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## Bailiffs Act

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RT I 2009, 68, 463  
Entry into force 01.01.2010

Amended by the following acts

Passed	Published	Entry into force
22.04.2010	RT I 2010, 22, 108	01.01.2011 enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, p. 24 - 26).
17.06.2010	RT I 2010, 38, 231	01.07.2010
16.12.2010	RT I, 30.12.2010, 2	01.01.2011
17.02.2011	RT I, 14.03.2011, 3	24.03.2011
17.02.2011	RT I, 21.03.2011, 1	01.01.2012
06.06.2012	RT I, 29.06.2012, 3	01.01.2013
05.12.2012	RT I, 21.12.2012, 1	01.03.2013
20.12.2012	RT I, 31.12.2012, 5	10.01.2013
11.12.2013	RT I, 23.12.2013, 1	01.01.2014, partially 01.01.2015 and 01.01.2020
21.01.2014	RT I, 31.01.2014, 6	01.02.2014, partially 01.04.2014 and 01.07.2014
19.02.2014	RT I, 13.03.2014, 4	01.07.2014 The word "supervision" has been replaced throughout the Act with the words "administrative supervision".
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, official titles of ministers replaced on the basis of subsection 107 <sup>3</sup> (4) of the Government of the Republic Act.
18.02.2015	RT I, 05.03.2015, 2	06.03.2015, partially 01.01.2017
18.02.2015	RT I, 12.03.2015, 4	01.10.2015, partially 01.03.2016
15.06.2016	RT I, 08.07.2016, 1	01.01.2017
07.06.2017	RT I, 26.06.2017, 17	06.07.2017
13.12.2017	RT I, 30.12.2017, 2	09.01.2018, partially 01.01.2019
09.05.2018	RT I, 31.05.2018, 2	10.06.2018, partially 01.10.2018, 01.01.2019 and 01.01.2020

## Chapter 1

# GENERAL PROVISIONS

## § 1. Scope of application

(1) This Act provides the bases for the professional activities of bailiffs, the procedure for disciplinary liability and exercising administrative supervision over bailiffs, the procedure for remuneration of bailiffs and the bases for the activity of common professional association of bailiffs and trustees in bankruptcy.

(2) The provisions of the Administrative Procedure Act apply to administrative proceedings prescribed in this Act, taking account the specifications provided for in this Act. The Administrative Procedure Act shall not be applied to enforcement proceedings.

## Chapter 2 BAILIFFS

### Division 1 Professional Activities of Bailiffs

## § 2. Legal status of bailiffs

(1) A bailiff engages in liberal profession and holds office in public law in his or her own name and at own liability.

(2) The professional activities of a bailiff are professional acts and professional services.

(3) A bailiff shall be impartial in the performance of professional activities and appear trustworthy to all persons for whose benefit or with regard to whom he or she performs acts.

(4) A bailiff shall be guided by the oath of office and shall also act in a dignified manner outside of his or her professional activities.

(5) A bailiff shall have a badge of office and an official seal.

(6) A description of the badge of office and the official seal as well as the procedure for the use thereof shall be established by a regulation of the minister responsible for the area.

## § 3. Number of bailiffs and their territorial jurisdiction

The number of bailiffs' offices and their corresponding territorial jurisdiction shall be determined by the minister responsible for the area.

## § 4. Bailiff's office

(1) A bailiff works through his or her office.

(2) A bailiff's office shall be situated in the territorial jurisdiction of the bailiff and it shall be suitable for receiving people.

(3) Opening hours of the office and the bailiff's office hours shall be made known to the public on the website of the Chamber of Bailiffs and Trustees in Bankruptcy (hereinafter *Chamber*), moreover, information shall be located in a visible place at the entrance of the bailiff's office. The minimum opening hours and office hours may be established by a regulation of the minister responsible for the area.  
[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(4) Bailiffs working in the same territorial jurisdiction may operate a common office with the permission of the minister responsible for the area. Bailiffs who operate a common office shall determine their rights and obligations with regard to each other in a written contract. In operating a common office, each bailiff shall perform professional acts and provide professional services in his or her own name and shall be personally liable for his or her professional activities.

(5) For accounting purposes, bailiffs are considered to be sole proprietors. Bailiffs operating a common office may maintain common accounts.

## § 5. Restrictions related to office

(1) A bailiff shall not hold other paid offices besides the office of bailiff or perform any other paid work except for teaching, research and creative work and acting as a trustee in bankruptcy or as a liquidator.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(2) A bailiff shall not engage in enterprise, or:

1) be a shareholder in general partnership, general partner of a limited partnership or a member of such commercial association the statutes of which prescribe the personal liability of the member for the liabilities of the commercial association;

2) be a member of the supervisory or management board of a company or a procurator;

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

3) be the director of a branch of a foreign company;

4) be a compulsory administrator of an immovable.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(3) The name and registry code of the company, the shares of which belong to the bailiff shall be disclosed on the website of the Chamber. Information concerning the possession of publicly issued securities shall not be disclosed. Information for publishing on the website shall be sent to the Chamber by the bailiff.

## **§ 6. Professional acts of a bailiff**

(1) A bailiff performs professional acts:

1) on the basis of the Code of Enforcement Procedure upon exercising enforcement proceedings;

2) on the basis of legal proceedings acts upon the delivery of documents;

3) on the basis of the Law of Succession Act upon making inventory of the estate and administration of the estate;

4) in the cases and pursuant to the procedure prescribed in the law upon conducting an auction (hereinafter *official auction*) at the request of court or administrative body outside enforcement proceedings;

5) on the basis of the State Family Benefits Act upon mediation of support collected from a foreign state.

[RT I, 08.07.2016, 1 – entry into force 01.01.2017]

(2) A bailiff may refuse to perform a professional act only on the bases and pursuant to the procedure provided for in the law.

## **§ 7. Personal execution of official duties**

(1) A bailiff shall perform the following official duties personally:

1) suspension and termination of enforcement proceedings;

2) [Repealed - RT I, 30.12.2017, 2 – entry into force 09.01.2018]

3) submission of registration application to the land registry department concerning property sold by auction in enforcement proceedings and submission of applications for the transfer of ownership to other property registers;

4) division of the receipts from the sale of assets in enforcement proceedings;

5) [Repealed - RT I, 30.12.2017, 2 – entry into force 09.01.2018]

6) signing the list of inventory of the estate.

(2) Parties to a proceeding are entitled to request explanations directly from the bailiff in connection with a professional act.

## **§ 8. Provision of professional services**

(1) Upon the request of a person, a bailiff may perform the following as professional services:

1) conduct of movable and immovable property auction (hereinafter *private auction*);

2) delivery of documents;

3) giving of legal advice and drawing of legal documents if his or her education corresponds to the specifications of § 47 (1) 1) of the Courts Act;

4) provision of service for the establishment of a legal fact in extrajudicial proceedings;

5) acting as a conciliator according to the Conciliation Act;

6) acting as an arbitrator according to the Code of Civil Procedure.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2) Before the provision of professional services, the bailiff shall notify the Chamber of the type of professional service which the bailiff intends to engage in and shall enter into professional liability insurance contract for securing the compensation of damage resulting from the provision of such service pursuant to the procedure provided for in § 10 of this Act.

(3) A bailiff shall be entitled to refuse to provide a professional service.

(4) If a bailiff has consented with the provision of a professional service, he or she cannot refuse from it without good reason.

(5) The terms for the provision of professional services and the procedure for remuneration shall be agreed with the person applying for the service in written form. The terms and remuneration agreed shall be in conformity with good professional practice.

(6) Upon the provision of professional services, a bailiff shall not exercise those rights which have been rendered to bailiffs for the implementation of professional acts on the basis of law or which arise from his or her office.

(7) A bailiff shall not conduct enforcement proceedings in a matter in the adjudication of which the bailiff participated as an arbitrator.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

## **§ 9. Liability**

(1) A bailiff shall be liable for damage wrongfully caused in the course of his or her professional activities on the bases and to the extent specified in the State Liability Act. A bailiff shall also be liable for damage wrongfully caused by the employees of his or her office.

(2) The Chamber shall be liable for damage wrongfully caused by a bailiff who is in the training specified in § 96 of this Act.

(3) A bailiff who has been released from office shall be liable for the wrongful breach of his or her official duties during his or her term of office also after release from office.

(4) The bailiff who is being substituted shall be liable for the activity of a substitute bailiff if assistant bailiff acts as the bailiff who is being substituted. If another assistant bailiff substitutes the bailiff, the Chamber shall be liable for the activity of the substitute.

(5) If a party to a proceeding or a third person is also liable for causing damage, the bailiff shall be liable for the damage caused by the wrongful breach of his or her official duties to an extent in which it is not possible to receive compensation from a party to a proceeding or from a third person. If compensation could not be received from a party to a proceeding or a third person in the entire extent in which he or she caused damage, the bailiff shall have the right of recourse towards a party to a proceeding or a third person to an extent which the bailiff has paid for him or her.

(6) If claims for the compensation of damage caused by the professional act of a bailiff cannot be satisfied from the assets of a bailiff or any other person liable for the damage or if such claims cannot be satisfied in full, first the Chamber and second the state shall be liable for the damage caused. The Chamber and the state shall have the right of recourse towards the bailiff or a person liable for the damage to the extent of the compensated damage. The state may also file the recourse towards the Chamber.

(7) The expenses of the Chamber accompanying the provisions of this section shall be covered from the budget of bailiffs' occupational union of the Chamber (hereinafter *occupational union*).

(8) Disputes related to the compensation of damage by a bailiff shall be reviewed in county court.

(9) A claim resulting from subsection (1) of this section shall expire after three years as of the date on which the victim became aware of the damage and of the person liable for the compensation thereof, but not later than within ten years after the causing of damage.

## **§ 10. Professional liability insurance**

(1) In order to ensure compensation for the damage caused in the course of professional activities of a bailiff, the bailiff shall enter into a professional liability insurance contract with an insurer who is a company having permission to engage in insurance activities in Estonia according to the following conditions:

1) an insured event shall be a violation of the bailiff's obligations having taken place during the period of insurance, the damage caused as a result of which shall be compensated by the bailiff on the basis of this Act;

2) the minimum amount of insurance coverage for one insured event shall be not less than 63 910 euros and the maximum amount of insurance indemnities payable for all insured events having taken place within the period of insurance shall be not less than 191 700 euros;

[RT I 2010, 22, 108 - entry into force 01.01.2011]

3) if the insurance contract has been concluded with deductible, the insurer shall compensate the entire damage caused but not over the sum insured and shall collect the excess from the policyholder.

(2) Liability for intentional breach of official duties need not be insured by a bailiff.

