age applies exclusively to the judge whose maximum age was increased.

(5) In case of increasing the maximum age of a judge, the judge shall be released from office after the judge has attained the increased maximum age.  
[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

### **§ 100. Release from office due to unsuitability**

(1) A person may be released from the office of judge due to unsuitability for office only within three years after appointment to office if the judge has been declared unsuitable for office by a decision of the Supreme Court *en banc*.

(2) Once a year, the chairman of a court shall submit his or her opinion and the report specified in subsection 73 (2) of this Act concerning a judge with less than three years length of service employed in the court to the judge's examination committee. The standard format for submission of opinion shall be established by the judge's examination committee.  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(3) Upon assessment of suitability for the office of judge, the Supreme Court *en banc* shall consider the proposal of a person or body entitled to commence disciplinary proceedings, the opinion of the judge's examination committee and other information characterising the work of the judge.

(4) The judge's examination committee shall hold a session where the judge whose suitability is assessed is heard.

(5) At least ten days before the suitability of a judge is discussed at a session of the Supreme Court *en banc*, a reasoned proposal of a person or body entitled to commence disciplinary proceedings to release the judge from office and the opinion of the judge's examination committee shall be presented to the judge whose suitability for office is assessed, and he or she is allowed to examine the gathered materials.

### **§ 101. Removal of judges from office**

A judge in respect of whom a conviction by a court for a criminal offence or a decision of the Disciplinary Chamber of the Supreme Court to remove the judge from office has entered into force, is deemed to be removed from office as of the date on which the conviction or decision enters into force.

## **Chapter 13**



# LAY JUDGES

## § 102. Participation of lay judges in administration of justice

(1) Lay judges shall participate in the administration of justice in county courts on the bases and pursuant to the procedure provided by the Codes of procedure.

(2) In administration of justice, a lay judge has equal rights with a judge.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

## § 103. Requirements for lay judges

(1) An Estonian citizen with active legal capacity from 25 to 70 years of age who resides in Estonia, has proficiency of the Estonian language at the level C1 provided for by the Language Act or a corresponding level, and is of suitable moral character for the activity of a lay judge may be appointed as a lay judge.  
[RT I 2009, 4, 27 - entry into force 26.01.2009]

(2) The following shall not be appointed as a lay judge:

- 1) a person who is convicted of a criminal offence;
- 2) a bankrupt;
- 3) a person who is not suited due to his or her state of health;
- 4) a person who has permanent residence, that is the residence the address details of which have been entered in the population register, of less than one year within the territory of the local government which presents the person as a candidate for lay judge;
- 5) a person who is in service in a court, prosecutor's office or the police;
- 6) a person who is in service in the armed forces;
- 7) an advocate, a notary or a bailiff;
- 8) a member of the Government of the Republic;
- 9) a member of a rural municipality or city government;
- 10) the President of the Republic;
- 11) a member of the Riigikogu;
- 12) a county governor.

(3) A person who is accused of a criminal offence shall not be appointed as a lay judge during the criminal proceedings.

## § 104. Term of authority of lay judge

(1) Lay judges shall be appointed for four years.

(2) A person shall not be appointed as lay judge for more than two consecutive terms.

(3) The chairman of a county court shall notify the local government council of the termination of the term of the authority of a lay judge for at least four months before the termination of the authority.

(4) If the authority of a lay judge terminates during a judicial proceeding, he or she shall continue the performance his or her duties until the adjudication of the matter in the court.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

## § 105. Premature termination of authority of lay judge

(1) The authority of a lay judge shall be terminated if a fact specified in subsection 103 (2) of this Act becomes evident. The authority of a lay judge may be terminated on the basis of his or her request with good reason.

(2) The committee specified in § 108 of this Act shall decide the premature termination of authority of a lay judge on the proposal of the chairman of a county court.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

## § 106. Procedure for election of candidate for lay judge

(1) Each member of a local government council may present candidates for lay judge.

(2) A local government council shall elect the candidates for lay judge.

(3) The chairman of a county court shall determine how many candidates for lay judge each local government council within the territorial jurisdiction of the court shall present. The number of candidates for lay judge shall

be proportional to the ratio of the number of residents in the territory of the local government and the number of residents in the territorial jurisdiction of the court.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

#### **§ 107. List of candidates for lay judge**

(1) A local government council shall submit a list of candidates for lay judges to a county court at least two months before termination of the authority of lay judges. The list shall set out the name, personal identification code, address, place of employment and position or area of activity of a candidate for lay judge.

(2) The list of candidates for lay judge shall be published in the official publication *Ametlikud Teadaanded* at least two months before termination of the authority of lay judges appointed earlier. A local government council shall submit the list for publication.

(3) The name, place of employment, and position or area of activity of a candidate for lay judge shall be published.

(4) Everyone has the right to contest the appointment of a candidate for lay judge as a lay judge in the committee for appointment of lay judges of a county court.

(5) A notice concerning the right and procedure for contestation shall be published together with the list of candidates for lay judge in the official publication *Ametlikud Teadaanded*.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

#### **§ 108. Appointment of lay judges**

(1) Lay judges shall be appointed to office from among candidates for lay judges by the committee for appointment of candidates for lay judge, the membership of which shall be approved by the chairman of the court.

(2) The committee for appointment of lay judges shall comprise the chairman of the county court, a judge elected by the full court and the manager of each courthouse of the territorial jurisdiction of the county court or a representative appointed by the manager of the courthouse from among the judges of the courthouse. The chairman of the court shall be the chairman of the committee.  
[RT I 2006, 55, 411 - entry into force 23.12.2006]

(3) The committee has a quorum if over one-half of the committee members are present, including the chairman of the committee. The committee shall make a decision by a majority of votes of the members who are present. The chairman of the committee shall have the deciding vote upon an equal division of votes.  
[RT I 2006, 55, 411 - entry into force 23.12.2006]

(4) The committee shall appoint as lay judges a specified number of persons determined for such court from among the candidates for lay judges.

(5) Upon appointment of lay judges, the committee shall consider the suitability of a candidate, the reasoned objections filed against a candidate, and follow the principle that lay judges shall be persons of different sex and age, from different social groups and operating in different areas of activity.

#### **§ 109. Lay judge's oath of office**

A lay judge shall take the following oath before the full court:  
"I swear to remain faithful to the Republic of Estonia and its constitutional order. I swear to administer justice according to my conscience and in conformity with the Constitution of the Republic of Estonia and other Acts."

#### **§ 110. Participation of lay judges in administration of justice**

(1) Lay judges shall be involved in courts to participate in the administration of justice such that lay judges participate in the administration of justice equally to the extent possible.

