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# Military Service Act Implementation Act

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RT I, 10.07.2012, 2  
Entry into force 01.04.2013

Amended by the following acts

Passed	Published	Entry into force
05.12.2012	RT I, 18.12.2012, 1	01.01.2013, in part 01.04.2013
12.06.2013	RT I, 02.07.2013, 1	01.09.2013, in part 01.01.2014
29.01.2014	RT I, 18.02.2014, 1	01.08.2014
10.04.2014	RT I, 23.04.2014, 1	01.10.2014
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the official titles of the ministers have been replaced on the basis of subsection 4 of § 107 <sup>3</sup> of the Government of the Republic Act as from the redaction in force on 1 July 2014.
03.12.2014	RT I, 22.12.2014, 1	01.01.2015
16.05.2018	RT I, 29.05.2018, 1	01.07.2018
14.06.2018	RT I, 06.07.2018, 3	01.01.2020
12.02.2019	RT I, 01.03.2019, 1	01.01.2020
04.12.2019	RT I, 19.02.2019, 1	01.01.2020
30.05.2022	RT I, 20.06.2022, 2	01.10.2022

## Chapter 1 General Provisions

### § 1. Entry into force of the Military Service Act

The Military Service Act shall enter into force on 1 April 2013.

### § 2. Entry of data of persons liable to national defence obligation into national defence obligation register

(1) Upon the entry into force of the Military Service Act the data in the Register of Estonian citizens liable to service in the Defence Forces of the state central register of mobilisation formed on the basis of the previous Military Service Act shall be transferred into the national defence obligation register.

(2) Upon the transfer of the data the contents and the status of the data shall not be altered and, until the amendment of the data in the procedure provided for by law, the data of a person liable to national defence obligation shall be deemed to be as follows:

- 1) the data of a reservist shall be deemed to be the data of a person in reserve;
- 2) the data of a conscript shall be deemed to be the data of a conscript;
- 3) the data of a person in alternative service shall be deemed to be the data of a person in alternative service;
- 4) the data of a contract serviceman shall be deemed to be the data of an active serviceman.

(3) A person whose data were deleted from the Register of Estonian citizens liable to service in the Defence Forces on the basis of the previous Military Service Act shall not be extended the national defence obligation upon the entry into force of the Military Service Act and his data shall not be entered into the national defence obligation register as the data of a person liable to national defence obligation if the person has not submitted an application prescribed in the Military Service Act to the Defence Resources Agency to this effect.

### **§ 3. Validity of oath of serviceman**

The oath of an Estonian serviceman taken in accordance with the procedure in force before the entry into force of the Military Service Act shall be valid and the serviceman need not take a new oath.

### **§ 4. Assessment of state of health of person liable to national service obligation**

(1) The decision made by the medical commission in respect of the state of health of a person liable to national defence obligation shall be valid until a new decision has been adopted.

(2) An active serviceman who has been declared fit to serve in active service by a decision of the medical commission or fit to serve in active service with restrictions is in compliance with the health requirements of an active serviceman upon the entry into force of the Military Service Act.

(3) An active serviceman who has been declared unfit to serve in active service by the medical commission is in temporary noncompliance with the health requirements of an active serviceman upon the entry into force of the Military Service Act.

(4) An active serviceman who has been declared temporarily unfit to serve in active service by the medical commission is required to undergo a medical commission, where his state of health is assessed, within six months as of the entry into force of the Military Service Act.

(5) A call-up selectee, a person in alternative service and a conscript who have been declared fit to serve in active service by a decision of the medical commission or fit to serve in active service with restrictions is in compliance with the health requirements for a person liable to mandatory duty to serve in the Defence Forces upon the entry into force of the Military Service Act.

(6) A call-up selectee and a person in alternative service who has been declared temporarily unfit to serve in active service by the medical commission is in temporary noncompliance with the health requirements for a person liable to mandatory duty to serve in the Defence Forces upon the entry into force of the Military Service Act.

(7) A call-up selectee, a person in alternative service and a conscript who has been declared unfit to serve in active service is in noncompliance with the health requirements for a person liable to mandatory duty to serve in the Defence Forces upon the entry into force of the Military Service Act.

(8) A person in reserve and a reservist who has been declared fit to serve in active service by a decision of the medical commission or fit to serve in active service with restrictions shall be in compliance with the health requirements for a person liable to mandatory duty to serve in the Defence Forces upon the entry into force of the Military Service Act.

(9) A person in reserve and a reservist who has been declared temporarily unfit to serve in active service by the medical commission is in temporary noncompliance with the health requirements for a person liable to mandatory duty to serve in the Defence Forces upon the entry into force of the Military Service Act.

(10) A person in reserve and a reservist who has been declared unfit to serve in active service by the medical commission is in noncompliance with the health requirements for a person liable to mandatory duty to serve in the Defence Forces upon the entry into force of the Military Service Act.

### **§ 5. Continuation of activities of medical commissions**

(1) Upon the entry into force of the Military Service Act the medical commission of the Defence Resources Agency and the medical commission of the Defence Forces formed on the basis of the previous Military Service Act shall continue their activities.

(2) Upon the entry into force of the Military Service Act the proceedings of a medical commission of a case pending shall continue in the procedure provided for in the Military Service Act.

(3) A challenge filed with the central medical commission of the Ministry of Defence before the entry into force of the Military Service Act shall be reviewed by the medical peer review commission of the Ministry of Defence in the procedure provided for in the previous Military Service Act.

(4) If the medical peer review commission of the Ministry of Defence finds that the making of a new decision is required in respect of the state of health of the person who filed the challenge, the medical peer review commission of the Ministry of Defence shall return the case to the medical commission that made the decision for the making of a new decision.

### **§ 6. Establishment of terms of entering conscript service for years 2013 and 2014**

The terms of entering conscript service of call-up selectees and female persons for the years 2013 and 2014 and the distribution of them, by number, between the structural elements engaged in training of conscripts shall be established by a regulation of the minister in charge of the policy sector.