(3) A bailiff may also insure the liability for damage caused by the provision of professional services only to the extent specified in § 8 (2) of this Act. In this case the bailiff may not provide the professional services not covered by the insurance contract.

(4) A copy of the professional liability insurance contract and the insurance policy shall be submitted to the management board of the occupational union immediately after entry into the professional liability insurance contract. The occupational union shall verify the existence of professional liability insurance of a bailiff.

(5) If a bailiff does not have a valid professional liability insurance contract, the board of the occupational union shall suspend the bailiff's authorities.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(6) A bailiff shall give written notice to the management board of the occupational union of the circumstances specified in § 514 (1) and (3) of the Law of Obligations Act within two weeks after becoming aware of such circumstances. A bailiff shall forward the management board of the occupational union information concerning payment by the insurer of the insurance indemnity to the aggrieved party, of the amount of the insurance indemnity, and of the event which caused the insurance case and within two weeks after the payment of the insurance indemnity.

(7) The insurance contract for the compensation of damage caused by a bailiff under training shall be concluded by the occupational union.

### **§ 11. Obligation of professional confidentiality**

(1) A bailiff is required to maintain professional confidentiality and not to disclose information obtained in his or her professional activities. The duty to maintain confidentiality also remains after a bailiff resigns from office.

(2) The employees of a bailiff's office and the Chamber as well as all other persons whom the bailiff has disclosed information in connection with his or her professional activities shall comply with the duty to maintain professional confidentiality.

(3) The bailiff shall disclose information received in connection with professional activities to:

- 1) parties to a proceeding;
- 2) court;
- 3) extrajudicial body conducting proceedings, investigative body and prosecutor's office in misdemeanour or criminal proceedings and pursuant to the procedure specified in international agreements on the basis of requests for legal assistance received from a foreign state;
- 4) the Chamber and the Ministry of Justice in supervision and disciplinary proceedings;
- 5) other persons who are entitled to receive information pursuant to law or whom the disclosure of information is necessary by reason for the implementation of a task arising from the law.

(4) [Repealed - RT I, 12.03.2015, 4 - entry into force 01.03.2016]

(5) If it appears upon the making of a professional act that the person has committed an act with the elements of offence, the bailiff shall notify the competent authority thereof in order to decide the commencement of misdemeanour or criminal proceedings.

### **§ 12. Obligation of professional development**

A bailiff and an assistant bailiff are required to develop the knowledge of their speciality on a regular basis and pass the periodical legal in-service training prescribed in § 97 of this Act.

## **Division 2**

## **Registration of Professional Activities of Bailiff and Documents**

### **§ 13. Registration of professional activities**

(1) All professional acts and services of a bailiff shall be registered in the book concerning the professional activities of a bailiff.

(2) The person upon whose request or with respect to whom the professional act was made or service was provided shall be issued an extract from the book concerning the professional activities upon his or her written request.

(3) The requirements presented to the book concerning the professional activities of a bailiff, format and procedure of keeping thereof shall be established by a regulation of the minister responsible for the area.

(4) The minister responsible for the area may determine the reporting period, list of data necessary for reporting and the method of presentation.

#### **§ 14. Preservation of documents**

(1) Documents created or received by a bailiff in the course of professional acts shall be documents created or received in the course of performance of public duties in the meaning of the Archives Act.  
[RT I, 21.03.2011, 1 - entry into force 01.01.2012]

(2) The procedure for preservation and transfer of documents specified in subsection (1) of this section and the terms shall be established by a regulation of the minister responsible for the area.

#### **§ 15. Transfer of documents and administration upon release or removal from office and suspension of authorities of bailiff**

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1) Upon the release or removal from office or death of a bailiff (hereinafter *bailiff resigning from office*), the documents created upon the making of professional acts as well as all the rights and obligations related thereto, including advance payments made in enforcement proceedings and the right of disposal of the official bank account of a bailiff shall transfer to the bailiff who assumes administration (hereinafter *bailiff assuming office*). The assumption of office shall be organised by the occupational union.  
[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2) The bailiff resigning from office and the bailiff assuming office shall sign an instrument of delivery and receipt concerning the transfer of the claims which are subject to be processed, including the claims related to enforcement proceedings and the advance payments related to such claims; a copy of the instrument of delivery and receipt shall be forwarded to the Chamber.  
[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(3) A bailiff resigning from office shall maintain the documents and information contained on other media related to his or her professional activities and forward these to the bailiff assuming office.

(4) A bailiff resigning from office shall transfer the files related to completed professional acts to an archive pursuant to the legislation regulating maintenance of archives.

(5) A bailiff resigning from office shall ensure that the persons appointed by the Chamber have access to the premises of the bailiff's office and to the information necessary for the transfer of files related to professional acts.

(6) The procedure for transfer and receipt of documents related to professional acts, and of administration, rights and obligations related thereto shall be established by a regulation of the minister responsible for the area.

(7) If the authority of a bailiff has been suspended and the duration of such condition is more than two months, the bailiff shall transfer the documents created upon making professional acts as well as the rights and obligations related thereto to his or her substitute bailiff pursuant to the procedure specified in subsections (1), (2), (5) and (6) of this Act. Upon restoration of authority, the transferred documents and the rights and obligations related thereto shall be returned to the bailiff pursuant to the procedure specified in subsections (1), (2), (5) and (6) of this Act.

#### **§ 16. Obligation of bailiff to perform professional acts**

The minister responsible for the area and the occupational union are entitled to impose an obligation on a bailiff to perform professional acts of a bailiff who has been released or removed from office or whose authority has been suspended.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

### **Division 3**

## **Appointment of Bailiff to Office, Release from Office and Suspension of Authority; Employees of Bailiff's Office**

#### **§ 17. Requirements for appointment as bailiff**

(1) A citizen of a member state of the European Union who is proficient in oral and written Estonian, is honest and of high moral character and who has acquired a nationally recognized Bachelor's degree or nationally recognized professional higher education in law or who has acquired a corresponding qualification in the meaning of § 28 (2)<sup>2</sup> of the Education Act of the Republic of Estonia or a corresponding qualification of a foreign state may become a bailiff and who has:

- 1) acted as an assistant bailiff, sworn advocate, judge, notary or trustee in bankruptcy for at least one year or
- 2) worked in a position requiring academic or professional higher education in law no less than for five years before applying for the office of a bailiff and who has passed the bailiff examination.

(2) The following persons shall not be appointed as bailiffs:

- 1) a person who has been punished for an intentionally committed criminal offence pursuant to criminal procedure;
- 2) a person who has been removed from office as a judge, notary or bailiff;  
[RT I, 23.12.2013, 1 - entry into force 01.01.2014]
- 3) a person who has been disbarred;
- 4) a person who has been released from public service for disciplinary offence;
- 5) a person who is bankrupt;
- 6) a person whose professional activities as an auditor have been terminated, except for termination on the basis of auditor's application;
- 7) a person whose vocation as a trustee in bankruptcy, sworn translator or patent agent has been revoked, except for revocation of vocation on the basis of the person's application.  
[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

## **§ 18. Verification of trustworthiness of applicants for bailiff and assistant bailiff office**

Section 117<sup>1</sup> of the Courts Act applies to the verification of the trustworthiness of applicants for bailiff and assistant bailiff office.

## **§ 19. Appointment of bailiffs to office and assumption of office**

(1) A person who complies with the conditions specified in § 17 (1) of this Act may apply for a vacant office of a bailiff.

(2) Vacant office of a bailiff shall be filled on the basis of a competition. Competition shall be announced for the office of a bailiff of a certain work jurisdiction.

(3) The necessity for the filling of a vacant office of a bailiff shall be decided by and the competition for the filling of office of a bailiff shall be announced by the Ministry of Justice.

(4) In order to participate in the competition, the examination board shall be submitted an application to which the following documents shall be annexed:

- 1) copy of an identity document and a document certifying citizenship;
- 2) copy of a document certifying the education required in § 17 (1) of this Act;
- 3) copy of a document certifying the previous employment and career;
- 4) curriculum vitae;
- 5) confirmation under the hand of the candidate that he or she complies with the conditions specified in § 17 of this Act.

(5) The procedure for the competition for the filling of the office of bailiff shall be established by a regulation of the minister responsible for the area.

(6) The competition for the filling of the office of bailiff shall be conducted by the examination board of the Chamber (hereinafter *examination board*).

(7) A bailiff shall be appointed to office by the minister responsible for the area. A bailiff shall be appointed to office for an unspecified term.

(8) After appointment to office and before the assumption of office, the person shall pass the training specified in § 96 of this Act. A bailiff who is under training may perform all professional acts of a bailiff in the name of the bailiff and be a substitute bailiff.

(9) A person specified in § 17 (1) 1) shall not be required to pass the training.

(10) A bailiff shall assume office within four months after the examination board deems the training as passed. A person specified in subsection (9) of this section shall assume office within four months after appointment to office.

## **§ 20. Oath of office**

Before assumption of office, a bailiff shall take the following oath of office to the minister responsible for the area and substitute bailiff to the management board of the occupational union:

"I swear by my honour and my knowledge to be faithful to the Republic of Estonia and to observe its Constitution and laws. I swear that I shall execute my office in an honest, dignified and impartial manner."

## **§ 21. Release from office and removal**

(1) A bailiff shall be released from office by the minister responsible for the area:

- 1) on the basis of a written application from the bailiff;

2) due to the state of health of the bailiff which does not allow him or her to practise as a bailiff continuously.

(2) The minister responsible for the area shall remove a bailiff from office:

1) if a conviction of a court for an intentionally committed criminal offence has entered into force in respect of the bailiff or any other conviction of a court has entered into force in respect of the bailiff by which a punishment is imposed on the bailiff which renders it impossible for the person to act as a bailiff;

2) if removal from office is imposed on a bailiff as a disciplinary penalty;

3) on the grounds specified in § 97 (5) of this Act;

4) if requirements specified in § 17 (1) or (2) of this Act are not complied with or if, after appointment to office, it becomes evident that the bailiff has submitted knowingly false information when running as a candidate for the office of a bailiff;

5) on the grounds specified in § 96 (6) of this Act;

6) if the bailiff does not assume office during the time specified in § 19 (10) of this Act;

7) if the bailiff is declared bankrupt or bankruptcy proceedings are terminated by abatement;

8) if the bailiff fails to compensate in full for the claim ordered therefrom with a judgment entered into force based on subsection 9 (1) of this Act within a reasonable time or if a bailiff has submitted an application to court in connection with the aforesaid claim for the transformation of debts.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

## **§ 22. Suspension of authority**

(1) The board of the occupational union may suspend the authority of a bailiff upon the following circumstances:

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

1) until deciding the release from office of a bailiff in the case specified in § 21 (1) 2) of this Act;

2) until the end of disciplinary proceedings in case of commencement of disciplinary proceedings towards the bailiff;

3) from the bringing of charges until the termination of criminal proceedings or until the enforcement of acquittal in case of bringing charges towards the bailiff pursuant to criminal procedure;

4) [Repealed - RT I, 31.05.2018, 2 – entry into force 10.06.2018]

5) upon the bailiff's request, in case the bailiff wishes to engage in professional development for up to one year;

6) upon the bailiff's request if he or she commences employment in the service of the Chamber or in the international representative organization of bailiffs for up to five years;

7) in case of other good reason for up to three years.