(2) If a lay judge cannot participate in a court session, another lay judge shall be involved in the session.

#### **§ 111. Duties of lay judges**

(1) A lay judge involved in the administration of justice is required to appear at the court session.

(2) If a lay judge cannot participate in the court session with good reason, he or she shall immediately notify the court thereof.

(3) The duties listed in §§ 70–72 of this Act apply to lay judges.

(4) Criminal charges may be brought against a lay judge during his or her term of office only with the consent of the chairman of the county court of his or her territorial jurisdiction.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

#### **§ 112. Payment of remuneration to lay judges**

(1) The amount of remuneration paid to lay judges and payment procedure shall be established by a regulation of the minister responsible for the area. The minister responsible for the area shall not reduce the amount of remuneration of lay judges established by the regulation.

[RT I 2006, 55, 411 - entry into force 23.12.2006]

(2) The expenses related to participation in the administration of justice shall be reimbursed to lay judges.

(3) An employer shall exempt a lay judge from work for the time of his or her participation in the administration of justice.

(4) [Repealed - RT I 2006, 55, 411 - entry into force 23.12.2006]

#### **§ 113. Pension of lay judges**

(1) [Repealed - RT I, 13.12.2014, 1 - entry into force 01.07.2016 (entry into force changed - RT I, 17.12.2015, 1)]

(2) If a person is killed in the performance of the duties of a lay judge as a result of a criminal attack against him or her, the state survivor's pension paid to each family member who is incapacitated for work and was maintained by the lay judge shall be increased by 20 per cent.

(3) The portion of a lay judge's pension which exceeds state pension or is not covered by state pension shall be paid from additional state budget funds.

## **Chapter 14 ASSISTANT JUDGES**

#### **§ 114. Legal status of assistant judges**

(1) An assistant judge is a court official who performs the duties specified by law.

(2) Upon performance of his or her duties, an assistant judge is independent but shall comply with the instructions of a judge to the extent prescribed by law.

(3) [Repealed - RT I, 21.06.2014, 8 - entry into force 01.01.2015]

#### **§ 115. Requirements for assistant judges**

(1) The following person may be appointed as an assistant judge:

1) who complies with the requirements established in clauses 47 (1) 1)–3) of this Act and

2) who has completed the preparatory service plan of an assistant judge, unless the competition committee has exempted the person from the completion of the preparatory service plan of an assistant judge.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(2) A person who has passed a judge's examination may also be appointed as an assistant judge.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(3) The person specified in subsection 47 (2) of this Act and the person released from the judge's office on the basis of clause 99 (1) 3) of this Act may not be appointed as an assistant judge.

[RT I 2007, 67, 413 - entry into force 28.12.2007]

#### **§ 116. Restrictions on services of assistant judges**

The restrictions on services of judges apply to assistant judges.

#### **§ 116<sup>1</sup>. Competition for persons completing preparatory service plan of assistant judge**

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(1) The minister responsible for the area shall announce a public competition for finding a person completing the preparatory service plan of an assistant judge in the official publication *Ametlikud Teadaanded*.

(2) A participant in the competition for persons completing the preparatory service plan of an assistant judge shall comply with the requirements established in clauses 47 (1) 1–3) and subsection 115 (3) of this Act.

(3) The number of persons completing the preparatory service plan of an assistant judge shall be determined by a regulation of the minister responsible for the area.

(4) The procedure for and conditions of the competition for persons completing the preparatory service plan of an assistant judge shall be established by a regulation of the minister responsible for the area.

(5) The rules of procedure of the competition committee shall be established by a regulation of the minister responsible for the area.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

### **§ 117. Preparatory service plan of assistant judge**

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(1) The person completing the preparatory service plan of an assistant judge shall receive training for the office of assistant judge.

(2) The preparatory service plan of an assistant judge shall be prepared the competition committee, taking into account the previous work experience of a person completing the preparatory service plan. The competition committee shall determine the courts of first instance where the preparatory service plan of an assistant judge is to be completed. The supervisor of a person completing the preparatory service plan of an assistant judge shall be appointed by director of court from among assistant judges. For the period when the completion of the preparatory service plan of an assistant judge takes place in the legal service of a court, the judge supervisor of a person completing the preparatory service plan of an assistant judge shall be appointed by the chairman of the court.

(3) A person completing the preparatory service plan shall be governed at the time of the completion of the plan by §§ 50, 51, 54–56 and 58 of the Public Service Act and subsections 3 (1)–(3) and §§ 4–7, 11, 17–19 and 21 of the Anti-corruption Act.

(4) The compensation for damage caused by a person completing the preparatory service plan of an assistant judge shall be governed by the provisions of the Public Service Act concerning the proprietary liability of officials and the provisions of the State Liability Act concerning the right of recourse. Upon compensation for damage, the basic salary of a person completing the preparatory service plan of an assistant judge shall be considered an assistant judge's salary.

(5) The term for the completion of the preparatory service plan of an assistant judge shall be determined by the competition committee. The competition committee may extend the determined term in justified cases at the request of a person completing the preparatory service plan of an assistant judge.

(6) The preparatory service plan of an assistant judge shall be deemed to have been completed by a resolution of the competition committee based on the report of a person completing the preparatory service plan of an assistant judge. Unless a person has been appointed as an assistant judge within five years after the preparatory service plan is deemed to have been completed, he or she is required to complete the preparatory service plan again for running as a candidate for an assistant judge.

(7) The preparatory service plan of an assistant judge shall not be deemed to have been completed by a resolution of the competition committee, if:

1) a person completing the preparatory service plan of an assistant judge has failed to complete the preparatory service plan of an assistant judge within the term determined by the competition committee;

2) a person completing the preparatory service plan of an assistant judge commits an indecent act;

3) a person completing the preparatory service plan of an assistant judge has not requested the competition committee to extend the term for completion of the preparatory service plan of an assistant judge or

4) the competition committee has not extended the term for completion of the preparatory service plan.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

### **§ 117<sup>1</sup>. Verification of reliability of candidates for person completing preparatory service plan of assistant judge**

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(1) A candidate for person completing the preparatory service plan of an assistant judge shall submit to the competition committee information concerning him or her, the composition of which shall be established by the minister responsible for the area.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(2) For the verification of the correctness of the information submitted by a candidate for person completing the preparatory service plan of an assistant judge, the minister responsible for the area has the right, through officials authorised by him or her, to:

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

1) address state and local government agencies, officials of state authorities and local governments, legal persons and natural persons by inquiries concerning the personal data of a candidate for person completing the preparatory service plan of an assistant judge;