## **§ 7. Performance of mandatory duty to serve in the Defence Forces and alternative service upon entry into force of Military Service Act**

(1) A call-up selectee, who has been notified of the decision in respect of the call-up for conscript service or whose conscript service has been replaced by alternative service before the entry into force of the Military Service Act, is required to enter into service at the time and place prescribed.

(2) A person in reserve who has received the call-up notice for reservist training before the entry into force of the Military Service Act shall report to the reservist training at the time and place prescribed.

(3) A conscript, a person in alternative service and a reservist who is serving in the military or alternative service upon the entry into force of the Military Service Act, shall be released from military or alternative service on the due date established on the basis of the previous Military Service Act.

(4) The proceeding of an application for the replacement of military service with alternative service submitted before the entry into force of the Military Service Act shall be completed in the procedure provided for in the Military Service Act.

(5) A person at the age of 28 and younger who was released from the call-up for conscript service on the basis of the previous Military Service Act and was assigned to the reserve, shall be deemed to be a person in reserve upon the entry into force of the Military Service Act and he shall not be called up for conscript service.

(6) A call-up selectee who attains 28 years of age in the year of the entry into force of the Military Service Act and who has not been called up for conscript service on the basis of the previous Military Service Act, shall not be called up for the conscript service upon the entry into force of the Act and the Defence Resources Agency shall note his data in the national defence obligation register as the data of a person in reserve.

(7) The provisions of subsection 6 of this section shall not be applied if a call-up selectee has expressed a wish to enter conscript or alternative service before attaining 28 years of age.

## **§ 8. Entering conscript service of call-up selectee who has been granted deferment**

The deferment of the call-up for conscript service of a call-up selectee who has been granted the deferment of the call-up for conscript service pursuant to the previous Military Service Act shall be valid until the due date or until the circumstances cease to exist.

## **§ 9. Termination of suspension of call-up for conscript service**

The suspension of the call-up for conscript service of a call-up selectee whose call-up for conscript service has been suspended on the basis of the previous Military Service Act shall be valid until the bases for deferment cease to exist.

## **§ 10. Entering conscript service of call-up selectee who lives in a foreign state**

(1) A person who, based on the data of the Population Register, has resided uninterruptedly for at least seven years in a foreign state during the period before the entry into force of the Military Service Act or was born in a foreign state and has lived there during the period immediately before the entry of data in respect of him into the national defence obligation register and has not submitted a written application for entering conscript service or alternative service during five years as of the entry of data into the register is deemed to be a person in reserve on the basis of this subsection.

(2) The Defence Resources Agency shall make a note in the national defence obligation register in respect of the person in reserve provided for in subsection 1 of this section.

## **§ 11. Postponement of call-up for conscript service**

Upon the entry into force of the Military Service Act a call-up selectee who is acquiring a higher education in the specialty of a doctor or nurse and has submitted a written application within 30 days as of the entry into force of the Act shall not be called up for conscript service.

## **§ 12. Validity of earlier administrative decision**

The administrative decision made before the entry into force of the Military Service Act in respect of person liable to national defence obligation shall be valid until the due date specified therein, the amendment or annulment thereof.

### **§ 13. Validity of alternative service contract**

The alternative service contract concluded before the entry into force of the Military Service Act shall be valid until the due date noted therein, the amendment or annulment thereof.

### **§ 14. Payment of allowance to conscript and person in alternative service**

A person liable to national defence obligation who is in conscript or alternative service upon the entry into force of the Military Service Act shall be paid monthly allowance until the termination of the conscript or alternative service in the amount of and in the procedure provided for in the previous Military Service Act or legislation issued on the basis thereof.

### **§ 15. Payment of remuneration to reservist participating in reservist training**

Upon the entry into force of the Military Service Act a reservist participating in the reservist training shall be paid a salary for the period of participation in reservist training to the extent provided for in the previous Military Service Act or legislation issued on the basis thereof.

### **§ 16. Validity of hot reserve contract**

(1) The hot reserve contract entered into before the entry into force of the Military Service Act shall be valid until the maturity date thereof or until termination of the contract by the agreement between the parties.

(2) The hot reserve contract entered into before the entry into force of the Military Service Act and the suspended contract shall terminate pursuant to subsection 1 of this section.

(3) Remuneration in the amount of 63.91 euros per month shall be paid for the inclusion in the hot reserve contract.

(4) The remuneration specified in subsection 3 of this section shall be paid out upon the termination of the hot reserve contract.

### **§ 17. Termination of active service contract and acceptance of person for active service**

(1) Upon the entry into force of the Military Service Act the active service contract entered into on the basis of the previous Military Service Act shall be deemed to be terminated and the person shall be deemed to be accepted for active service as of the day following the day of termination of the contract.

(2) Upon acceptance for active service provided for in subsection 1 of this section a person shall be accepted for active service, taking account of the term provided for in the active service contract entered into on the basis of the previous Military Service Act, as follows:

- 1) a person who has entered into an active service contract for an unspecified term shall be accepted for an unspecified term;
- 2) a person who has entered into an active service contract for a specified term shall be accepted for the term established in the active service contract.

(3) An active serviceman whose term of service has been extended on the basis of subsection 2<sup>1</sup> of § 112 of the previous Military Service Act shall be accepted for active service for a specified term until the maturity date of the extension.

(4) Upon the entry into force of the Military Service Act an active serviceman shall continue in the peacetime post where he or she was serving upon the termination of the active service contract entered into on the basis of the previous Military Service Act until the appointment to a new peacetime post.

(5) An active serviceman who does not wish to continue in active service due to the entry into force of the Military Service Act shall have the right to submit a written application for the release from active service to the Commander of the Defence Forces within 30 days as of the entry into force of the Military Service Act. The person who has submitted an application for the release from active service shall be released from active service without compensation on the basis of this subsection within seven days after the Estonian Defence Forces have received the application.

(6) In the event of a wish to continue in active service an active serviceman who did not have the national defence obligation upon entering into an active service contract shall have to submit to the Commander of the Defence Forces a written consent for entering his or her data into the national defence obligation register as the data of a person liable to national defence obligation. The Estonian Defence Forces shall forward, at the earliest opportunity, the written consent of the active serviceman to the Defence Resources Agency for entering the data of the person into the national defence obligation register as the data of an active serviceman.