(11) In the case specified in clauses (1) 2) and 3) of this section the authority of a bailiff may also be suspended by the minister responsible for the area.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(2) During the suspension of authority, the legal provisions governing the bailiff's activity related to the performance of professional acts shall not be applied to the bailiff. Bailiff's obligation to conduct him or herself and act in a dignified manner shall apply during the suspension of authority.

(2<sup>1</sup>) Disciplinary and court of honour proceedings may be conducted with regard to a bailiff during the suspension of authority.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(3) During the suspension of authority, a bailiff is prohibited to perform professional acts and provide professional services.

(4) The authority of a bailiff shall be restored by the board of the occupational union promptly after becoming aware that the bases for suspension of authority have ceased to exist. If the authority of a bailiff was suspended pursuant to the procedure provided for in subsection (1<sup>1</sup>) of this section, it shall be restored by the minister responsible for the area.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

## **§ 23. Employees of bailiff's office**

(1) Employees of bailiff's office are assistant bailiffs and other office employees.

(2) An employee of a bailiff's office may be a person who is proficient in oral and written Estonian, is honest and of moral character. In addition to the above, an assistant bailiff must have passed a nationally recognized Bachelor's study programme or professional higher education programme in law, no circumstances excluding the appointment of a bailiff to office specified in § 17 (2) of this Act may exist with regard to him or her, he or she must have passed the bailiff examination and be entered in the list of assistant bailiffs.

(3) An employee of a bailiff's office shall be competent to deliver documents in the name and responsibility of the bailiff and assist the bailiff in his or her professional activities. An assistant bailiff shall be competent to perform all professional acts in the name and responsibility of a bailiff which the bailiff is not required to perform personally according to § 7 (1) of this Act.

[RT I, 29.06.2012, 3 - entry into force 01.01.2013]



(4) An assistant bailiff who has worked as an assistant bailiff for at least one year may substitute the bailiff in the cases and pursuant to the procedure prescribed in this Act.

(5) A bailiff who has been in office for more than two years shall ensure that at least one assistant bailiff is employed in his or her office. The management board of the occupational union may exempt the bailiff from this obligation for a specified term upon good reason.

(6) A person in service of the Chamber who complies with the requirements presented to an assistant bailiff may also act as an assistant bailiff.

#### **§ 24. List of assistant bailiffs**

(1) The list of assistant bailiffs shall be maintained by the Chamber. The management board of the occupational union shall enter the following persons in the list on the basis of a bailiff's application or upon its own initiative:

- 1) who comply with the requirements presented to assistant bailiffs;
- 2) who are in an employment relationship with the Chamber or a bailiff.

(2) The management board of the occupational union shall separately note the assistant bailiffs who are entitled to act as substitute bailiffs.

(3) The management board of the occupational union shall, on the basis of the bailiff's request or upon its own initiative, delete the assistant bailiffs from the list with regard to whom the basis for entry in the list specified in subsection (1) of this section has ceased to exist.

(4) A bailiff shall immediately apply for making changes in the list from the management board of the occupational union if such necessity arises in connection with an assistant working in the bailiff's office.

(5) An assistant bailiff who has been deleted from the list but who complies with the requirements presented to a bailiff and who has acted as an assistant bailiff for at least one year may run as a candidate for a vacant office of a bailiff without taking the bailiff examination again within seven years since deletion from the list.

(6) The name of the assistant bailiff and the name of the bailiff in whose office the assistant is employed in shall be specified in the list.

(7) The list shall be published on the Chamber's website. Specific requirements for maintaining the list of assistant bailiffs and the publishing thereof shall be prescribed in the statutes of the Chamber.

## **Division 4 Substitution of Bailiffs**

#### **§ 25. Substitution of bailiffs**

(1) If a bailiff wishes to be absent from the performance of official duties for more than two months in a year, the bailiff shall apply for the suspension of authority from the board of the occupational union. If a bailiff is unable to file the given application, the board of the occupational union shall suspend the authority of a bailiff at its own initiative.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(2) If a bailiff wishes to be absent or is forced to be absent from the performance of official duties for more than ten working days in a month, the bailiff shall notify the occupational union thereof in writing who shall appoint a substitute for the bailiff. Upon the bailiff's request, a substitute may be appointed for a bailiff also in case of a shorter absence.

(3) A bailiff shall submit a proposal concerning the suitable person for substitute together with the application or notice specified in subsections (1) and (2) of this section. An assistant bailiff in service of the Chamber, an assistant bailiff employed in the office of the bailiff who is substituted for and a bailiff working in the same jurisdiction with the bailiff who is substituted for may not refuse from substitution without good reason.

(4) A bailiff who is substituted for is prohibited from performing professional acts and providing professional services.

(5) If the office of a bailiff is temporarily vacant, the occupational union may appoint a substitute for the given office. The occupational union shall appoint a substitute for a vacant office upon the request of the Ministry of Justice.

(6) A substitute specified in subsection (5) of this section shall act at the expense of the Chamber and the expenses shall be covered from the budget section of the occupational union. Revenue collected as the result of the substitute's activity shall be the revenue of the occupational union.

(7) The procedure for substitution of a bailiff shall be established by a resolution of the occupational union.

#### **§ 26. Substitute bailiff**

(1) A bailiff may be substituted for by another bailiff or an assistant bailiff specified in § 23 (4) of this Act. Upon the appointment of a substitute, the assistant bailiff working in the office of the bailiff who is substituted for shall be preferred.

(2) If, after the appointment of the assistant bailiff as a substitute, it becomes evident that the person does not comply with the requirements presented to a substitute bailiff, the professional acts performed and professional services provided by the substitute until such time shall remain in force.

(3) The provisions of this Act concerning bailiffs apply to substitute bailiffs, unless otherwise provided for by this Act.

#### **§ 27. Remuneration of substitute bailiffs**

(1) If a bailiff or an assistant bailiff other than the employee of the office of a bailiff who is substituted for shall be appointed as a substitute bailiff, the bailiff who is substituted for shall pay a corresponding fee to the occupational union.

(2) The amount of remuneration specified in subsection (1) of this section as well as the amount of fee payable to the substitute by the Chamber shall be established by a resolution of the occupational union. The Chamber shall not pay remuneration to the substitute bailiff who is an employee of the bailiff who is substituted for, except in the case specified in § 25 (5) of this Act.

(3) In addition to the fee specified in subsection (2) of this section, the Chamber shall pay an additional fee to the substitute specified in § 25 (5) of this Act, the amount of which equals to half of the net profit of the activity of the bailiff's office during the time of substitution.

## **Division 5 Remuneration of Bailiff's Professional Acts**

### **Subdivision 1 Principles of Remuneration of Professional Acts**

#### **§ 28. Bailiff's fee for professional acts**

(1) A fee shall be charged for a professional act of a bailiff.

(2) A bailiff has the right to charge a fee for professional acts and request the compensation of the accompanying costs only in cases, to the extent and pursuant to the procedure provided for in this Act. A bailiff is prohibited from entering into agreements to alter the rates of fees or the procedure for the charging of fees provided for in this Act.

(3) The fee for administration of estate shall be determined by court pursuant to the procedure prescribed in the Law of Succession Act and the Code of Civil Procedure. This Act shall not be applied with regard to this fee. [RT I 2010, 38, 231 - entry into force 01.07.2010]

#### **§ 29. Types of bailiff's fee**

(1) Bailiff's fee may compose of the fee for commencement of proceedings, basic fee of proceedings and additional fee for enforcement actions.

(2) A bailiff shall be entitled to request an advance payment of the fee in cases and to the extent provided for in the law. An advance payment cannot be requested from a person who files a support payment claim subject to enforcement.

#### **§ 30. Persons liable to pay bailiff's fee**

(1) The fee for commencement of proceedings shall be paid by the person who requests the performance of a professional act, unless otherwise provided by law. In enforcement proceedings, the fee for commencement of proceedings shall be paid by the debtor, unless otherwise provided by law.

(2) In enforcement proceedings, the basic fee of proceedings shall be paid by the debtor, unless otherwise provided by law. In case of other professional acts, the person who applies for the performance of a professional act shall pay the basic fee of proceedings, unless otherwise provided by law.

(3) The advance payment shall be made by the person who applies for the making of a professional act.

### **§ 31. Decision on bailiff's fee**

(1) A bailiff shall make a decision for the collection of fee, including an advance payment.

(2) A decision on the bailiff's fee shall set out:

- 1) name and address of the obligated person;
- 2) the name, details and number of the official bank account of the bailiff;
- 3) date of the decision, number of enforcement matter, data of the enforcement instrument in case of fulfilment thereof;
- 4) amount of the bailiff's fee together and without value added tax, and reference to the provisions of this Act based on which the fees were calculated;
- 5) reference to the procedure for filing complaints against the decision on the bailiff's fee.

(3) A decision on bailiff's fee shall be signed by the bailiff.

### **§ 32. Collection of bailiff's fee**

(1) The fee for commencement of proceedings becomes collectable upon commencement of proceedings.

(2) In the case of fulfilment of financial claims, the basic fee becomes collectable upon delivery of the enforcement notice on the debtor. In the case of fulfilment of non-financial claims and the performance of other enforcement actions, the basic fee becomes collectable upon termination of enforcement actions.

(3) Value added tax shall be added to the bailiff's fee.

(4) In the case of fulfilment of financial claims, the debtor shall be explained in the enforcement notice that if he or she complies with it before the expiry of the term prescribed for voluntary compliance with the enforcement instrument, he or she shall only be required to pay the fee for commencement of enforcement proceedings. The enforcement notice shall specify the fee for commencement of enforcement proceedings and the total amount of basic fee in numbers together with value added tax and in case of voluntary compliance with, the payable fee for commencement of enforcement proceedings together with value added tax. If an enforcement instrument is complied with before the expiry of the term prescribed for voluntary compliance with the enforcement instrument, the fee for commencement of enforcement proceedings shall be collected from the debtor only. The enforcement notice shall specify, if the claim is not fulfilled within the term prescribed for voluntary compliance, the bailiff shall send the electronic instrument for seizure of assets to a credit institution and, provided that the claim is fulfilled within three business days after sending the electronic seizure instrument to a credit institution, the bailiff's basic fee shall be 22 euros.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(5) If a financial claim which is subject to execution is collected partially, a bailiff may collect, as his or her basic fee, only an amount proportional to the collected sum of the claim.