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

2) interview the person indicated in the form concerning personal data, and with employers, representatives of educational institutions and other persons in order to ascertain the moral character and other personal characteristics of the person and if necessary, obtain a written explanation from the interviewed person with his or her permission;

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(4) A candidate for person completing the preparatory service plan of an assistant judge shall be notified of the verification with respect of him or her and provided an opportunity to examine the materials gathered in the process of the checks.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(5) If a candidate for person completing the preparatory service plan of an assistant judge intentionally submits incorrect data to the competition committee or conceals material information, he or she shall be excluded from the competition by a resolution of the competition committee.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

### **§ 117<sup>2</sup>. Exemption from completion of preparatory service plan of assistant judge**

The competition committee may exempt from the completion of the preparatory service plan of an assistant judge a person who has worked for at least two years in an office or position which requires legal knowledge and with regard to whom the competition committee finds that the earlier experience allows the person to assume the office of an assistant judge without completing the preparatory service plan of an assistant judge.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

### **§ 117<sup>3</sup>. Suspension of completion of preparatory service plan of assistant judge**

(1) The competition committee shall suspend, by a resolution, the completion of the preparatory service plan of an assistant judge:

1) for the period of pregnancy and maternity leave and for the period when a person completing the preparatory service plan of an assistant judge has the right to be on parental leave, but not longer than until the child attains three years of age;

2) for the period of compulsory military service or alternative service;

3) in the case charges are brought against a person completing the preparatory service plan of an assistant judge pursuant to criminal procedure, from the date on which the charges are brought until the proceedings are terminated or a person completing the preparatory service plan of an assistant judge is acquitted.

(2) Based on clauses (1) 1) and 2) of this section, the completion of the preparatory service plan of an assistant judge shall be suspended on the basis of the application of a person completing the preparatory service plan of an assistant judge.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

### **§ 117<sup>4</sup>. Termination of completion of preparatory service plan of assistant judge**

The competition committee shall terminate, by a resolution, the completion of the preparatory service plan of an assistant judge:

1) due to unsatisfactory results;

2) if a person completing the preparatory service plan of an assistant judge commits an indecent act;

3) if a judgment of conviction in a criminal matter has entered into force with respect to a person completing the preparatory service plan of an assistant judge.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

### **§ 118. Report on completion of preparatory service plan of assistant judge**

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(1) A person completing the preparatory service plan of an assistant judge shall submit to the competition committee a written report with regard to the completion of the preparatory service plan of an assistant judge.

(2) The supervisor of a person completing the preparatory service plan of an assistant judge shall submit at the end of the completion of the preparatory service plan of an assistant judge to the competition committee a written opinion with regard to the results of the completion of the preparatory service plan of an assistant judge.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

## **§ 119. Competition committee**

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(1) The competition committee shall be formed for a term of five years and shall consist of seven members. The competition committee shall be comprised of:

- 1) two judges of a court of the first instance and one alternate member elected by the Court *en banc*;
- 2) a judge of a circuit court and his or her alternate member elected by the Court *en banc*;
- 3) two assistant judges and one alternate member appointed by the minister responsible for the area;
- 4) a representative of the Ministry of Justice and his or her alternate member appointed by the minister responsible for the area;
- 5) a notary and his or her alternate member designated by the Chamber of Notaries.

(2) The minister responsible for the area shall appoint the chairman of the competition committee from among the committee members.

(3) The competition committee shall:

- 1) conduct the competition for assistant judges and persons completing the preparatory service plan of an assistant judge;
- 2) decide on persons completing the preparatory service plan and their division between the courts;
- 3) determine the term for completion of the preparatory service plan of an assistant judge and, in justified cases, extend this term;
- 4) decide whether to deem the preparatory service plan of an assistant judge to have been completed.

(4) The competition committee has a quorum if at least four members are present. The competition committee shall adopt resolutions by a majority of votes in favour. Upon an equal division of votes, the chairman of the committee has the casting vote.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

## **§ 120. Running as candidate for position of assistant judge**

(1) Assistant judges shall be appointed to office by way of a public competition.

(2) The minister responsible for the area shall announce a public competition for a vacant position of an assistant judge in the official publication *Ametlikud Teadaanded*.

(3) Persons who comply with the requirements established for assistant judges may run as candidates for the position of assistant judge.

(4) Assistant judges shall be appointed to office by the minister responsible for the area on the proposal of the competition committee.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(5) A probationary period with the duration of up to six months shall be applied upon appointment to office of an assistant judge. The director of court shall appoint the supervisor to an assistant judge for the probationary period.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

## **§ 121. Assistant judge's oath of office**

Upon assuming office, an assistant judge shall take the following oath before the minister responsible for the area:

"I swear to remain faithful to the Republic of Estonia and its constitutional order. I swear to perform my functions according to my conscience and in conformity with the Constitution of the Republic of Estonia and other Acts."

## **§ 122. Assistant judge's salary and additional remuneration**

(1) The amount of the salary of an assistant judge shall be established by the Government of the Republic.

(2) An assistant judge supervising a person completing the preparatory service plan of an assistant judge shall be paid additional remuneration equal to 5 per cent of the salary during supervision.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(3) The head of the payment orders department, land registry department and registration department of a county court and the head of the regional service of the land registry department and registration department shall be paid an additional remuneration equal to up to 35 per cent of the salary of an assistant judge for the performance of the duties related to heading.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(3<sup>1</sup>) The additional remuneration of the head of the payment orders department, land registry department and registration department of a county court and the head of the regional service of the land registry department and registration department shall be established by a regulation of the Government of the Republic.  
[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(4) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]

#### **§ 123. Social guarantees for assistant judges**

[Repealed – RT I, 21.06.2014, 8 - entry into force 01.07.2014]

#### **§ 124. Employment of assistant judges in Ministry of Justice and institutions of higher education**

An assistant judge may be transferred to the service of the Ministry of Justice or be employed as a lecturer of an institution of applied higher education which provides special education for assistant judges at the request of the assistant judge and with the consent of the chairman of the court. The provisions of § 58 of this Act apply otherwise.

## **Chapter 15 COURT OFFICERS**

#### **§ 125. Director of court**

(1) The director of court shall:

- 1) organise the administrating of affairs of the judicial institution;
- 2) organise the use of the assets of the judicial institution;
- 3) prepare, with the approval of the chairman of the court, the draft budget of the judicial institution and submit the draft budget to the minister responsible for the area;
- 4) control the budgetary funds of the judicial institution;
- 5) be responsible for the organisation of accounting of the judicial institution;
- 6) appoint court officers to office and release them from office;
- 7) perform other duties assigned to him or her by the internal rules of the court and the court office.