(7) The Commander of the Defence Forces is required to notify of the release from active service the Defence Resources Agency, who shall note the data of a person who has given the consent for entering the data into the national defence obligation register as the data of a person in reserve.

(8) Upon failure to grant consent specified in subsection 6 of this section an active serviceman shall be released from active service without compensation on the basis of this subsection as of the next day following the term of submission of the written consent and he shall not be deemed to be a person liable to national defence obligation.

(9) The Estonian Defence Forces shall notify the Defence Resources Agency in writing of the release of an active serviceman.

#### **§ 18. Medical examination of active serviceman and assessment of compliance with health requirements**

Upon entry into force of the Military Service Act an active serviceman shall undergo medical examination and assessment of the compliance with health requirements, taking account of the previous period from the assessment of the compliance with medical requirements as follows:

- 1) within six months in case more than three years has passed;
- 2) within one year in case three to two years has passed;
- 3) not later than three years from the previous assessment of the compliance with the health requirements in case less than two years has passed.

#### **§ 19. Acceptance for active service of active serviceman who has participated in resource-intensive training and in-service training**

(1) With regard to an active serviceman, who has participated in resource-intensive or in-service training which has been formalised with an administrative act issued on the basis of subsection 5 of § 180<sup>1</sup> of the previous Military Service Act, in which his obligation to serve in the contractual active service during a specified period or compensate for the expenses to the state in proportion to the period of active service has been determined, the acceptance for active service provided for in § 17 of this Act shall be applied with specifications provided for in this section.

(2) The active service contract of an active serviceman who has participated in resource-intensive or in-service training shall be terminated on the basis of this subsection and he shall be accepted for active service as follows:

- 1) a person who has entered into an active service contract for an unspecified term shall be accepted for an unspecified term;
- 2) a person who has entered into an active service contract for a specified term shall be accepted until the expiry of the term prescribed in the active service contract if that is later than the term of the obligation to continue in active service specified in the administrative act;
- 3) a person who has entered into an active service contract for a specified term shall be accepted until the expiry of the term prescribed in the active service contract if that is later than the expiry date of the active service contract.

(3) An active serviceman specified in subsection 1 of this section who leaves active service after the entry into force of the Military Service Act is required to compensate for the direct expenses in proportion to the length of active service, including the expenses related to secondment and secondment abroad which were borne by the state due to his resource-intensive or in-service training and the duration of which is longer than three months or the cost of which exceeds four times the minimum rate of remuneration established by the Government of the Republic on the basis of subsection 5 of § 29 of the Employment Contracts Act if he is released from service:

- 1) due to a judgment of conviction;
- 2) due to a disciplinary penalty;
- 3) at his or her own request;
- 4) due to a failure to adhere to restrictions on service;
- 5) upon a failure to grant consent for entering his data into the national defence obligation register as the data of a person liable to national defence obligation.

(4) An active serviceman specified in subsection 1 of this section who dropped studies or in-service training without good reason or who was exmatriculated from the Estonian National Defence College due to inadequate academic performance after the Defence Service Act entered into force is required to compensate for the direct expenses in proportion to the length of service, including the expenses related to secondment or secondment abroad, which were borne by the state due to his resource-intensive or in-service training, the duration of which is longer than three months or the cost of which exceeds four times the minimum rate of remuneration established by the Government of the Republic on the basis of subsection 5 of § 29 of the Employment Contracts Act.

(5) The expenses of the resource-intensive training and in-service training need not be covered by an active serviceman specified in subsection 1 of this section who:

- 1) after completing studies at the Estonian National Defence College or a corresponding educational institution of a foreign state or in-service training has been in active service for the period equalling one and a half times the training period but not for less than for a year;
- 2) is released from active service due to the obligation to take care of a person with the permanent incapacity for work or a person with a disability, the obligation to take care of whom arises from the Family Law Act;

- 3) has become ill or injured due to the performance of duties and is not in compliance with the health requirements for an active serviceman on the decision of the medical commission of the Defence Forces and is released from service;
- 4) is released from active service upon the expiry of the term of active service or after the date indicated in the administrative act referred to in subsection 1 of this section has passed.

## **§ 20. Calculation of expenses of resource-intensive training and in-service training**

- (1) The expenses of resource-intensive training and in-service training shall be calculated by the Estonian Defence Forces.
- (2) The following direct expenses are the basis for the calculation of expenses of resource-intensive training and in-service training:
  - 1) the training fee;
  - 2) travel expenses;
  - 3) accommodation costs;
  - 4) daily allowance if secondment abroad allowance has not been paid;
  - 5) secondment abroad allowance if an active serviceman is sent on training to acquire education or in-service training for longer than one year;
  - 6) the expenses related to insurance.

## **§ 21. Notice of calculation of expenses of resource-intensive training and in-service training**

- (1) A notice on the expenses of resource-intensive training shall be prepared by the Estonian Defence Forces for an active serviceman to be released from military service before the term prescribed in the administrative act, indicating the following data:
  - 1) the given name and surname of the person and the personal identification code;
  - 2) the place of residence;
  - 3) the standard duration of studies established by the study programme;
  - 4) the start and end dates of studies;
  - 5) a list of expenses, the cost and total amount of expenses forming the basis for the calculation of training expenses;
  - 6) the name and signature of the completer of the notice;
  - 7) the date of completing the notice.
- (2) The Estonian Defence Forces shall complete a notice concerning expenses of the resource-intensive in-service training to an active serviceman who is to be released from military service before the term prescribed in the administrative act, indicating the following data:
  - 1) the given name and surname of the person and the personal identification code;
  - 2) the place of residence;
  - 3) a list of direct expenses, the cost and total amount of the expenses incurred on in-service training;
  - 4) the name and signature of the completer of the notice;
  - 5) the date of completing the notice.