(6) If an enforcement matter is transferred from one bailiff to another and the fee for commencement of proceedings has already been paid for the given proceeding, the bailiff assuming the enforcement matter may not require the payment of the fee for commencement of proceedings.

### **§ 33. Failure to pay advance payment and return of advance payment**

(1) If a claimant fails to make an advance payment, a bailiff is permitted not to commence enforcement proceedings and shall return the enforcement instrument to the claimant.

(2) If a bailiff commences enforcement proceedings without requiring an advance payment or regardless of the claimant's failure to make an advance payment, the bailiff has no right to demand the advance payment later.

(3) If the bailiff's fee has been collected from the debtor in full, the bailiff shall return the advance payment to the claimant within one month from the collection of the fee.

(4) If enforcement proceedings shall be terminated without satisfying the claim, the advance payment of the bailiff's fee shall not be returned to the claimant.

## **Subdivision 2**

# Rates of Professional Acts in Enforcement Proceedings

## § 34. Fee for commencement of enforcement proceedings

(1) The fee for commencement of enforcement proceedings in case of proprietary claims depends on the amount of claim and the expenses incurred upon delivery of the enforcement notice to the debtor. In case of non-proprietary claims the fee for commencement of enforcement proceedings depends on the expenses incurred upon delivery of the enforcement notice to the debtor.

(2) If the enforcement notice can be delivered to the debtor with reasonable effort via the address or telecommunications data entered in the population register or the seat or contact data entered in the commercial register or the non-profit associations and foundations register or via the debtor's address specified in the enforcement instrument, the fee for commencement of enforcement proceedings shall be:

- 1) 15 euros in case of non-proprietary claim;
- 2) 15 euros in case of a claim up to 51 euros;
- 3) 30 euros in case of a claim from 51 to 5000 euros;
- 4) 60 euros in case of a claim over 5000 euros.

(3) If the enforcement notice cannot be delivered to the debtor with reasonable effort via the address or telecommunications data entered in the population register or the seat or contact data entered in the commercial register or the non-profit associations and foundations register or via the debtor's address specified in the enforcement instrument, the fee for commencement of enforcement proceedings shall be:

- 1) 30 euros in case of a non-proprietary claim;
- 2) 30 euros in case of a claim up to 51 euros;
- 3) 60 euros in case of a claim from 51 to 5000 euros;
- 4) 120 in case of a claim over 5000 euros.

[RT I, 05.03.2015, 2 – entry into force 01.01.2017]

## § 35. Rates of basic fees based on amount of claim for payment

(1) If an enforcement instrument for payment by the debtor of an amount to the claimant is submitted for enforcement, the bailiff's basic fee and the advance payment of bailiff's fee shall be calculated according to the sum of the claim set forth in the following table.

Amount of claim for payment up to... euros	Rate of bailiff's basic fee in euros	Advance payment of bailiff's fee in euros
35	25	
65	40	
130	65	6
200	90	7.50
300	105	9.50
400	115	10.50
500	130	12
750	175	14
1000	225	19
1500	300	23.50
2000	380	25.50
2500	450	44.50
3000	500	57.50
4000	540	191
5000	570	191
6000	610	191
7000	650	191
8000	700	191
9000	760	191
10 000	830	191
12 500	960	191
15 000	1100	191
17 500	1250	191
20 000	1350	191
25 000	1550	191
50 000	2100	191
75 000	2900	191

100 000	3600	191
150 000	4500	191
200 000	5500	191
250 000	6000	191
350 000	6500	191
500 000	7000	191
> 500 000	7000	319

[RT I, 31.05.2018, 2- jõust. 10.06.2018]

(2) [Repealed - RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(2<sup>1</sup>) If the amount of claim secured by mortgage is more than 150 000 euros, the rate of bailiff's basic fee shall be 5000 euros.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(2<sup>2</sup>) If the amount of claim secured by mortgage is more than 150 000 euros, the advance payment of bailiff's fee shall be 191 euros.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(3) [Repealed - RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(4) [Repealed - RT I, 31.05.2018, 2 – entry into force 10.06.2018]

### **§ 36. Enforcement actions with fixed basic fee rate**

(1) The bailiff's fee shall be paid on the basis of a fixed basic fee rate for the following enforcement actions:

- 1) reclamation of a movable;
- 2) return of an immovable (eviction);
- 3) return of a child and grant of access to a child;
- 4) organising an auction among co-owners;
- 4<sup>1</sup>) organising a public auction by which common ownership or joint ownership is terminated;

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

- 5) recording and valuation of immovable under expropriation;
- 6) compliance with an order to assume or transfer possession of immovable under expropriation;
- 7) compliance with a court decision whereby a person is required to perform other acts.

(2) For an action specified in clauses (1) 1)–3) and 7) of this section, the bailiff's basic fee shall be 140 euros and the advance payment of bailiff's fee shall be 92 euros.

[RT I, 30.12.2010, 2 - entry into force 01.01.2011]

(3) In the case of an auction between co-owners, the bailiff's basic fee shall be 278 euros. The fee shall be paid by the co-owner who made the best offer.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3<sup>1</sup>) In case of organising a public auction by which common or joint ownership is terminated, the bailiff's basic fee shall be 278 euros. The enforcement expenses shall be deducted from the sales proceeds and the enforcement expenses shall be covered by the co-owners or joint owners in proportion to the share of proceeds payable to them.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(4) The basic fee for expropriation actions shall be paid by the expropriating authority. The fee shall be calculated on the basis of § 35 of this Act as follows:

- 1) the bailiff's fee for recording and valuation of an expropriated immovable shall be a half of the rate of fee which corresponds to the value of the recorded immovable according to the valuation report;
- 2) the bailiff's fee for compliance with an order to assume or transfer the possession of an expropriated immovable shall be one third of the rate of fee which corresponds to the size of the determined expropriation payment.

### **§ 37. Fee payable for claims for payment of support (support payment)**

(1) The fee for commencement of proceedings payable for a claim for payment of support is a lump-sum amount which corresponds to the minimum rate of support established by law. The fee for commencement of proceedings is collected together with the first monthly payment. If the debtor pays only a part of the first

monthly support payment, the bailiff shall collect the fee for commencement of proceedings which is in proportion to the amount claimed.

(2) The basic fee payable for a claim for payment of support shall be calculated from the amount of arrears in the payment of support falling due on the basis of § 35 of this Act. If the debtor pays only a part of the support payment, the bailiff shall collect a fee which is in proportion to the amount claimed. Basic fee shall not be calculated if the debtor makes the support payments before the falling due thereof.

### **§ 37<sup>1</sup>. Fee for mediation of support collected from foreign state**

(1) The fee for mediation of support collected from a foreign state shall be paid by the state.

(2) The fee for opening a file for mediation of support collected from a foreign state shall be 15 euros.

(3) The monthly fee for performing the acts accompanying the mediation of support from a foreign state shall be 4 euros.

(4) In case the bailiff is required to pay a fee for an international transfer, the fee for an international transfer shall be added to the fee for mediation of support.

[RT I, 08.07.2016, 1 – entry into force 01.01.2017]

### **§ 38. Basic fee payable for securing action**

(1) A basic fee payable for execution of a ruling for securing an action shall be based on the value of the action and shall be paid as follows:

- 1) if the value of the action is up to 3200 euros, the fee shall be 70 euros
- 2) if the value of the action is 3201–12 800 euros, the fee shall be 140 euros;
- 3) if the value of the action is more than 12 800 euros, the fee shall be 278 euros.

[RT I, 30.12.2010, 2 - entry into force 01.01.2011]

(2) If a ruling for securing an action concerns a non-monetary claim or the value of the action has not been determined or is unspecified, and in the case of enforcement of a ruling for revocation of securing an action or enforcement of a judgment, the bailiff's fee shall be 92 euros.

[RT I, 30.12.2010, 2 - entry into force 01.01.2011]

(3) If a ruling for securing an action concerns both a monetary and non-monetary claim, the fee rates prescribed in subsections (1) and (2) of this section shall be totalled.

(4) In the case of enforcement of a ruling for securing an action or upon revocation of the securing of an action, the bailiff's fee shall be paid by the person who petitioned for the application of the measure for securing the action.

(5) The bailiff's fee becomes collectable upon submission, for compulsory execution, of a ruling for securing an action. If a claimant fails to pay a bailiff's fee, a bailiff is permitted not to commence enforcement proceedings.

(6) Provisions concerning the execution of a ruling for securing an action filed for securing a non-monetary claim shall be applied to the size, payment and collection of basic fee payable for the execution of a Preservation Order on the basis of Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters (OJ L 189, 27.06.2014, p 59–92).

[RT I, 26.06.2017, 17 – entry into force 06.07.2017]

### **§ 38<sup>1</sup>. Basic fee payable for securing execution or application of preliminary legal protection**

(1) If a bailiff performs actions pursuant to an administrative court judgment or ruling for securing the execution of financial claims or for the application of preliminary legal protection, the bailiff's basic fee shall be 278 euros.

(2) Bailiff's basic fee shall be paid by the person who applied for securing the execution or application of preliminary legal protection and the fee becomes collectable upon submission of a decision for compulsory execution.

[RT I, 31.01.2014, 6 - entry into force 01.02.2014]

### **§ 39. Fee payable to bailiff upon application of substitutive punishment regarding debtor**

[Repealed - RT I, 14.03.2011, 3 – entered into force 24.03.2011]

#### **§ 40. Fee for collection of information needed to impose fines to the extent of assets and confiscation of assets deriving from crime**

(1) If, on the basis of an order of an investigative body, a bailiff collects information which the body conducting proceedings needs to impose a fine to the extent of assets or confiscation of assets deriving from crime, the body conducting proceedings shall pay the bailiff's fee.

(2) The amount of the bailiff's basic fee shall be based on the determined value of the assets and shall be paid as follows:

- 1) 31 euros for assets with the value of up to 32 000 euros;
- 2) 63 euros for assets with the value between 32 001–64 100 euros;
- 3) 95 euros for assets with the value of more than 64 100 euros.

The fee shall become collectable upon submission of the statement concerning the financial situation to the body conducting the proceedings.