(2) The minister responsible for the area may give directives to organise issues within the area of activity of directors of court.

(3) A director of court must have completed higher education. Directors of court of courts of the first instance and courts of appeal shall be appointed to office for five years by the minister responsible for the area. A director of court shall be appointed to office on the basis of a public competition, section 117<sup>1</sup> shall apply upon verification of the reliability of applicants.

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

(4) The minister responsible for the area may decide that several judicial institutions have one director of court.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

(4<sup>1</sup>) The county court, which structural units are the land registry department and the registration department, can additionally also have the director of court responsible exclusively for the area of activity of the land registry department and the registration department.

[RT I, 21.06.2014, 8 - entry into force 01.01.2015]

(5) The basic salary and variable salary of directors of court of courts of the first instance and courts of appeal shall be determined in the salary guide established by the minister responsible for the area on the basis of subsection 63 (2) of the Public Service Act.

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

#### **§ 125<sup>1</sup>. Judicial clerk**

(1) A judicial clerk is a court official who participates in the preparation for proceeding and in proceeding of cases to the extent prescribed in the court procedure law either independently or under the supervision of a judge.

(2) A judicial clerk is also competent to perform the acts and make the judgements, which an assistant judge or another court official is competent to perform or make pursuant to the court procedure law.

[RT I, 06.02.2014, 13 - entry into force 04.02.2014 - The decision of the Supreme Court *en banc* declares to be in conflict with the Constitution and repeals subsection 125<sup>1</sup> (2) of the Courts Act and subsection 174 (8) of the

Code of Civil Procedure to the extent pursuant to which the judicial clerk may determine the procedure expenses in civil proceedings.]

(3) Upon performance of his or her duties, a judicial clerk is independent but shall comply with the instructions of a judge to the extent prescribed by law.

(4) A person who complies with the requirements set out in clauses 47 (1) 1)–3) of this Act may be appointed as a judicial clerk. A person who, pursuant to the Public Service Act, cannot be employed in the service as an official shall not be appointed as a judicial clerk.

(5) A vacant position of a judicial clerk shall be filled by way of public competition. The competition shall be organised and a judicial clerk shall be appointed to office and released from office by the chairman of the court. A probationary period with the duration of up to six months shall be applied upon appointment to office of a judicial clerk.

(5<sup>1</sup>) The public declaration of the competition may be waived and an internal competition may be organised for the judicial clerks if there is good reason to believe that it is expedient to fill the vacant position by declaration of a competition inside one or more judicial institutions.  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(6) The salary of a judicial clerk shall not exceed the salary of a judge of a court of first instance and following the probationary period it shall not be smaller than one-half of the salary of a judge of a court of first instance.  
[RT I, 29.12.2012, 2 - entry into force 01.01.2013]

(7) A person who has worked for at least three years as a judicial clerk and passed a judge's examination shall be appointed a senior judicial clerk.  
[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

#### **§ 126. Court security guards**

(1) A court security guard is a court official whose duty is to maintain order in the court, serve notices and summons to persons and perform other duties related to the functions of a court security guard determined by the internal rules of the court. Court security guards shall have the same rights as assistant police officers pursuant to § 12 and Division 2 of Chapter 4 of the Assistant Police Officer Act and the police or another law enforcement agency pursuant to §§ 28 and 30, subsections 32 (1)–(3), § 34, subsections 38 (1) and (2), § 46, clauses 47 (1) 1), 2) and 4) and § 52 of the Law Enforcement Act.  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(1<sup>1</sup>) The Minister responsible for the area may establish, by a regulation, the procedure for issuing of special equipment and weapons to court security guards, return of weapons and special equipment and carrying of weapons.  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

(2) Additional remuneration shall be paid to court security guards for serving summons and notices. The minister responsible for the area shall establish the rates of additional remuneration.

(3) Court security guards shall be reimbursed for expenses incurred for the use of public transportation related to the performance of duties.

(4) On the basis of an administration contract, the performance of the duties specified in subsection (1) of this section may be transferred to a company.

#### **§ 127. Other court officers**

The duties of court officials and court employees not specified in this Chapter shall be determined in the internal rules of a court.  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

#### **§ 127<sup>1</sup>. Official attire of court officer**

The minister responsible for the area may establish the description of and the procedure for wearing of the attire of court officers. If wearing the attire is obligatory the attire shall be given to the court officer free of charge.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

## **Chapter 16 IMPLEMENTING PROVISIONS**

#### **§ 128. Entry into force of Act**

(1) This Act enters into force on the tenth day following the date of publication of this Act in *Riigi Teataja*.



(2) Subsections 61 (5), 76 (1) and (5) and §§ 122, 134 and 146 of this Act shall be implemented as of 1 July 2002.

### **§ 129. Formation of Constitutional Review Chamber of Supreme Court**

Pursuant to this Act, the Constitutional Review Chamber of Supreme Court shall be formed by 1 January 2003.

### **§ 129<sup>1</sup>. Authority of chairmen of Chambers of Supreme Court**

The term of authority of the chairmen of the Chambers of the Supreme Court appointed before 1 January 2015 shall be accounted as of 1 January 2015.

[RT I, 23.12.2014, 1 - entry into force 01.01.2015]

### **§ 129<sup>2</sup>. Appointment of law clerks to office**

Subsections 31 (4) and (5) shall apply with regard to law clerks appointed to office after 1 August 2016.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

### **§ 130. Formation of Disciplinary Chamber**

(1) For the formation of the Disciplinary Chamber, the Court *en banc* shall elect two judges of a circuit court and two judges of a court of the first instance for a term of two years, and three judges of a circuit court and three judges of a court of the first instance for a term of three years.

(2) Until the formation of the Disciplinary Chamber pursuant to this Act, the functions of the Disciplinary Chamber shall be performed by the current Disciplinary Committee. The Disciplinary Chamber shall be formed pursuant to this Act not later than by 1 January 2003.

### **§ 131. Authority of chairmen of courts and directors of court**

(1) The term of authority of the chairmen of courts in office at the time of entry into force of this Act shall commence as of the date of entry into force of this Act.

(2) Directors of court of courts shall be appointed to office by way of a public competition not later than by 1 January 2003. Until the appointment of a director of court by way of a public competition, the duties of the director of court provided in subsections 15 (4), 16 (4), 17 (4) and § 125 of this Act shall be performed by the chairman of the court.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 131<sup>1</sup>. Specifications of requirements for assistant judges**

(1) A person who has acquired the professional education of assistant judge at an institution of applied higher education may also be appointed as an assistant judge.