- (3) The notice on the calculation of expenses provided for in subsections 1 and 2 of this section shall be completed in two copies, one of which is given to the person and the other remains with the Estonian Defence Forces.

## **§ 22. Compensation for expenses of resource-intensive training and in-service training**

- (1) A person for whom the state has incurred expenses due to his resource-intensive training or in-service training during his or her active service and who leaves from active service before the expiry of the term of active service determined in the administrative act formalised for the participation in resource-intensive training or in-service training shall compensate for the expenses provided for in subsection 2 of § 20 of this Act within one month as of the release from active service.
- (2) The Estonian Defence Forces shall submit a claim for compensation of expenses of resource-intensive training or in-service training to a person within ten calendar days as of becoming aware of the circumstances provided for in subsections 3 or 4 of § 19 of this Act. The notice shall not be submitted if circumstances for the release from the obligation to compensate for the expenses provided for in subsection 5 of § 19 of this Act exist.
- (3) The Defence Forces may establish a schedule for the compensation of the expenses incurred due to resource-intensive training and in-service training to a person on the basis of his written application.
- (4) The period of compensation of the expenses of up to six months as from the release from active service may be established in the schedule.

## **§ 22<sup>1</sup>. Reimbursement of study expenses**

A person who has received health damage due the performance of duties and has been released from active service therefor within the period from 26 December 2008 until 31 December 2014 and who has taken up or is taking up studies at an educational institution located in Estonia after the release from active service, except

according to a military study programme, shall have the right to apply for the reimbursement of study expenses in the procedure provided for in subsections 1 and 2 of § 200 of the redaction of the Military Service Act, which entered into force on 1 January 2015.

[RT I, 22.12.2014, 1 – entry into force 01.01.2015]

### **§ 23. Continuation in post of Commander of Defence Forces, Chief of Staff of Estonian Defence Forces, chief of service and Commander of Estonian Defence League**

(1) Upon the entry into force of the Military Service Act the persons appointed to the post of the Commander of the Defence Forces, Chief of Staff of the Defence Forces, a chief of service and the Commander of the Estonian Defence League shall continue in their posts until the expiry of the term provided for in the decision on appointment.

(2) Upon the entry into force of the Military Service Act the Commander of the Defence Forces, Chief of Staff of the Estonian Defence Forces, a chief of service and the Commander of the Estonian Defence League who are in office are required to notify the minister in charge of the policy sector of a wish to be released from active service within 30 days as of the entry into force of the Military Service Act. The provisions of the Military Service Act shall be applied to the release from active service of the Commander of the Defence Forces, Chief of Staff of the Estonian Defence Forces and a chief of service. The provisions of the Estonian Defence League Act shall be applied to the release from active service of the Commander of the Estonian Defence League. An active serviceman shall be released from active service without compensation.

(3) Upon the entry into force of the Military Service Act an active serviceman serving in a post of the Commander of the Defence Forces may be reappointed to the post pursuant to subsection 3 of § 93 of the Military Service Act upon the expiry of the term provided for in subsection 1 of § 97 of the previous Military Service Act.

### **§ 24. Salary of active serviceman**

(1) An active serviceman who continues in active service uninterruptedly upon the entry into force of the Military Service Act shall be paid the salary until the appointment to a new peacetime post in the amount equalling at least the previous service pay if, upon the entry into force of the Military Service Act, the salary of the active serviceman appears to be lower than his or her service pay for the calendar month prior to the entry into force of the Military Service Act.

(2) The provisions of subsection 1 of this section shall not be applied if the reduction of the expenses of the state budget involves the general reduction of salaries paid from the state budget.

(3) An active serviceman who has been seconded in a foreign state for longer than six months before 1 February 2018 and who is continuously staying in the foreign state within the frames of the same secondment shall be paid a salary and other remuneration pursuant to the procedure and extent in force before 1 February 2018.

[RT I, 29.05.2018, 1 - entry into force 01.07.2018]

(4) An active serviceman who has been seconded in a foreign state for longer than six months after 1 February 2018 and who is continuously staying in the foreign state within the frames of the same secondment, shall have the right, pursuant to subsection 7 of § 128 of the Military Service Act, to require the determination of the basic wages and payment of the salary on the basis of the procedure provided in the Public Service Act. In the case of a claim submitted after 1 August 2018 the basic wages shall be determined and the salary shall be paid pursuant to the procedure provided in the Public Service Act, starting from the month following the submission of the claim.

[RT I, 29.05.2018, 1 - entry into force 01.07.2018]

### **§ 25. Extra days of holiday of active serviceman**

(1) An active serviceman who continues in active service uninterruptedly shall retain on the basis of subsection 4 of § 169 of the previous Military Service Act the right for extra holidays granted for the years served in active service to the extent for which the active serviceman had the right before the entry into force of the Military Service Act.

(2) During the validity of the disciplinary penalty extra holidays may be reduced or not be granted.

### **§ 26. Appointment to peacetime post or assignment to reserve of active serviceman assigned to reserve of contract servicemen**

(1) An active serviceman who had been assigned to the reserve of contract servicemen on the basis of the previous Military Service Act shall be appointed to a peacetime post within seven days as of the entry into force of the Military Service Act.

(2) If it is impossible to appoint an active serviceman specified in subsection 1 of this section to a peacetime post, he or she shall be released from active service on the basis of this subsection, shall be assigned to the reserve and paid compensation to the extent of his or her average one month's salary paid on the basis of the previous Military Service Act.

#### **§ 27. Exemption to implementation of § 95 of Military Service Act**

(1) Within six months after the entry into force of the Military Service Act the compliance of the active serviceman with the requirements provided for in § 95 of the Military Service Act may only be assessed with his or her written consent.

(2) The provisions of subsection 1 of this section shall be applied to an active serviceman who is in active service upon the entry into force of the Military Service Act and shall resume the same peacetime post.

#### **§ 28. Resumption of post or place of employment without military rank by active serviceman**

An active serviceman who, upon the entry into force of the Military Service Act, has been referred to a post or place of employment without military rank shall be appointed to a peacetime post in the Estonian Defence Forces upon the entry into force of the Military Service Act.