[RT I, 30.12.2010, 2 - entry into force 01.01.2011]

#### **§ 40<sup>1</sup>. Bailiff's fee for claim fulfilled via electronic seizure system**

(1) If an enforcement instrument can be fulfilled via the electronic seizure system to a full extent, the bailiff's basic fee shall be 22 euros.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(2) The bailiff's fee provided for in subsection (1) of this section shall only be applied if the claim is fulfilled via the electronic seizure system within three business days after sending an electronic seizure instrument to a credit institution.

[RT I, 05.03.2015, 2 – entry into force 01.01.2017]

#### **§ 41. Bailiff's fee upon termination of enforcement proceedings due to earlier termination of claim**

(1) If, in the course of enforcement proceedings it is established that the debtor has fulfilled the claim with respect to the claimant in conformance with the requirements before the claimant has submitted the petition to the bailiff, the claimant shall pay the fee for commencement of proceedings. If the debtor fulfils the claim in conformance with the requirements after submitting the petition to the bailiff but before the receipt of the enforcement notice, the debtor shall pay 15 euros. If the claim was fulfilled on the same day with the delivery of the enforcement notice, fulfilment shall be deemed to be performed after the delivery of the enforcement notice and the debtor shall pay the fee for commencement of proceedings.

[RT I, 05.03.2015, 2 – entry into force 01.01.2017]

(2) If the claimant applies for the termination of enforcement proceedings before collection of the claim in full by a bailiff and the bailiff has performed enforcement actions in order to collect the claim, the claimant shall pay the fee for commencement of proceedings and one half of the basic fee of proceedings on the uncollected amount.

#### **§ 42. Fee payable for issue of printout and certificate**

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1) A person who requests the issue of a printout shall pay for the printout. This provision does not apply to an administrative authority entitled to receive information from the enforcement file according to the law.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2) The bailiff's fee for issue of printout of a document shall be:

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

- 1) 0.31 euros per A4-format page;
- 2) 0.44 euros per A3-format page.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) A bailiff shall receive a fee of 1.50 euros for the issue of a certificate concerning an enforcement action.

[RT I, 30.12.2010, 2 - entry into force 01.01.2011]

### **Subdivision 3**

# Bailiff's Additional Fee in Enforcement Proceedings

## § 43. Bailiff's additional fee

(1) A bailiff has the right to request an additional fee to the extent provided for in this Act if an enforcement action specified in § 44–47 of this Act is technically or legally complex or time-consuming. The additional fee shall be determined in the form of a fixed sum or hourly fee. The additional fee shall be added to the basic fee and the bailiff has the right to request payment of such fee only if the debtor has failed to fulfil the claim during the term for voluntary compliance and the bailiff has performed an enforcement action for which he or she is entitled to receive an additional fee.

(2) The decision to order payment of additional fee shall be issued to the debtor after performance of the enforcement action. The decision on the fee shall set out, in addition to the data specified in § 31(2) of this Act, the content and the time and place of performance of the enforcement action and reasons for the request of an additional fee. The additional fee shall be collected together with the basic fee, unless otherwise provided by law.

## § 44. Additional fee for seizure act

(1) Bailiff's additional fee shall be calculated as an hourly fee starting from the first hour with the rate specified in § 47 of this Act for a seizure act performed outside of the bailiff's office which consists of the seizure of movables or immovables in the possession of a debtor. The decision on ordering payment of additional fee shall be issued to the person liable to pay the fee immediately after the seizure act.  
[RT I, 12.03.2015, 4 - entry into force 01.10.2015]

(2) Upon performing the search obligation of premises or plots of land in the possession of a debtor on the basis of subsection 28 (11) of the Code of Enforcement Procedure, bailiff's additional fee shall be an hourly fee starting from the first hour of the search with the rate specified in § 47 of this Act, and the travel expenses to a reasonable extent.  
[RT I, 12.03.2015, 4 - entry into force 01.10.2015]

## § 45. Additional fee for organisation and conduct of auction

(1) A bailiff shall receive an additional fee in the amount of up to 3 % of the sales price of the property for the organisation and conduct of an auction and for division of the total net gain of the auction, if the previous was performed by the bailiff, but not more than 2000 euros. Upon failure of an auction, the bailiff has no right to demand an additional fee, unless the failure of the auction was caused by the buyer not paying the purchasing price. In such case the bailiff has the right to demand payment in the amount of 3 % of the security paid by the buyer as his or her additional fee.  
[RT I, 05.03.2015, 2 – entry into force 01.01.2017]

(2) The decision to order payment of additional fee shall be issued to the debtor and claimant after the end of the auction and the fee shall be collected upon division of the total net gain of the auction pursuant to the Code of Enforcement Procedure.

## § 46. Additional fee for other manners of sale of property

A bailiff shall be entitled to demand an additional fee in the amount of up to 1 % of the sales price of the property for the sale of property in another manner permitted by the Code of Enforcement Procedure.

## § 46<sup>1</sup>. Additional fee for sale of movable property

A bailiff shall be entitled to demand an additional fee in the amount of up to 20% of the sales price of the property for the sale of movable property, if the previous was performed by the bailiff, but not more than 5000 euros.  
[RT I, 05.03.2015, 2 – entry into force 01.01.2017]

## § 47. Additional fee in form of hourly fee

(1) In the case of performance of an enforcement action specified in §§ 36, 38 and 381 of this Act outside of a bailiff's office, the bailiff has the right to demand an additional fee of 28 euros starting from the second hour of the action. The decision to order the payment of an additional fee shall be issued to the person liable to make the payment immediately after the performance of the enforcement action.  
[RT I, 05.03.2015, 2 – entry into force 01.01.2017]

(2) Upon calculation of a fee imposed in the form of an hourly fee, the time for performance of the action which exceeds a full or half hour shall be correspondingly rounded to the full or half hour.

## Subdivision 4



# **Bailiff's Fee for Delivery of Procedural Documents, Making Inventory of Estate and Organising Official Auction**

## **§ 48. Fee for delivery of procedural documents**

(1) For delivery of procedural documents, a bailiff has the right to demand the advance payment of bailiff's fee in the amount of 30 euros. The advance payment cannot be demanded from judicial or other public law institutions.

(2) The fee payable to a bailiff for delivery of procedural documents shall be 30 euros if the documents could be delivered to the addressee or a legal representative thereof:

1) via the address or telecommunications data entered in the population register or via e-mail address: personal ID code@eesti.ee;

2) at an address entered in the register of sole proprietors and legal persons maintained in Estonia or via the telecommunications data registered in the information system of the aforementioned register.

(3) If a procedural document could not be delivered although the bailiff did everything necessary and reasonably possible for delivery of the document pursuant to the procedure provided for in the law, the bailiff shall have the right to demand a fee of 30 euros by issuing a decision on the bailiff's fee and the instrument of delivery concerning what the bailiff has done in order to deliver the document.

(4) In cases unspecified in subsections (2) and (3) of this section, the fee payable to a bailiff for delivery of procedural documents shall be 60 euros.

(5) If a person to whom the documents shall be delivered has the legal obligation to register his or her address or telecommunications data in the register specified in subsection (2) of this section and the person has not complied with the obligation properly, including if the data entered in the register are dated or incorrect for any other reason and therefore procedural documents could not be delivered upon the use of such data, 30 euros of the fee specified in subsection (4) of this section shall be paid, based on a decision on a bailiff's fee, by the person applying for a professional act and 30 euros by the person to whom the documents were to be delivered.

(6) A bailiff shall not have the right to demand a fee and the paid advance payment shall be returned if a bailiff has not done everything necessary and reasonably possible for delivery of documents pursuant to the procedure provided for in the law within the term determined by court, or in case of absence thereof within two months, and if procedural documents could not be delivered. The specifications of the first sentence of this subsection shall not release the bailiff from the obligation to deliver procedural documents.

[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

## **§ 49. Bailiff's fee for making inventory of estate**

(1) Upon making an inventory of estate in succession proceedings, the person liable to pay the bailiff's fee shall be the successor. Co-successors shall be solidarily liable for the payment of the fee.

[RT I 2010, 38, 231 - entry into force 01.07.2010]

(2) Bailiff's fee shall be 0.1% of the total value of rights belonging into the property entered in the inventory of estate but not less than 35 euros and not more than 3336 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) Bailiff's fee for making an inventory of estate becomes collectible after submitting the inventory of estate to the notary.

## **§ 50. Bailiff's fee for conduct of official auction**

(1) The person applying for an auction shall pay for the conduct of an auction.

(2) The bailiff's fee for recording and valuation of property sold by auction shall be one half of the rate of fee which corresponds to the value of the recorded property according to the valuation report. The fee shall be calculated on the bases specified in § 36 of this Act.

(3) A bailiff shall receive a fee in the amount of 3 % of the sales price of the property for the organisation and conduct of an auction.

(4) A bailiff is entitled to receive a fee after the conduct of an auction by issuing a decision on the bailiff's fee. Upon failure of an auction, the bailiff is entitled to demand a fee for actions specified in subsection (2) of this section.

#### **§ 51. Fee payable for issue of printout and certificate**

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(1) A bailiff shall be entitled to receive a fee for issue of a printout related to professional acts specified in this section with the rate specified in subsection 42 (2) of this Act.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2) Bailiff's fee upon issue of a certificate with regard to professional acts specified in this section shall be 1.50 euros.

[RT I, 30.12.2010, 2 - entry into force 01.01.2011]

## **Subdivision 5 Contestation of Payment of Bailiffs' Fees**

#### **§ 52. Filing of appeals**

An obligated person may file an appeal concerning the decision to order the payment of bailiff's fee pursuant to the procedure for the contestation of a bailiff's decision specified in the Code of Enforcement Procedure.

#### **§ 53. Return of bailiff's fee**

If a court finds that the activities of a bailiff in the collection of the fee or calculation of the amount of the fee are unlawful, the bailiff shall return the amount which is claimed and paid without legal basis to the obligated person within ten days as of entry into force of the decision.

## **Division 6 Administrative Supervision and Disciplinary Liability**

### **Subdivision 1 Administrative Supervision**

#### **§ 54. Administrative supervisory authority**

(1) The Ministry of Justice and the Chamber shall supervise the professional activities of bailiffs. Administrative supervision concerning the implementation of the statutes of the Chamber, decision of bodies and good professional practices established by the Chamber shall be exercised by the court of honour of the Chamber (hereinafter *court of honour*).