(2) The preparatory service plan of an assistant judge shall be deemed to have been completed upon graduation from an institution of applied higher education which provides special education for assistant judges.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

### **§ 131<sup>2</sup>. Appointment of court official to position of judicial clerk**

A consultant or another court official may be appointed to the position of a judicial clerk exclusively pursuant to the procedure specified in subsection 125<sup>1</sup>(5) of this Act and in case he or she complies with the requirements established in subsection 125<sup>1</sup>(4) of this Act.

[RT I, 29.12.2012, 2 - entry into force 01.01.2013]

### **§ 131<sup>3</sup>. Redundancy payment of assistant judges**

An assistant judge appointed to office before 1 January 2015 who is released from service due to disestablishment of position and who has worked as an assistant judge before the lay-off for at least one year shall be paid the six months' salary of an assistant judge as compensation.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

### **§ 132. Formation of judge's examination committee**

(1) The judge's examination committee shall be formed pursuant to this Act not later than by 1 January 2003.

(1<sup>1</sup>) Subsections 69 (1)–(3) of this Act shall be implemented as of the election of members of the judge's examination committee in 2015.  
[RT I, 23.12.2014, 1 - entry into force 01.01.2015]

(2) Until the formation of the judge's examination committee pursuant to this Act, the functions of the committee shall be performed by the current judge's examination committee.

(3) The service of persons who are in preparatory service at the time of the entry into force of this Act shall continue pursuant to the current plan until the bringing thereof into conformity with this Act. The period of the service of the persons who are in preparatory service at the time of the entry into force of this Act may be reduced, but for not more than one year.

### **§ 132<sup>1</sup>. Judge's pension**

The following are judge's pensions:

- 1) judge's old-age pension;
- 2) judge's superannuated pension;
- 3) judge's pension for incapacity for work;
- 4) survivor's pension for judge's family members.

[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

### **§ 132<sup>2</sup>. Right to receive judge's old-age pension**

(1) The right to receive a judge's old-age pension shall be held by a person of pensionable age, who:  
1) has held the office of judge after 31 December 1991 and who by 1 July 2013 has been employed as a judge for at least fifteen years;  
2) holds the office of judge as at 1 July 2013 and who by the time of retirement has completed the pension qualifying period required for the grant of the old-age pension provided for in clause (1) 1) of this section;  
3) has held the office of judge after 31 December 1991 and who by 1 July 2013 has been employed as a judge for at least ten years and who has been established to have no work ability on the basis of the Work Ability Allowance Act;

[RT I, 13.12.2014, 1 - entry into force 01.07.2016 (entry into force changed - RT I, 17.12.2015, 1)]

4) holds the office of judge as at 1 July 2013 and who by the time of retirement has completed the pension qualifying period required for the grant of the old-age pension provided for in clause (1) 3) of this section and who has been established to have no work ability on the basis of the Work Ability Allowance Act.

[RT I, 13.12.2014, 1 - entry into force 01.07.2016 (entry into force changed - RT I, 17.12.2015, 1)]

(2) [Repealed - RT I, 13.12.2014, 1 - entry into force 01.07.2016 (entry into force changed - RT I, 17.12.2015, 1)]

(2<sup>1</sup>) A judge who has been established to have a 100, 90 or 80 per cent permanent loss of capacity for work on the basis of the State Pension Insurance Act, shall be entitled to apply for a judge's old-age pension on the basis of subsection 132<sup>2</sup>(2) of the Courts Act in force until 1 July 2016.

[RT I, 17.12.2015, 1 - entry into force 01.07.2016]

[RT I, 21.12.2017, 46 - entry into force 19.12.2017 - The resolution of the Constitutional Review Chamber declares subsection 132<sup>2</sup> (2<sup>1</sup>) of the Courts Act to be contrary to the Constitution to the extent that this provision does not provide the right to apply for the judge's old-age pension pursuant to subsection 132<sup>2</sup> (2) of the Courts Act which was in force up to 1 July 2016 to a judge whose 100, 90 or 80 per cent permanent loss of capacity for work which arose before 1 July 2016 was not established due to objective reasons deriving from the state of health of the judge pursuant to the State Pension Insurance Act before 1 July 2016, and does not enable retroactive establishment of the time when the judge permanently lost their capacity for work.]

(3) The right to receive a judge's old-age pension shall be held by a person of pensionable age, who:

- 1) has been the Chief Justice of the Supreme Court after 31 December 1991 and before 1 July 2013, or
- 2) is the Chief Justice of the Supreme Court as at 1 July 2013, or
- 3) holds the office of judge as at 1 July 2013 and who is appointed the Chief Justice of the Supreme Court after 1 July 2013.

[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

### **§ 132<sup>3</sup>. Right to receive judge's superannuated pension**

The right to receive a judge's superannuated pension, irrespective of the age, shall be held by a person, who:

1) has held the office of judge after 31 December 1991 and who by 1 July 2013 has been employed as a judge for at least thirty years;

2) holds the office of judge as at 1 July 2013 and who by the time of retirement has completed the pension qualifying period required for the grant of the superannuated pension provided for in clause 1) of this section.

[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

#### **§ 132<sup>4</sup>. Right to receive judge's pension for incapacity for work**

(1) A judge who has been established to have a permanent loss of capacity for work on the basis of the State Pension Insurance Act before 1 July 2016, shall be entitled to apply for a pension for incapacity for work, which shall be determined on the basis of the version of the Courts Act in force until 1 July 2016.  
[RT I, 17.12.2015, 1 - entry into force 01.07.2016]

(2) A judge who receives a pension for incapacity for work on the basis of the version of the Courts Act in force until 1 July 2016 shall continue, after the expiry of the duration of permanent incapacity for work determined by an examination for establishing permanent incapacity for work, to receive the pension for incapacity for work in the former amount without assessment of the capacity for work.  
[RT I, 17.12.2015, 1 - entry into force 01.07.2016]

(3) When a person receiving a judge's pension for incapacity for work attains the pensionable age provided for in § 7 of the State Pension Insurance Act, payment of the old-age pension shall continue, at his or her request, in the amount of the previous pension for incapacity for work.  
[RT I, 13.12.2014, 1 - entry into force 01.07.2016 (entry into force changed - RT I, 17.12.2015, 1)]

#### **§ 132<sup>5</sup>. Right to receive survivor's pension for judge's family members**

A judge's family member whose right to receive a judge's survivor's pension has arisen before 1 July 2016 shall be granted and paid the pension based on the version of this Act in force until 1 July 2016.