#### **§ 29. Calculation of tenure of active service**

(1) Upon the entry into force of the Military Service Act the length of service in the Defence Forces shall continue to be valid.

(2) Upon continuation in active service or entering active service the length of service in the Defence Forces, based on the previous Military Service Act, shall be calculated into the tenure of active service on a daily basis.

#### **§ 30. Termination and preservation of attestation and service records**

The attestation and service records of an active serviceman shall be terminated. The terminated attestation and service records shall be preserved at the place of service of the active serviceman together with other personnel documents during the service of an active serviceman. After the release of an active serviceman from the service the attestation record shall be preserved with the Estonian Defence Forces for at least 25 years together with other personnel documents in the procedure prescribed in the list of documents and rules of procedure of the Estonian Defence Forces. The service record shall be preserved in the procedure in force before entry into force of the Military Service Act.

#### **§ 31. Validity of previous disciplinary penalty**

A disciplinary penalty imposed on the basis of the Disciplinary Measures in Defence Forces Act shall be valid after the entry into force of the Military Service Act. Such penalty shall be executed and it shall expire pursuant to the act on the basis of which the penalty was imposed.

#### **§ 32. Imposition of penalty for previous disciplinary offence**

(1) An active serviceman may be imposed a disciplinary penalty prescribed by the Military Service Act for a disciplinary offence committed during the validity of the Disciplinary Measures in Defence Forces Act if the penalty has not been imposed on him or her for that offence yet, taking account of the terms provided for in the Disciplinary Measures in Defence Forces Act which were valid during the commission of the offence.

(2) If the disciplinary proceeding has been commenced before the entry into force of the Military Service Act, it shall be terminated pursuant to the procedure which was valid during the commencement of the proceedings.

#### **§ 33. Adjudication of pending challenge of military service commission**

A challenge filed with the military service commission before the entry into force of the Military Service Act shall be reviewed by the Ministry of Defence in the procedure provided for in the previous Military Service Act.

#### **§ 34. Provision of medical aid and health care services and guaranteeing of medical devices and medicines to person who became ill or injured due to performance of duties in military service**

A person who, during mandatory military service, became ill or injured due to the performance of his or her duties in military service shall be guaranteed medical care, health care services, medical devices and medicines to the extent and procedure prescribed in the previous Military Service Act if the decision to this effect had been made before the entry into force of the Military Service Act.

#### **§ 35. Provision of social services to person who became ill or injured due to performance of duties in military service**

A person who became ill or injured due to the performance of his or her duties in military service and has an established disability shall be guaranteed rehabilitation services, prostheses, provision of orthopaedic and



other devices to the extent and pursuant to the procedure provided for in the previous Military Service Act if a decision to this effect has been made before the entry into force of the Military Service Act.

### **§ 36. Payment of compensation to person who died or became incapacitated for work due to performance of duties in Defence Forces**

(1) An application for compensation due to death or becoming incapacitated for work of a serviceman submitted before the entry into force of the Military Service Act shall be reviewed, compensation shall be assigned and paid out in the procedure provided for in the previous Military Service Act.  
[RT I, 23.04.2014, 1 – entry into force 01.10.2014]

(2) A serviceman who has become incapacitated for work due to the performance of duties in military service to whom the first part of the lump sum compensation has been paid out on the basis of subsection 3 of § 197 of the Military Service Act valid before 1 October 2014 shall be paid out the second part of the lump sum compensation, irrespective of the recovery of his or her capacity for work.  
[RT I, 23.04.2014, 1 – entry into force 01.10.2014]

(3) A serviceman who has become incapacitated for work due to the performance of duties in military service to whom the first part of the lump sum compensation has been paid out on the basis of subsection 4 of § 197 of the Military Service Act valid before 1 October 2014 shall be paid out the second and third part of the lump sum compensation, irrespective of the recovery of his or her capacity for work.  
[RT I, 23.04.2014, 1 – entry into force 01.10.2014] (4) A serviceman who has become incapacitated for work due to the performance of duties in military service to whom the first and second part of the lump sum compensation have been paid out on the basis of subsection 4 of § 197 of the Military Service Act valid before 1 October 2014 shall be paid out the third part of the lump sum compensation, irrespective of the recovery of his or her capacity for work and additionally the amount of the second part which he or she would have received if the second part of the lump sum compensation had not been reduced due to the recovery of his or her capacity for work.  
[RT I, 23.04.2014, 1 – entry into force 01.10.2014]

(5) A serviceman who has become incapacitated for work due to the performance of duties in military service to whom the lump sum compensation has been paid out in three parts on the basis of subsection 4 of § 197 of the Military Service Act valid before 1 October 2014 shall be paid out additionally the amount of lump sum compensation which he or she would have received if the parts of the lump sum compensation had not been reduced due to the recovery of his or her capacity for work.  
[RT I, 23.04.2014, 1 – entry into force 01.10.2014]

(6) A serviceman who has become incapacitated for work due to the performance of duties in military service to whom the part of compensation to be paid out on the basis of subsection 7 of § 197 of the Military Service Act valid before 1 October 2014 was not paid due to the complete recovery of his or her capacity for work shall be paid the part of the lump sum compensation which he or she would have received if his or her capacity for work had not recovered wholly.  
[RT I, 23.04.2014, 1 – entry into force 01.10.2014]

(7) A person is required to submit an application for lump sum compensation provided for in subsections 2–6 of this section to the Ministry of Defence at the latest on 1 February 2015. [RT I, 23.04.2014, 1 – entry into force 01.10.2014]

(8) The application shall indicate the payment of which part the person wants.  
[RT I, 23.04.2014, 1 – entry into force 01.10.2014]

(9) The Ministry of Defence shall decide payment of compensation within 30 days as of the receipt of the application.  
[RT I, 23.04.2014, 1 – entry into force 01.10.2014]

(10) In the case provided for in subsection 2 of § 204 of the Military Service Act the compensation specified in this section shall not be paid out.  
[RT I, 23.04.2014, 1 – entry into force 01.10.2014]

### **§ 37. Guaranteeing of travel and accommodation expenses of family members and close relations**

An application submitted by a family member or close relation before the entry into force of the Military Service Act for guaranteeing travel expenses to a medical institution and back and the accommodation expenses at the location of the medical institution shall be reviewed in the procedure provided for in the previous Military Service Act.