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(2) [Repealed - RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(3) [Repealed - RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(4) For exercising administrative supervision, the minister responsible for the area or a person authorized thereby may give instructions and revoke the decisions adopted by the Chamber upon exercising administrative supervision.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

#### **§ 55. Exercise of administrative supervision**

(1) The administrative supervisory authority shall inspect the conformity to the requirements of the professional activities of bailiffs, including:

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

- 1) the turnover through the professional bank account of a bailiff;
- 2) advance payment and enforcement expenses of a bailiff, including legality of collection of fees;
- 3) registration of professional acts and organisation of information technology work;
- 4) conformance to the requirements, obligations and terms set forth in legislation or good professional practices.

(1<sup>1</sup>) The administrative supervisory authority shall be competent to inspect the conformity to the requirements of the professional activities of bailiffs also in those issues which according to the law can be adjudicated in complaint proceedings or actions.

[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(2) Administrative supervision shall not include evaluation of the feasibility of the legal solutions selected by a bailiff in the performance of a professional act. The administrative supervisory authority has the right, upon

exercising administrative supervision over the professional activities of bailiffs, to intervene in the substantive issues of a bailiff's decision-making procedure if a bailiff has failed to comply with a clearly provided and unambiguous legal provision or the established judicial practice.  
[RT I, 29.06.2012, 3 - entry into force 01.01.2013]

(3) The procedure for exercising administrative supervision over the professional activities of bailiffs shall be established by a regulation of the minister responsible for the area.

## **Subdivision 2 Disciplinary Liability**

### **§ 56. Disciplinary offences of bailiffs**

Disciplinary offences of bailiffs are:

- 1) wrongful non-performance or unsatisfactory performance of duties arising from the legislation, decisions of the Chamber and good professional practices in the professional activities and holding office as a bailiff, including charging fees not in compliance with the rates of bailiffs' fees;
- 2) an indecent act which is in conflict with the generally recognised moral standards or which decreases the trustworthiness of the profession of bailiff, regardless of whether the act is committed upon the performance of official duties.

### **§ 57. Disciplinary penalties**

(1) The disciplinary penalties imposed on bailiffs are:

- 1) reprimand;
- 2) fine;
- 3) removal from office.

(2) If a reasoned doubt should arise upon disciplinary proceedings that the provision of professional services may impede the performance of official duties of a bailiff as required, the provision of professional services of a bailiff may be prohibited for up to three years in addition to imposing the disciplinary penalty specified in subsection (1) of this section.

(3) The Ministry of Justice and the court of honour have the authority to impose a disciplinary penalty on a bailiff.

(4) The court of honour may impose a disciplinary penalty upon proceeding of matters specified in § 100 of this Act.

### **§ 58. Transfer and termination of disciplinary proceedings**

(1) The Ministry of Justice may transfer a disciplinary proceeding commenced with regard to a bailiff for resolving to a court of honour.

(2) If the Ministry of Justice has commenced disciplinary proceedings with regard to a bailiff, the court of honour shall terminate the proceedings of court of honour in the same matter.

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

(1) The Ministry of Justice or the court of honour of the Chamber may commence disciplinary proceedings if the results of the administrative supervision over the activities of a bailiff or a complaint from a person or any other document or communication give reason to believe that the bailiff has committed a disciplinary offence.  
[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(2) The court of honour commences and conducts proceedings of court of honour pursuant to the procedure provided for in § 101 and 102 of this Act.

(3) The body commencing disciplinary proceedings shall request a written explanation from the bailiff concerning the circumstances which are the basis for the commencement of disciplinary proceedings.

(4) If the court of honour submits a proposal to the Ministry of Justice in order to decide the removal of a bailiff from office, the Ministry of Justice shall not be required to commence disciplinary proceedings and may make a decision to remove or not remove a bailiff from office on the basis of the submitted proposal and the circumstances for the establishment of an offence forwarded by the court of honour. If the court of honour has not gathered sufficient evidence in the course of disciplinary proceedings, the Ministry of Justice may

gather additional evidence itself or return the disciplinary matter to the court of honour for gathering additional evidence.

#### **§ 60. Disciplinary penalties determined by the Ministry of Justice**

(1) Disciplinary penalties determined for bailiffs by the Ministry of Justice are:

- 1) reprimand;
- 2) fine in the amount of 64–6400 euros;  
[RT I 2010, 22, 108 - entry into force 01.01.2011]
- 3) removal from office.

(2) A fine shall be paid within three months as of the imposition thereof. The fine shall be transferred into public revenues.

(2<sup>1</sup>) A decision of the Ministry of Justice concerning a fine imposed as a disciplinary penalty serves as an enforcement instrument for the purposes of clause 2 (1) 21) of the Code of Enforcement Procedure.  
[RT I, 05.03.2015, 2 – entry into force 06.03.2015]

(3) A bailiff may be removed from office for a serious disciplinary offence, for an offence committed while a disciplinary penalty which has not expired or is not cancelled or for an indecent act which renders it impossible for the person to act as a bailiff. Prior to the removal of a bailiff from office, the explanations of the bailiff and the opinion of the Chamber shall be heard.

#### **§ 61. Time limit for imposition of disciplinary penalty**

(1) A disciplinary penalty for a disciplinary offence may be imposed within three years after the disciplinary offence was committed.

(2) The limitation period of a disciplinary offence is suspended during the proceeding of the disciplinary matter, including during proceeding in court as well as at the term of filing an appeal or appeal in cassation.

(3) If a court annuls a disciplinary penalty imposed on a bailiff due to the fact that such penalty does not correspond to the offence, a new penalty may be imposed on the bailiff within one month after entry into force of the court judgment without commencing new disciplinary proceedings.

#### **§ 62. Prohibition on imposition of several disciplinary penalties for one offence**

(1) Only one disciplinary penalty may be imposed for one disciplinary offence.

(2) Continuation of a disciplinary offence after the imposition of a disciplinary penalty is a new disciplinary offence and another disciplinary penalty may be imposed on a bailiff therefor.

#### **§ 63. Combination of disciplinary penalty with administrative, criminal or proprietary liability**

The imposition of a disciplinary penalty for a bailiff shall not prevent the bringing of administrative, criminal or financial charges against a bailiff and vice versa.

#### **§ 64. Expiry of disciplinary penalty**

A disciplinary penalty expires if no new disciplinary penalty is imposed on the bailiff within three years after the imposition of the penalty.

#### **§ 65. Filing of appeal against imposition of disciplinary penalty**

A bailiff may file an appeal against the imposition of a disciplinary penalty with an administrative court within one month as of becoming aware of the imposition of penalty.  
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

#### **§ 66. Release of bailiff from office at own request**

If disciplinary proceedings have been commenced against a bailiff, the bailiff shall not be released from office at his or her own request before the termination of the disciplinary proceedings.

## **Chapter 3 CHAMBER OF BAILIFFS AND TRUSTEES IN BANKRUPTCY**

### **Division 1**

# General Provisions of the Chamber

## § 67. Legal status of the Chamber

(1) The Chamber is a legal person in public law, the members of which are all bailiffs and persons having the right to act as trustees in bankruptcy (hereinafter *trustee in bankruptcy*).

(2) The Chamber shall be registered in the state register of state and local government agencies.

## § 68. Statutes of the Chamber

(1) Statutes of the Chamber shall be adopted and amended by a decision of the occupational union and professional union. Draft statutes or draft for the amendment thereof shall be co-ordinated with the Ministry of Justice before the adoption.

(2) Statutes of the Chamber shall specify the work organisation of the bodies of the Chamber, legal relationship between the bodies and members of the Chamber, procedure for administration and management of the Chamber and regulate other matters in connection with the activity of the Chamber.

## § 69. Chamber's development plan

(1) The basis for planning the budget and activity of the Chamber shall be the Chamber's development plan in which the objectives for the development of professional activities of the Chamber and bailiffs and professional activities of trustees in bankruptcy shall be established for the next four financial years. The development plan shall be reviewed in at least every two years.

(2) The drawing of draft development plan shall be organised by the governing body of the Chamber, taking into account the tasks imposed on the Chamber with legislation. The draft development plan shall be co-ordinated with the Ministry of Justice before submission for adoption to the occupational and professional union.

## § 70. Ensuring legality of the Chamber's activity

(1) Administrative supervision over the legality of the Chamber's activity shall be exercised by the Ministry of Justice who may demand the submission of data and documents necessary for exercising administrative supervision from the governing body of the Chamber as well as from the management board of the occupational and professional union and file an appeal against an act or action by a body of the Chamber with administrative court.

(2) The Ministry of Justice shall also be entitled to inspect the economic activities of the Chamber.

(3) The Chamber shall submit a report concerning the activity of the Chamber in the previous year and plan of action for the implementation of basic tasks of the Chamber in the current year to the Ministry of Justice no later than by March each year.

(4) If the Chamber does not fulfil the obligations imposed on the Chamber by law, the Ministry of Justice may issue a precept to the Chamber. In order to ensure compliance with the precept, the Ministry of Justice may determine a penalty payment for the Chamber up to 6400 euros pursuant to the procedure prescribed in the Substitutive Enforcement and Penalty Payment Act.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

## § 71. Assets of the Chamber

(1) Assets of the Chamber comprise of:

- 1) obligatory membership fees of bailiffs and trustees in bankruptcy;
- 2) fines collected on the basis of a decision of the court of honour;
- 3) revenue received from placement of the Chamber's funds;
- 4) donations;
- 5) other receipts.

(2) The governing body of the Chamber may, on the account of the budget section of the occupational union, grant a loan to a bailiff for commencement of his or her professional activities or for implementation of significant changes related to professional activities, or secure a loan taken by a bailiff for the same purpose.

(3) Upon the request of the Ministry of Justice, occupational or professional union or revision committee, the governing body shall order the audit of the economic activities of the Chamber or annual economic activity report. The audit shall be conducted by an auditor appointed by the occupational and professional union.

## **§ 72. Budget of the Chamber**

(1) The financial year of the Chamber shall be the calendar year. The budget of the Chamber shall be approved by the governing body no later than in December preceding the financial year.

(2) The budget of the Chamber composes of the budget section of the occupational union, budget section of the professional union and common budget section thereof.

(3) The common budget section reflects the revenue and expenditure related to the common activity of the occupational and professional union, Chamber's revenue and expenditure directly not related to the activity of the occupational and professional union and the Chamber's maintenance expenses. The budget section of the occupational and professional union reflects only the revenue and expenditure of the Chamber related to the activity of the respective union.

(4) Funds shall be allocated on account of the budget section of the occupational union as well as the professional union in order to cover the expenses reflected in the common budget section. The amount allocated for common budget section shall be divided proportionally between the occupational and professional union, taking into account the number of members of each union, unless the governing body decides otherwise. Two-thirds of the members of the governing body must be in favour of the decision.