[RT I, 17.12.2015, 1 - entry into force 01.07.2016]

[RT I, 17.03.2021, 2 - entry into force 16.03.2021 - The resolution of the Constitutional Review Chamber repeals § 132.5 of the Courts Act to the extent that precludes the grant and payment of the judge's survivor's pension to the family members of a judge who held the office after 31 December 1991 and before 2 July 2013.]

#### **§ 132<sup>6</sup>. Amount of judge's pension**

(1) The amount of a judge's old-age pension and superannuated pension shall be 75% of the salary of his or her most recent position, which was in force on the day as of which the pension is granted.

(2) The amount of the old-age pension of the Chief Justice of the Supreme Court or a person who has been the Chief Justice of the Supreme Court is 75% of the salary of the Chief Justice of the Supreme Court, which was in force on the day as of which the pension is granted, if he or she has been employed as the Chief Justice of the Supreme Court for at least five years, and 50% if he or she has been employed as the Chief Justice of the Supreme Court for less than five years.

(3) [Repealed - RT I, 13.12.2014, 1 - entry into force 01.07.2016 (entry into force changed - RT I, 17.12.2015, 1)]

(3<sup>1</sup>) A judge who receives a judge's old-age pension on the basis of clauses 132<sup>2</sup>(1) 3) or 4) of this Act shall continue:

1) to receive the old-age pension after the expiry of the duration of permanent incapacity for work determined by an examination for establishing permanent incapacity for work in the former amount without assessment of the capacity for work;

2) to receive the old-age pension after the expiry of the duration of no work ability established by the Unemployment Insurance Fund in the former amount without new assessment of the capacity for work.

[RT I, 13.12.2014, 1 - entry into force 01.07.2016 (entry into force changed - RT I, 17.12.2015, 1)]

(3<sup>2</sup>) A judge who receives a judge's old-age pension on the basis of subsection 132<sup>2</sup>(2) of the Courts Act in force until 1 July 2016 shall continue, after the expiry of the duration of permanent incapacity for work determined by an examination for establishing permanent incapacity for work, to receive the judge's old-age pension in the former amount without assessment of the capacity for work.  
[RT I, 17.12.2015, 1 - entry into force 01.07.2016]

(4) [Repealed - RT I, 13.12.2014, 1 - entry into force 01.07.2016 (entry into force changed - RT I, 17.12.2015, 1)]

#### **§ 132<sup>7</sup>. Grant and payment of judge's pension**

(1) The grant and payment of a judge's pension shall be performed pursuant to the procedure provided for in the State Pension Insurance Act, unless otherwise provided for in this Act.

(2) A judges' pension, except for pension calculated on the basis of the salary of the current year, shall be indexed by 1 April of each current year by the highest salary rate index specified in subsection 2 (2) of the High-Ranking State Public Servants Salaries Act.

(3) The part of a judge's old-age pension, superannuated pension and survivor's pension which exceeds the pension calculated on the basis of the State Pension Insurance Act and a pension for incapacity for work shall be paid from the state budget through the budget of the Ministry of Justice and the Supreme Court.

[RT I, 13.12.2014, 1 - entry into force 01.07.2016 (entry into force changed - RT I, 17.12.2015, 1)]

(4) A judge's pension shall not be increased on the bases provided for in 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.

(5) A judge's pension shall not be paid during employment as a judge. If a retired judge is employed elsewhere, he or she shall receive the judge's pension in full regardless of the amount of the earnings.

(6) A judge's pension shall not be granted to a person who has been removed from office for a disciplinary offence or who has been convicted of an intentionally committed criminal offence. The specified pension shall be withdrawn from a person who is convicted of a criminal offence directed against the administration of justice.

(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 as at least up to five years' imprisonment, loses the right to judge's old-age pension and judge's superannuated pension.

(8) If a person was paid a judge's old-age pension or a judge's superannuated 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 court judgment. In case of losing the right to pension provided for in this Act, the person retains the right to apply for pension pursuant to general principles.

(9) The court shall notify the Social Insurance Board within 10 working days as of the entry into force of the court judgment in writing of the fact in connection with which the person loses the right to judge's old-age pension and judge's superannuated pension provided for in this Act.

(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, 29.12.2012, 1 - entry into force 01.07.2013]

### **§ 132<sup>8</sup>. Judge with permanent incapacity for work**

The condition of no work ability provided for in subsection 132<sup>2</sup>(1) of this Act shall be considered met in case of a judge who has been established to have a 100, 90 or 80 per cent permanent loss of capacity for work on the basis of the State Pension Insurance Act.

[RT I, 13.12.2014, 1 - entry into force 01.07.2016 (entry into force changed - RT I, 17.12.2015, 1)]

### **§ 133. Payment of judge's pension**

(1) The time of employment as a judge before entry into force of this Act shall also be included in the length of service necessary to receive a judge's old-age pension.

(2) For judges who are appointed to office until the entry into force of this Act, employment in the position of lecturer of law with a research degree of an Estonian institution of higher education, sworn advocate, prosecutor, the Chancellor of Justice or in any other position which requires high qualification in law shall also be included in the length of pensionable service as judge. The provisions of this subsection do not extend to the calculation of the pension qualifying period necessary to receive the superannuated pension (§ 132<sup>2</sup>).

[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

(3) Within one year as of the entry into force of this Act, the judge's examination committee shall decide on the determination of the years of pensionable service of all judges, taking into consideration the provisions of this section.

(4) Sections 132<sup>1</sup>–132<sup>6</sup> of this Act also apply to persons who are not employed as judges at the time of the entry into force of this Act but have held the office of judge after 31 December 1991.

[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

(5) Within five years as of the entry into force of this Act, the right to receive judge's old-age pension also arises for a person after his or her employment as a judge for five years if the person has held the office of judge after 31 December 1991, attained the pensionable age, and has been employed for at least ten years in positions which the judge's examination committee has deemed to be equal to holding the office of judge.

(6) Judges who attain the pensionable age within five years as of the entry into force of this Act and who have not completed five years of pensionable service as a judge, have the right to remain in the office of judge until

completion of the years of pensionable service on the condition that they, on the date of entry into force of this Act, held the office of judge and have been employed for at least ten years in positions which the judge's examination committee has deemed to be equal to holding the office of judge.

(7) A judge who is at least 55 years of age and who at least during the last ten years has worked as a judge has the right to receive the judge's old age pension after he or she leaves the office of judge. The decision to leave office in order to use such right shall be made by 1 January 2003. In the case the judge continues work in public service, the amount of his or her pension plus his or her remuneration received in public service shall not exceed the amount received by him in the position of a judge.