### **§ 38. Continuing payment of pension upon entry into force of Military Service Act**

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

(1) The superannuated pension assigned before the entry into force of the Military Service Act shall be deemed to be a military pension upon the entry into force of the Military Service Act and hereinafter the Military Service Act shall apply thereto.

(2) The Military Service Act shall be applied to the survivor's pension and the pension for incapacity for work established before the entry into force of the Military Service Act.

(3) The amount of pension of a person whose active service contract was entered into before 1 January in the year 2008 shall make up 30 per cent of the amount based on which his or her pension is calculated upon attainment of 13 years of the tenure of active service, which is increased by three per cent for each year adding to the tenure of active service until attaining the length of service in the Defence Forces of up to 20 years.

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

(4) The amount of military pension of a person whose service period was extended over the specified age limit shall make up 50 per cent from the amount based on which the amount of his or her pension is calculated in the case of the length of service in the Defence Forces of 13 years. Each year of the tenure of active service added to the tenure of active service of 13 years, shall increase by 2.5 per cent the percentage calculated into the pension from the amount based on which the pension is calculated.

[RT I, 01.03.2019, 1 – entry into force 01.01.2020]

(5) An application for the grant of pension submitted before the entry into force of the Military Service Act shall be reviewed and the pension shall be assigned in the procedure provided for in the previous Military Service Act and hereinafter the Military Service Act shall be applied to the established pension.

(6) If the recipient of the pension wishes to have the assigned pension recalculated on the basis of the Military Service Act or this Act, he or she is required to submit an application to the Social Insurance Board. The pensions the amount of which is calculated based on the last redaction of Regulation No 12 of the Government of the Republic of 21 January 2005 on „Remuneration of active servicemen“, laid down on the basis of subsection 3 of § 129, subsection 3 of § 153 and subsection 1 of § 155 of the Military Service Act valid earlier (RT I 2000, 28, 167), shall be recalculated by the Social Insurance Board upon entry into force of this provision applying coefficient 1.24 to the current value of the pension.

[RT I, 01.03.2019, 1 – entry into force 01.01.2020]

### **§ 39. Calculation of amount of pension upon entry into force of Military Service Act**

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

(1) A person released from active service after the entry into force of the Military Service Act who is entitled to military pension, shall have the right to choose, in addition to the bases for calculation of the amount of pension provided for in subsection 5 of § 39<sup>3</sup> of this Act, the total of the average salary level corresponding to the rank of the highest post which the person held during last five years of his contractual service and the rank allowance corresponding to the rank held by the person at the moment when the pension was assigned, as a basis for the calculation of military pension based on the Military Service Act valid earlier.

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

(2) Upon application for military pension on the basis provided for in subsection 1 of this section no more than five years may have passed from the service in a post forming the basis for the calculation of the amount of military pension until the time of the submission of application for military pension.

(3) A person released from contractual service who had the length of service in the Defence Forces required in subsection 1 or 1<sup>1</sup> of § 196 of the previous Military Service Act before the entry into force of the Military Service Act, shall have the right for military pension at the age of 50 years, except in the case he or she was released from contractual service due to the entry into force of the judgment of conviction for an offence committed intentionally or if he has been convicted for an offence provided for in Chapter 15 or Subchapter 2 of Chapter 17 of the Penal Code, for which at least 15 years of imprisonment is prescribed in the Penal Code.

(4) A person specified in subsection 3 of this section may choose as a basis for the calculation of the amount of the military pension:

1) the total of the average salary level corresponding to the rank of the last post held by him or her and the rank allowance corresponding to the rank held by the person at the moment of the assignment of the pension or

2) the total of the average salary level corresponding to the rank of the highest post held by him or her for the last five years prior to the release from contractual service and the rank allowance corresponding to the rank held by the person at the moment of assignment of the pension.

(5) The basis for the calculation of the average salary level corresponding to the rank of the post referred to in subsections 1 and 4 of this section is the last redaction of Regulation No 12 of the Government of the Republic of 21 January 2005 on „Remuneration of active servicemen“, laid down on the basis of subsection 3 of § 153 of the Military Service Act valid earlier (RT I 2000, 28, 167), which is applied coefficient 1.24.

[RT I, 01.03.2019, 1 – entry into force 01.01.2020]

(6) The basis for calculation of the rank allowance referred to in subsections 1 and 4 of this section is the last redaction of Regulation No 12 of the Government of the Republic of 21 January 2005 on „Remuneration of active servicemen“, laid down on the basis of subsection 1 of § 155 of the Military Service Act valid earlier (RT I 2000, 28, 167), which is applied coefficient 1.24.  
[RT I, 01.03.2019, 1 – entry into force 01.01.2020]

(7) The provisions of the Military Service Act shall be applied to the payment of military pension provided for in this section.

(8) A person who has been in the post of the Chief of Staff of the Defence Forces before 1 August 2014 is entitled to military pension regardless of the tenure of active service and age and the period of being in the post of the Chief of Staff of the Defence Forces.  
[RT I, 18.02.2014, 1 – entry into force 01.08.2014]

(9) The amount of military pension of a person specified in subsection 1 of this section is 75 per cent from the average salary scale for the post in force during the release thereof from the post.  
[RT I, 18.02.2014, 1 – entry into force 01.08.2014]

(10) The amount of military pension of a person who was in the post of the Chief of Staff of the Defence Forces on 31 July 2014 is 75 per cent from the average salary scale for the post in force on 31 July 2014.  
[RT I, 18.02.2014, 1 – entry into force 01.08.2014]

(11) The amount of the pension for incapacity for work of a person receiving the pension for incapacity for work shall be recalculated from 1 October 2014.  
[RT I, 23.04.2014, 1 – entry into force 01.10.2014]