## **§ 73. Financial year of the Chamber**

Financial year of the Chamber shall be the calendar year.

## **§ 74. Membership fee of the Chamber**

(1) The membership fee of occupational union shall be calculated based on the professional activities of a bailiff and the membership fee of professional union based on the fee of interim trustee and the fee of trustee in bankruptcy received in bankruptcy proceedings.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(2) The amount of bailiffs' membership fee and the bases for calculation thereof shall be established by the occupational union and the amount of membership fee of trustees in bankruptcy and the bases for calculation thereof shall be established by the professional union, taking into account the minimum rate of membership fee. Membership fee shall be established in the amount which ensures sufficient funding of the Chamber in order to achieve the objectives established in legislation and the Chamber's development plan and performance of tasks.

(3) The membership fee shall be collected in the budget section of the occupational or professional union respectively. A member of the Chamber who acts as a bailiff as well as a trustee in bankruptcy shall pay the membership fee both to the occupational union and to the professional union.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(4) Upon delay with the payment obligation of membership fee, the member of the Chamber having violated this obligation shall pay interest on arrears to the occupational or professional union with the rate specified in § 113 (1) of the Law of Obligations Act.

## **§ 75. Good occupational and professional practice**

(1) The occupational union shall establish good occupational practice which shall be obligatory for bailiffs to follow.

(2) The professional union shall establish good professional practice which shall be obligatory for trustees in bankruptcy to follow.

(3) The draft of good occupational or professional practice as well as the draft to amend each shall be coordinated with the Ministry of Justice before establishment thereof.

## **§ 76. Right to use image of national coat of arms**

(1) The Chamber shall have a seal with the image of the national coat of arms of Estonia.

(2) A seal with the image of the national coat of arms of Estonia shall be used pursuant to the procedure provided for in the National Coat of Arms Act.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

## **§ 77. Website of the Chamber**

(1) On the website of the Chamber, the Chamber shall make available information concerning bailiffs and trustees in bankruptcy which is necessary to the public and above all, shall indicate the addresses, office hours

and telecommunication numbers of offices. The statutes, good occupational and professional practice and other public documents shall be made public on the website.

(2) The minister responsible for the area may establish by a regulation the list of data made available through the Chamber's website.

## **§ 78. Tasks of the Chamber**

Among other things, the tasks of the Chamber include:

- 1) promotion of the occupational activities of bailiffs and professional activities of trustees in bankruptcy;
- 2) development and publication of good occupational and professional practice and exercise of administrative supervision over compliance therewith;
- 3) organising the competition for filling the office of a bailiff;
- 4) maintaining the list of bailiffs, assistant bailiffs and trustees in bankruptcy;
- 5) organising the in-service training of bailiffs and trustees in bankruptcy;
- 6) administrative supervision over the professional activities and dignified behaviour of bailiffs and trustees in bankruptcy;
- 7) preparation of recommendations for harmonising the professional practice of bailiffs and trustees in bankruptcy;
- 8) organising the training of bailiffs and trustees in bankruptcy;
- 9) conduct of the examination of bailiff, assistant bailiff and trustee in bankruptcy;
- 10) inspecting conformity with the in-service training obligation of bailiffs and trustees in bankruptcy;
- 11) resolving of issues related to substitution of bailiffs and assuring the availability of information related to bailiffs and trustees in bankruptcy which is necessary to the public on the Chamber's website;
- 12) assisting the Ministry of Justice upon exercising administrative supervision over bailiffs and trustees in bankruptcy;

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

- 13) development and maintenance of information systems necessary for the work of bailiffs and trustees in bankruptcy;

- 14) resolving of issues related to international communication and representation of the members of the Chamber in domestic and foreign institutions;

- 15) drawing of statistical reports concerning the activity of bailiffs and publication thereof pursuant to the procedure provided for in the law;

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

- 16) issue of information from the enforcement register to the entitled persons;

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

- 17) organising the administration of documents of bailiffs and trustees in bankruptcy to be archived on the basis of a decision of occupational or professional union;

- 18) verifying the existence of professional liability insurance of bailiffs and trustees in bankruptcy;

- 19) entry into collective professional liability insurance of bailiffs and trustees in bankruptcy with an insurer on the basis of a decision of occupational and professional union;

- 20) governing the Chamber's assets;

- 21) division of public functions for fulfilment to bailiffs pursuant to the procedure provided by legislation;

- 22) maintaining joint warehouse of movable property sold in enforcement and bankruptcy proceedings.

- 23) Performance of functions of an information authority provided for in Article 14 of Regulation (EU) No 655/2014 of the European Parliament and of the Council.

[RT I, 26.06.2017, 17 – entry into force 06.07.2017]

- 24) organisation of the activity of arbitral court of the Chamber.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

## **§ 78<sup>1</sup>. Information authority in Preservation Order procedure**

(1) According to Article 14 of Regulation (EU) No 655/2014 of the European Parliament and of the Council the Chamber shall be competent to obtain account information.

(2) According to Article 14 (5) of the Regulation specified in subsection (1) of this section, all the credit institutions in the territory of the Republic of Estonia and all the Estonian branches of foreign credit institutions have the obligation to disclose, upon request by the Chamber, whether the debtor holds an account with them.

(3) Upon review of a request for obtaining information provided for in Article 14 of the Regulation specified in subsection (1) of this section, the performance of acts of an information authority is for a fee.

(4) Upon submission of a request provided for in Article 14 of the Regulation specified in subsection (1) of this section, the person filing a request shall pay 20 euros to the Chamber's bank account published on the Chamber's website. Until collection of the fee, the Chamber shall not be required to perform the acts of an information authority upon review of a request for obtaining information. The fee for review of a request shall be charged into the Chamber's revenue.

(5) The Chamber shall perform the acts connected with obtaining information without delay.  
[RT I, 26.06.2017, 17 – entry into force 06.07.2017]

## **Division 2**

### **Bodies of the Chamber**

#### **§ 79. Bodies of the Chamber**

(1) Bodies of the Chamber are:

- 1) occupational union;
- 2) professional union;
- 3) governing body;
- 4) management board of the occupational union;
- 5) management board of the professional union;
- 6) examination board;
- 7) revision committee;
- 8) court of honour.

(2) The governing body of the Chamber shall be entitled to form committees for the implementation of tasks in the competence of the Chamber.

### **Subdivision 1**

#### **Occupational and Professional Union**

#### **§ 80. Occupational and professional union**

(1) The occupational union and the professional union are the highest bodies of the Chamber.

(2) All bailiffs belong into the occupational union.

(3) All trustees in bankruptcy belong into the professional union.

#### **§ 81. Annual occupational and professional union**

(1) The annual occupational and professional union gather jointly no later than on 31 March each year.  
[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(2) The governing body notifies the members of the Chamber of the agenda of annual occupational and professional union as well as the time and place of gathering at least one month before the gathering.  
[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

(3) The agenda can be changed by the occupational and professional union if at least two-thirds of the votes represented by occupational union and professional union are in favour.

#### **§ 82. Extraordinary occupational and professional union**

(1) Extraordinary occupational and professional union shall be called according to necessity. Extraordinary occupational and professional union is not required to gather jointly or at the same time.

(2) Extraordinary occupational and professional union shall be called by the governing body:

- 1) on its own initiative;
- 2) on the proposal of the management board of the occupational or professional union;
- 3) on the proposal of the minister responsible for the area;
- 4) on the initiative of at least one-third of the members of occupational or professional union.

(3) The governing body shall notify the members of the Chamber belonging into occupational or professional union of the agenda of extraordinary occupational and professional union as well as the time and place of gathering one month before the gathering.

(4) Instead of calling the extraordinary occupational or professional union, the governing body may give the issue which needs to be resolved for deciding to the occupational or professional union pursuant to the procedure specified in § 84 of this Act.

(5) If the governing body does not call the occupational or professional union within one month since the receipt of proposal specified in subsection (2) of this section or does not give the issue for deciding within the same term pursuant to the procedure specified in § 84 of this Act, the body or persons having made the proposal are entitled to call the extraordinary occupational or professional union themselves.



(6) The initiator of calling the extraordinary occupational or professional union shall also determine the agenda. The agenda can be changed by the occupational or professional union if at least two thirds of the members present at the occupational or professional union are in favour.

### **§ 83. Adoption of decision of occupational and professional union**

(1) A member of the Chamber shall participate in the work of occupational or professional union in person.

(2) A member of the Chamber cannot waive or refuse to participate in the decision making of issues decided in the occupational or professional union.

(3) If, according to this Act, it is necessary for adoption of decision that both the occupational and professional union are in favour, a decision shall be adopted if more than half of the members participating in the annual or extraordinary occupational union and more than half of the members participating in the annual or extraordinary professional union are in favour.

(4) In order to decide issues within the competence of the occupational or professional union, it is necessary for adoption of decision that more than half of the members participating the annual or extraordinary occupational or professional union are in favour.

(5) Every member of the Chamber has one vote in the occupational or professional union to which he or she belongs. If a bailiff belongs to the occupational union as well as the professional union, he or she has one vote in both unions.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

### **§ 84. Adoption of decisions without calling occupational and professional union**

(1) On the proposal of the governing body, the members of occupational or professional union shall be entitled to adopt decisions in issues within the competence of occupational or professional union without calling the occupational or professional union. In this case decisions shall be made electronically.

(2) A member of the occupational or professional union cannot waive or refuse to participate in deciding the issues pursuant to the procedure specified in subsection (1) of this section. A member shall participate in the decision making in person.

(3) If a decision is made pursuant to the procedure specified in subsection (1) of this section, the decision shall be adopted if more than half of the members of the occupational or professional union have voted in favour. If, according to this Act, it is necessary for an adoption of a decision that both the occupational union and professional union are in favour, a decision shall be adopted pursuant to the procedure specified in subsection (1) of this section if more than half of the members of both the occupational union and professional union have voted in favour.

(4) The bodies of the Chamber cannot be elected pursuant to the procedure specified in subsection (1) of this section.

(5) The specific procedure for deciding the issues pursuant to the procedure specified in subsection (1) of this section shall be provided in the statutes of the Chamber.

### **§ 85. Procedure for electing bodies of the Chamber**

The members shall be elected into the bodies of the Chamber by the occupational or professional union in accordance with the following principles:

- 1) the members of each body are elected separately;
- 2) votes are given by secret ballot;
- 3) the candidate who receives the greatest numbers of votes is elected, unless this Act provides for a different requirement;
- 4) if votes are divided equally, a second round shall be held between the two candidates who received the largest number of votes. The candidate who receives the greatest numbers of votes is elected. If votes are divided equally in the second round, lots shall be drawn;
- 5) a member of one elected body cannot be a member of another elected body at the same time.