(8) A judge who as at 1 July 2013 has been transferred to the service of the Supreme Court or the Ministry of Justice (subsection 58 (1)), elected or appointed as judge of an international court institution or who participates as an expert in an international civil mission (subsections 58<sup>1</sup> (1) and (5)), retains the right to the pension provided for in §§ 132<sup>1</sup>–132<sup>6</sup>.

[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

#### **§ 134. [Repealed - RT I 2009, 15, 93 - entry into force 01.03.2009]**

#### **§ 135. Competence of lay judges**

Lay judges elected before the entry into force of this Act have the authority of lay judges until the end of the term of their authority.

#### **§ 136. Authority of assistant judge's examination committee**

(1) [Repealed - RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(2) [Repealed - RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(3) Until the formation of the competition committee, the functions of the committee shall be performed by the current assistant judge's examination committee.

[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

#### **§ 137. Transitional provisions concerning organisation of judges' training**

(1) Until the year 2004, the judges' training program shall also include follow-up training.

(2) The Ministry of Justice shall transfer the information and contracts necessary for the preparation of the judges' training program to a foundation pursuant to the procedure approved by the minister, and the foundation shall begin the preparation of the judges' training program for the year 2003 not later than 1 September 2002.

(3) Until the formation of the Training Council pursuant to this Act, the functions of the Training Council shall be performed by the current Training Council.

#### **§ 137<sup>1</sup>. Employment in international court institutions**

Section 58<sup>1</sup> of this Act applies also to judges of international court institutions elected or appointed before the entry into force of the specified provision.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 137<sup>2</sup>. Specification for application of subsection 50 (2) of this Act**

For the purposes of subsection 50 (2) of this Act, employment as an assistant prosecutor [ *prokuröri abi* ] before 1 April 2015 shall be deemed equal to employment as an assistant prosecutor [ *abiprokurör* ].

[RT I, 10.03.2015, 3 - entry into force 01.04.2015]

#### **§ 137<sup>3</sup>. Organisation of competitions for judges**

Competitions for filling vacant positions of judges declared before 1 August 2016 shall be organised on the basis of the Act in force until 31 July 2016.

[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

#### **§ 137<sup>4</sup>. Appointment of chairmen of courts of first instance and courts of appeal**

The term of office of a chairman of a court of first instance or a court of appeal who holds the office on 1 August 2016 shall expire upon the end of the term provided for in the Act in force at the time of his or her

appointment and the restriction provided for in subsection 12 (10) of this Act shall not apply to him or her on one occasion upon appointment as the chairman of a court for the next period.  
[RT I, 22.06.2016, 21 - entry into force 01.08.2016]

### **§ 138. Merger of courts**

(1) The Kohtla-Järve City Court and the Ida-Viru County Court shall be merged not later than by 1 January 2003. Until such date, the Kohtla-Järve City Court shall operate as a separate judicial institution.

(2) The Hiiu County Court and the Lääne County Court shall be merged not later than by 1 January 2003. Until such date, the Hiiu County Court shall operate as a separate judicial institution. After the merger of the courts, at least one judge of the Lääne County Court shall stay at Hiiumaa to resume permanent employment as judge.

### **§ 138<sup>1</sup>. Authority of chairman of court and director of court**

(1) The Minister of Justice shall appoint the chairman of the county court and the administrative court not later than by 1 May 2006. The Minister of Justice may temporarily assign the duties of chairman to a judge of county court or administrative court with the consent of the judge until the appointment of a chairman of the court. The temporary acting chairman of a court shall be paid additional remuneration provided for in subsection 76 (2) of this Act.

(2) The Minister of Justice shall appoint the director of court to office on the basis of a public competition not later than by 1 March 2006. Until the appointment of a director of the court, the chairman of the court or the judge specified in subsection (1) of this section shall perform the functions of the director of a court provided for in subsection 15 (4), subsection 16 (4), subsection 17 (4) and subsection 125 (1) of this Act.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

(3) Directors of court appointed before 1 April 2013 shall be automatically considered participants in the competition for the position of the director of the court where they serve, unless he or she submits a written notice concerning the refusal to participate in the competition. The notice concerning the refusal to participate in the competition shall be submitted no later than the end of the term indicated in the notice concerning the competition.  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(4) The minister responsible for the area may appoint to office in 2014 the director of court responsible for the area of activity of the land registry department and registration department of Tartu County Court. The director of court responsible for the area of activity of the land registry department and registration department may be appointed to office without a public competition from among the current directors of court.  
[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

(5) The court officers comprising the land registry departments and registration departments of county courts shall be considered as of 1 January 2015 the court officers of the land registry department and registration department of Tartu County Court and they shall continue service at Tartu County Court.  
[RT I, 21.06.2014, 8 - entry into force 01.07.2014]

### **§ 138<sup>2</sup>. Termination of authority of chairman of county court, city court and administrative court**

(1) The authority of chairmen of county, city and administrative court appointed before 1 January 2006 shall terminate upon the entry into force of this Act.

(2) The judges specified in subsection (1) of this section shall be paid additional remuneration in the amount of 15 per cent of his or her salary until 31 December 2006 if he or she was chairman of a county court, city court or administrative court where up to fourteen judges were working, or in the amount of 25 per cent of his or her salary if he or she was chairman of a county court, city court or administrative court where at least fifteen judges were working. Additional remuneration shall not be paid if the judge specified in subsection (1) is appointed chairman of a county court or administrative court pursuant to the provisions of subsection 138<sup>1</sup>(1) of this Act.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 138<sup>3</sup>. Determination of exact location and service areas of courthouses and the number and distribution of judges**

The Minister of Justice shall determine the exact location of courthouses and the service areas of county and administrative courts (subsection 9 (3) and subsection 18 (3)) and the number of county and administrative court judges and their distribution among courthouses (§§ 11 and 19) not later than by 1 October 2005.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 138<sup>4</sup>. Service of county, city and administrative court judges**

(1) On 1 January 2006, the county, city and administrative court judges who are in office are deemed to be appointed to office as follows:

- 1) the judges of Tallinn City Court and Harju County Court are deemed to be judges of Harju County Court;