(12) Recalculation of the amount of the pension for incapacity for work is based on the extent of the loss of capacity for work due to the performance of duties and one and a half times the latest average gross monthly salary in a calendar year published by Statistics Estonia by 1 October 2014.  
[RT I, 23.04.2014, 1 – entry into force 01.10.2014]

(13) The amount of the survivor's pension of a person receiving survivor's pension shall be recalculated from 1 October 2014.  
[RT I, 23.04.2014, 1 – entry into force 01.10.2014]

(14) The basis for recalculation of a survivor's pension is one and a half times the latest average gross monthly salary in a calendar year published by Statistics Estonia by 1 October 2014.  
[RT I, 23.04.2014, 1 – entry into force 01.10.2014]

### **§ 39<sup>1</sup>. Specifications for vocational study**

(1) A call-up selectee who attends vocational studies on the basis of basic education or vocational secondary education in school-based and full-time study pursuant to § 59 of the Vocational Educational Institutions Act shall also have the right to deferment until 1 July in the year he or she attains 21 years of age specified in subsection 4 of § 44 of the Military Service Act.

(2) The persons listed in clause 2 of subsection 1 of § 210 of the Military Service Act shall also have the right to survivor's pension under the conditions established in the provision referred to during the full-time studies at a vocational educational institution.  
[RT I, 02.07.2013, 1 – entry into force 01.09.2013]

### **§ 39<sup>2</sup>. Increase of pension for participation in international military operation**

[Repealed – RT I, 06.07.2018, 3 – entry into force 01.01.2020]

### **§ 39<sup>3</sup>. Military pension from 1 January 2020**

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

(1) A person who is in active service on 31 December 2019 and continues service uninterrupted is entitled to military pension at the age of 50 if he or she has at least 20 years of the tenure of active service by the time of retirement.

(2) A person who is in conscript service on 31 December 2019 and continues in active service immediately after termination of conscript service, is entitled to military pension at the age of 50 in the case of uninterrupted active service if he or she has at least 20 years of the tenure of active service by the time of retirement.

(3) A person who has at least 20 years of the tenure of active service by 1 January 2020 is entitled to military pension at the age of 50.

(4) In the case of 20 years of the tenure of active service the amount of pension is 50 per cent of the average salary scale of the post on the basis of which the amount of pension of the person is calculated.

(5) The basis for calculation of the amount of pension is at the choice of the person:

- 1) the average salary scale corresponding to the post held by him or her valid upon release from active service or
- 2) the average salary scale which is the most favourable for him or her chosen from the last five years of active service for a peacetime post where he or she served at least 12 consecutive months.

(6) In the case provided for in clause 2 of subsection 5 of this section the amount of pension shall be calculated on the basis of the average salary scale for the post which was valid when the person served in the elected post.

(7) A person who is serving in military service under the conditions provided for in subsections 1 and 2 of this section shall be entitled to receive additionally 2.5 per cent on 50 per cent amount of pension for each year by which his or her tenure of active service exceeds 20 years.

(8) A person whose active service contract was entered into before 1 January 2008 and who is in active service on 31 December 2019 and continues in active service uninterrupted until he or she has at least 13 years of the tenure of active service is entitled to military pension at the age of 50.

(9) A person whose active service contract was entered into before 1 January 2008 and who has 13 years of the tenure of active service by 1 January 2020 shall be entitled to military pension at the age of 50.

(10) The amount of pension shall be calculated on the basis of subsection 3 of § 38 of this Act to a person whose active service contract was entered into before 1 January 2008 and who is in active service on 31 December 2019 and continues in active service uninterrupted.

(11) A person who is in military service under the conditions provided for in subsections 1 and 2 of this section shall be entitled to an additional one per cent to the amount of pension for participation in each international military operation.

(12) The increase of pension provided for in subsections 7 and 11 of this section and subsection 3 of § 38 of this Act shall be applied to a person complying to the conditions of subsections 3 and 9 of this section for the tenure served until 31 December 2019 and participation in international military operation.

(13) The maximum rate of pension is 75 per cent of the average of the salary scale of the post provided for in subsection 5 of this section.

(14) Military pension shall be assigned for life.  
[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

#### **§ 39<sup>4</sup>. Payment of military pension to Commander of Defence Forces and Deputy Commander of Defence Forces from 1 January 2020**

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

(1) The Commander of Defence Forces and the Deputy Commander of Defence Forces, who has been in that post before 1 January 2020, shall be entitled to military pension upon release from the post regardless of the tenure of active service and age and the period of being in the post of the Commander of Defence Forces and Deputy Commander of Defence Forces.

(2) The amount of military pension of the Commander of Defence Forces is 75 per cent of the basic salary in force during the release from the post.

(3) The amount of military pension of the Deputy Commander of Defence Forces is 75 per cent of the average salary scale for the post in force during the release thereof from the post.  
[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

#### **§ 39<sup>5</sup>. Restrictions on grant of military pension**

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

(1) A person who was released from active service on the basis specified in clause 6 of subsection 1 of § 140 of the Military Service Act shall have no right for military pension.

(2) A person who has been convicted for an offence provided for in Chapter 15 or Subchapter 2 of Chapter 17 of the Penal Code, for which at least five years of imprisonment is prescribed in the Penal Code, shall have no right for military pension.

(3) In the case provided for in subsection 2 of this section, if the person was paid military pension, the payment of pension shall be terminated from the month following the month when the judgment of conviction entered

into force. In the case of losing the right for military pension the person shall retain the right to apply for pension on the basis of the State Pension Insurance Act.

(4) The court is required to notify the Defence Forces in writing within ten working days as of the entry into force of the judgment of the fact due to which the person is no longer entitled to military pension. The Defence Forces shall notify the Social Insurance Board of the judgment and the loss of entitlement to military pension within two working days as of the receipt of information from the court.

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

### **§ 39<sup>6</sup>. Application for, assignment and indexation of military pension**

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

(1) Military pension shall be applied the State Pension Insurance Act unless otherwise provided for by this Act.