- 2) the judges of Ida-Viru County Court, Narva City Court and Lääne-Viru County Court are deemed to be judges of Viru County Court;
- 3) the judges of Pärnu County Court, Saare County Court, Lääne County Court, Järva County Court and Rapla County Court are deemed to be judges of Pärnu County Court;
- 4) the judges of Tartu County Court, Jõgeva County Court, Viljandi County Court, Valga County Court, Põlva County Court and Võru County Court are deemed to be judges of Tartu County Court;
- 5) the judges of Tallinn Administrative Court and Pärnu Administrative Court are deemed to be judges of Tallinn Administrative Court;
- 6) the judges of Tartu Administrative Court and Jõhvi Administrative Court are deemed to be judges of Tartu Administrative Court;

(2) On 1 January 2006, the courthouse which is located in the district where the county, city or administrative court was located where the county or administrative court judge was working as a judge before the entry into force of this Act shall be deemed to be his or her permanent place of service.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 138<sup>5</sup>. Validity of division of tasks plan**

After the entry into force of the Courts Act Amendment Act for the merger of territorial jurisdictions of courts, the division of tasks between judges shall be determined by courthouses on the basis of the division of tasks plans which were in force immediately before the entry into force of the specified Act, until approval of the new division of tasks plan. The full court shall approve the new division of tasks plan not later than by 1 March 2006.

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

### **§ 138<sup>6</sup>. Authority of lay judge**

(1) The lay judges appointed to office before 1 January 2006 whose authority has not terminated shall be deemed to be appointed to office in the following courts:

- 1) the lay judges of Tallinn City Court and Harju County Court are deemed to be lay judges of Harju County Court;
- 2) the lay judges of Ida-Viru County Court, Narva City Court and Lääne-Viru County Court are deemed to be lay judges of Viru County Court;
- 3) the lay judges of Pärnu County Court, Saare County Court, Lääne County Court, Järva County Court and Rapla County Court are deemed to be lay judges of Pärnu County Court;
- 4) the lay judges of Tartu County Court, Jõgeva County Court, Viljandi County Court, Valga County Court, Põlva County Court and Võru County Court are deemed to be lay judges of Tartu County Court;

(2) The authority of lay judges appointed before 1 January 2006 shall terminate upon expiry of the term specified in subsections 104 (1) or 104 (4) of this Act.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

### **§ 138<sup>7</sup>. Liquidation of Viru Circuit Court**

(1) As of 1 October 2008, any appeals received by Viru Circuit Court shall be forwarded for adjudication to Tartu Circuit Court. Any appeals against court ruling received by Viru Circuit Court shall be adjudicated until the closing of the court in Viru Circuit Court. On 31 December 2008, any court cases heard by Viru Circuit Court shall be forwarded for adjudication to Tartu Circuit Court.

(2) A judge of Viru Circuit Court who upon the liquidation of the court is released from office on the basis of clause 99 (1) 5) of this Act and who by the time has at least 20 years of service of judge required for old-age pension together with the length of service specified in subsection 133 (2) of this Act shall have the right to receive the judge's old-age pension. In the case the judge continues work in public service, his or her pension together with the remuneration received in public service shall not exceed the amount received by him in the position of a judge.

(3) Judges of Viru Circuit Court no later than by 1 April 2008 shall notify the Ministry of Justice of the wish to use the right arising from subsection (2) of this section to receive judge's old-age pension or the wish to commence work as of 1 January 2009 either in Viru County Court or Tartu Circuit Court or the consent to release from office on the basis of clause 99 (1) 5) of this Act. Failure to submit the notice shall be considered the wish of a judge of Viru Circuit Court to commence work in Tartu Circuit Court.

(4) If a judge of Viru Circuit Court commences work on the basis of subsection (3) of this section as of 1 January 2009 as a judge of Viru County Court, his or her old-age pension shall be calculated from the judge's salary in the circuit court valid at the time of grant of the pension taking into account the provisions of subsections 132<sup>2</sup>(1) and (2) and subsection 132<sup>6</sup>(1) of this Act, unless he or she is entitled to receive more favourable judge's old-age pension.

[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

(5) A judge of Viru Circuit Court who uses the right arising from subsection (2) of this section to receive judge's old-age pension shall not be paid the compensation arising from subsection 86 (1) of this Act.  
[RT I 2008, 13, 85 - entry into force 24.03.2008]

#### **§ 138<sup>8</sup>. Termination of payment of additional remuneration paid to judges for years of service**

Upon the termination of the payment of the additional remuneration paid to judges for years of service specified in this Act, the judge's salary shall not decrease. If the judge's salary following the entry into force of this Act is smaller than the judge's former salary, the judge shall be paid the former salary until the judge's salary pursuant to this Act and the High-Ranking State Public Servants Salaries Act exceeds the former salary.

[RT I 2010, 1, 2 - entry into force 01.07.2013 (entry into force amended RT I, 29.12.2012, 1)]

#### **§ 138<sup>9</sup>. Term of office of directors of court of courts of first instance and courts of appeal**

Upon the entry into force of subsection 125 (3) of this Act, the term of authority of directors of court of courts of the first instance and courts of appeal shall be effective for five years after the entry into force of the Act.

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

#### **§ 138<sup>10</sup>. Specification for application of subsection 84 (2) of this Act**

The holiday of 49 days for judges of court of the first instance and court of appeal and of 56 days for justices of the Supreme Court shall be preserved for two years as of 1 April 2013 in case they serve as judges as at 1 April 2013.

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

#### **§ 138<sup>11</sup>. Lay judge's pension for incapacity for work**

(1) A lay judge who has been established to have a permanent loss of capacity for work on the basis of the State Pension Insurance Act shall be entitled to an increase of the lay judge's pension for incapacity for work pursuant to the version of § 113 of this Act in force until 1 July 2016.

[RT I, 17.12.2015, 1 - entry into force 01.07.2016]

(2) A lay judge who has been declared permanently incapacitated for work for a period of at least two years on the basis of the State Pension Insurance Act by the latest examination for establishing permanent incapacity for work and who submits an application for assessment of work ability at the latest on the date of re-examination set out in the results of the examination for establishment of permanent incapacity for work and who is established to have partial or no work ability shall be paid a work ability allowance in an amount equal to the total amount of the pension for incapacity for work last paid to him or her on the basis of the State Pension Insurance Act and this Act, if this is larger than the work ability allowance granted to him or her on the basis of the Work Ability Allowance Act. The provisions of the Work Ability Allowance Act concerning a work ability allowance, including subsections 27 (4) and (5) of the Work Ability Allowance Act, shall apply upon payment of a pension for incapacity for work to a lay judge on the basis of this subsection.

[RT I, 13.12.2014, 1 - entry into force 01.07.2016 (entry into force changed - RT I, 17.12.2015, 1)]

**§ 139.–§ 151.**[Omitted from this text.]