(2) Military pension shall be granted as of the date on which entitlement to such pension is created, which is the date of release from active service upon reaching the retirement age and attainment of the tenure of active service provided for in subsections 1–3, 8 and 9 of § 39<sup>3</sup> of this Act.

(3) A person who is released from active service before reaching the retirement age provided for in subsections 1–3, 8 and 9 of § 39<sup>3</sup> of this Act shall have the right for military pension from the day on which he or she reaches the retirement age.

(4) Military pension shall be assigned from the day on which the right for that pension is created if the application for the grant of pension has been submitted within three months as of that day.

(5) If the application for the grant of pension has been submitted after the term provided for in subsection 4 of this section, the pension shall be assigned from the day when the application and other documents necessary for assignment of pension have been submitted.

(6) A person who has been in active service and complies with the requirements provided for in subsections 1–3, 8 and 9 of § 39<sup>3</sup> of this Act, who has the tenure of active service required for assignment of military pension by the day he or she is qualified for incapacity of work, the pension for incapacity of work shall be assigned, at his or her request, to the extent of military pension.

(7) Military pension, except for the pension assigned on the basis of the salary of the current year, shall be indexed by 1 April every year on the basis of § 26 of the State Pension Insurance Act.

(8) A person who has the right to receive several state pensions shall be granted one state pension at his or her choice.

(9) The Defence Forces shall keep record of the persons applying for military pension laid down in this Act.

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

### **§ 39<sup>7</sup>. Payment of military pension**

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

(1) Military pension shall be paid:

- 1) from the state budget before the retirement age provided for in § 7 of the State Pension Insurance Act;
- 2) at the retirement age provided for in § 7 of the State Pension Insurance Act, the pension part calculated on the basis of the State Pension Insurance Act from the social tax and the part in excess of that from the state budget.

[RT I, 19.12.2019, 1 – entry into force 01.01.2020]

(2) A person receiving military pension shall be paid the pension to the full extent regardless of the amount of income.

(3) Military pension shall not be paid if the person is in active service or in police service or in the case provided for in an international agreement.

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

### **§ 39<sup>8</sup>. Recovery of pension amounts**

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

Overpaid military pension shall be recovered from the pensioner pursuant to the procedure provided for in the General Part of the Social Code Act.

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

**§ 39<sup>9</sup>. Age limit of active serviceman from 1 January 2020**  
[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

As at 31 December 2019 the age limit for active servicemen in active service is:

- 1) Private/Airman or Seaman to Sergeant Major – 55 years;
- 2) Chief Master Sergeant – 60 years;
- 3) Ensign to Major or Lieutenant Commander – 55 years;
- 4) Lieutenant Colonel, Colonel, Commander and Captain – 60 years;
- 5) Brigadier General or Commodore to General or Admiral – 65 years.

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

**§ 39<sup>10</sup>. Specifications of active service relationship relating to transfer of tasks of Police and Border Guard Board to Defence Forces**

(1) A police officer of the Police and Border Guard Board whose duties are transferred to the Estonian Defence Forces (hereinafter police officer) is released from police service and accepted for active service starting from 1 January 2023 based on the written request of the police officer, taking into account the specifications of this section. The written request must be submitted to the Defence Forces through the Police and Border Guard Board at the latest on 1 October 2022. A police officer without a national defence obligation also submits a consent to take up a national defence obligation.

(2) Upon acceptance of a police officer for active service, the medical commission of the Defence Forces assesses the state of health of the police officer in accordance with the procedure established based on subsection 6 of § 31 of the Military Service Act. The decision of the medical commission must be made at the latest on 1 November 2022.

(3) A police officer without a national defence obligation who, by the decision of the medical commission of the Defence Forces, complies with the health requirements for an active serviceman, is deemed to be a person liable to national defence obligation as of the day of acceptance for active service.

(4) A police officer is accepted for active service for an unspecified term.

(5) The unused annual holiday which has not expired is preserved for a police officer accepted for active service.

(6) The current salary of a police officer accepted for active service is maintained if the salary in a peacetime post is lower than the current salary of the police officer.

(7) A police officer accepted for active service and appointed to a peacetime post under the conditions provided in subsection 6 of § 92 of the Military Service Act is required to complete the military training required for the post or acquire education within five years as of the date of appointment to the post. In case of a failure to complete the required military training or acquire education, an active serviceman is transferred to a peacetime post whose conditions are met by the active serviceman or is released from active duty due to non-compliance with the requirements of the peacetime post.

(8) In order to appoint a police officer who has been accepted for active service to a new peacetime post for the first time within five years, the prior consent of the police officer is required.  
[RT I, 20.06.2022, 2 – entry into force 01.10.2022]

**§ 39<sup>11</sup>. Specifications of service and employment relationship related to transfer of tasks of Police and Border Guard Board to Defence Forces**

(1) A police officer, whose duties of the post do not change, is released from the police service and is transferred from 1 January 2023 with their written consent on the basis of clause 1 of subsection 1 of § 98 of the Civil Service Act to a post in the Defence Forces for an unspecified term, taking into account the specifications of this section.

(2) A police officer, whose duties of the post do not change, is released from police service and the Defence Forces enters into an employment contract with the police officer based on Chapter 2 of the Employment Contracts Act for employment in the Defence Forces from 1 January 2023, taking into account the specifications of this section.

(3) The unused annual holiday which has not expired is retained for a police officer who has been accepted for service or has entered into an employment contract with the Defence Forces.

(4) A police officer who has entered into an employment contract with the Defence Forces is paid the salary in the Defence Forces to the extent of the current salary of the police officer if the salary in the Defence Forces is lower than their current salary.

[RT I, 20.06.2022, 2 – entry into force 01.10.2022]

## **Chapter 2**

## **Amendment to legislation**

§ 40.–§ 64.[Omitted from this text]

### **Chapter 3 Entry into force of Act**

#### **§ 65. Entry into force of Act**

(1) This Act shall enter into force on 1 April in the year 2013.

(2) Clause 3 of § 57 of this Act shall enter into force in the general procedure and shall be implemented retrospectively from 10 May in the year 2010.