### **§ 86. Tasks of occupational and professional union**

(1) The occupational and professional union shall:

- 1) adopt the statutes of the Chamber;
- 2) adopt the development plan of the Chamber;
- 3) establish the minimum rate of membership fee;
- 4) approve the management report for the financial year of the governing body;

- 5) approve the annual report of the Chamber;
- 6) appoint an auditor.

(2) For the adoption of decisions specified in subsection (1) of this section, the majority of votes in favour of both the occupational and professional union shall be necessary.

(3) Occupational union:

- 1) elects and recalls the management board of the occupational union before the end of term if necessary;
- 2) elects two bailiffs who shall participate in the work of the revision committee;
- 3) elects three bailiffs who shall participate in the work of the court of honour;
- 4) elects two bailiffs and two substitute members thereof who shall participate in the work of the examination board;

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

- 5) establishes the amount of membership fee of bailiffs;
- 6) establishes good occupational practice of bailiffs;
- 7) gives instructions for harmonising the professional practice of bailiffs;
- 8) decides other issues prescribed in the law and statutes of the Chamber.

(4) Professional union:

- 1) elects and recalls the management board of the professional union before the end of term if necessary;
- 2) elects two trustees in bankruptcy who shall participate in the work of the revision committee;
- 3) elects three trustees in bankruptcy who shall participate in the work of the court of honour;
- 4) elects two trustees in bankruptcy and two substitute members thereof who shall participate in the work of the examination board;

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

- 5) establishes the amount of membership fee of trustees in bankruptcy;
- 6) establishes good professional practice of trustees in bankruptcy;
- 7) gives instructions for harmonising the professional practice of trustees in bankruptcy;
- 8) decides other issues prescribed in the law and statutes of the Chamber.

## **Subdivision 2**

### **Governing Body and Chairman of the Chamber**

#### **§ 87. Governing body**

(1) The governing body is the directing body of the Chamber which directs and plans the activity of the Chamber and organises the accounting of the Chamber and other reporting. The governing body ensures the implementation of decisions of the occupational and professional union and the performance of assignments of the Chamber arising from legislation.

(2) The governing body shall be competent to give orders to the management boards of the occupational and professional union and delegate assignments to the occupational and professional union.

(3) The governing body appoints the chancellor of the Chamber to office and approves the job description of the chancellor as well as the amount of remuneration paid to the chancellor.

(4) Members of the management board of the occupational union and professional union as well as a person appointed by the minister responsible for the area belong into the governing body. The authority of a member of the governing body expires at the same time as his or her authority as a member of the occupational or professional union. The authority of a member of the governing body appointed by the minister responsible for the area expires upon appointment of a new member of the governing body.

#### **§ 88. Chairman of the Chamber**

(1) The governing body shall elect a chairman and deputy chairman amongst the members of the governing body. The deputy chairman of the Chamber cannot belong to the same occupational or professional union as the chairman of the Chamber. The member of governing body appointed by the minister responsible for the area cannot be elected as a chairman or deputy chairman.

(2) The authority of the chairman and deputy chairman of the Chamber shall be three years but regardless of the given term, the authority cannot last longer than their authority as the member of the governing body. After expiry of the term of authority, the chairman and deputy chairman of the Chamber may be re-elected. The chairman and the deputy chairman of the Chamber may be recalled before expiry of the term of their authority.

(3) The chairman of the Chamber represents the Chamber in all legal acts, unless otherwise prescribed in the statutes. The chairman of both the management board of occupational and professional union represents the Chamber according to their area of liability pursuant to the procedure and to the extent specified by the chairman of the Chamber, unless otherwise prescribed in the statutes. The chancellor represents the Chamber pursuant to the procedure and to the extent specified by the chairman of the Chamber, unless otherwise prescribed in the statutes.

(4) The chairman of the Chamber organises the activity of the governing body. In case of absence of the chairman, the activity of the Chamber shall be organised by the deputy chairman of the Chamber.

(5) In case of incapacity for work of the chairman of the Chamber, he or she shall be substituted by a deputy chairman. In other cases the deputy chairman shall substitute the chairman pursuant to the procedure specified by the chairman.

#### **§ 89. Meetings of governing body and adoption of decisions**

(1) The meetings of the governing body shall take place according to necessity but at least once in a quarter.

(2) The meeting of the governing body shall be called by the chairman of the Chamber. The procedure for calling and conducting a meeting shall be prescribed in the statutes of the Chamber.

(3) The governing body has quorum if more than half of the members of the governing body participate in making decisions, unless otherwise provided by law.

(4) A decision of the governing body shall be adopted if more than half of the members of the governing body having participated in the making of decision have voted in favour, unless otherwise provided by law. In case votes are divided equally, the decision shall not be adopted.

(5) The governing body may adopt decisions without calling a meeting pursuant to the procedure provided in the statutes of the Chamber.

#### **§ 90. Chancellor of the Chamber**

Chancellor of the Chamber organises the activity of the Chamber, manages the chancellery of the Chamber and ensures the service of the bodies of the Chamber. The term of office of the chancellor shall be five years. The chancellor shall be subordinate to the chairman of the Chamber.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

## **Subdivision 3 Management Board of Occupational and Professional Union**

#### **§ 91. Management board of occupational and professional union**

(1) The management boards of the occupational and professional union shall be the permanently acting directing bodies of the Chamber who shall direct the activity of the Chamber and implement the decisions of the occupational and professional union and governing body. Both management boards shall be liable for the implementation of the tasks of the Chamber in the field of its occupational or professional activity.

(2) Three bailiffs belong into the management board of the occupational union. Three trustees in bankruptcy belong into the management board of the professional union. The term of authority of the members of both management boards shall be five years.

(3) The management board of the occupational union as well as the professional union shall choose a chairman amongst the members of the management board who shall direct the work of the management board.

(4) The rules of procedure of both management boards shall be prescribed in the statutes of the Chamber.

#### **§ 92. Tasks of management board of occupational and professional union**

The tasks of the management board of the occupational and professional union are as follows, depending on the area of their occupational or professional activity:

- 1) implementation of decisions of occupational or professional union respectively, and the decisions of the governing body;
- 2) organising the issue of information from the enforcement register and from the files of bankruptcy matters archived by the Chamber to the entitled persons;
- 3) participation in the drawing of draft development plan of the Chamber as well as the planning and drawing of the budget;
- 4) exercising administrative supervision over the payment of membership fees in time;
- 5) exercising administrative supervision over the existence of professional liability insurance;
- 6) drawing of good professional practice draft;
- 7) appointing a substitute bailiff in cases specified by law;
- 8) appointing a supervisor for an applicant for the profession of trustee in bankruptcy;

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

- 9) entry into insurance contract which complies with the terms of § 10 of this Act in order to compensate the damage caused by the professional activities of a member of occupational union;
- 10) implementation of other tasks arising from the law and statutes of the Chamber.

## **Subdivision 4**

### **Examination Board**

#### **§ 93. Examination board**

(1) The examination board shall be composed with seven members for five years.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(2) The examination board composes of:

- 1) two bailiffs assigned by the occupational union of bailiffs;  
[RT I, 31.12.2012, 5 – entry into force 10.01.2013]
- 2) two trustees in bankruptcy assigned by the professional union of trustees in bankruptcy;  
[RT I, 31.12.2012, 5 – entry into force 10.01.2013]
- 3) two persons assigned by the minister responsible for the area;
- 4) one auditor assigned by the Board of auditors.

(3) The examination board has a quorum if more than half of the members of the board participate in the making of a decision. A meeting of the examination board shall be directed by the chairman of the examination board whom the members of the board elect amongst themselves by a simple majority vote. In case votes are divided equally upon making decisions, the chairman of the examination board shall have the deciding vote.

(4) The procedure for calling and conducting a meeting of the examination board shall be prescribed in the statutes of the Chamber.

(5) A member of the examination board who is a bailiff shall be substituted by the substitute member who is a bailiff. A member of the examination board who is a trustee in bankruptcy shall be substituted by the substitute member who is a trustee in bankruptcy. The person assigned by the minister responsible for the area shall be substituted by the substitute member assigned by the minister responsible for the area. The auditor assigned by the Board of auditors shall be substituted by the auditor assigned by the Board of auditors.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(6) A member of the examination board shall notify the Chamber of his or her failure to participate in the work of the board at least three business days before the meeting of the board takes place, if possible. The Chamber shall notify the substitute member of the need for substitution.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(7) The authority of a member of the examination board shall be valid until the expiry of authority of the membership of the examination board.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

#### **§ 94. Competence of examination board**

The examination board shall:

- 1) organise and conduct the competition for filling the office of a bailiff;
- 2) organise and conduct the examination of bailiffs and trustees in bankruptcy;
- 3) verify the trustworthiness of the candidate for the office of assistant bailiff and applicant for the profession of trustee in bankruptcy;
- 4) conduct evaluation interviews and decide the sending of a bailiff, assistant bailiff or trustee in bankruptcy to an additional examination and the term of taking the examination if the bailiff, assistant bailiff or trustee in bankruptcy has not complied with the in-service training liability pursuant to the procedure specified in this Act;
- 5) examine the bailiffs, assistant bailiffs and trustees in bankruptcy sent to an additional examination;
- 6) establish an instruction for assessment of professional scientific or educational work upon evaluating compliance with the in-service training liability;
- 7) prepare the training programme of bailiff and trustee in bankruptcy and evaluate the compliance therewith.

#### **§ 95. Organisation and fee of examinations**

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(1) The specialist knowledge and suitability of personal characteristics of the person examined shall be assessed in the examination of a bailiff and trustee in bankruptcy. The examination shall be conducted by the examination board and the detailed organisation thereof shall be prescribed in the statutes of the Chamber. The examination composes of a specialist knowledge test and an interview. The interview shall be conducted with a person examined who has passed the specialist knowledge test.

(2) In the course of the interview, the suitability of personal characteristics of the person examined for performing the official duties of bailiff or acting as a trustee in bankruptcy shall be evaluated. During the interview, questions can be asked from the person examined in order to specify the answers given in the specialist knowledge test.

(3) The fields of the specialist knowledge test of the examination of a bailiff and trustee in bankruptcy and the procedure for evaluation of examination shall be established by a regulation of the minister responsible for the area.

(4) The examinations shall be organised on the proposal of the Ministry of Justice or the initiative of the Chamber. The examination of a bailiff and trustee in bankruptcy shall be organised at least once a year. The time and place of the examination and the list of documents necessary for taking the examination as well as the date of submission thereof shall be determined by the examination board. Notice on the examination shall be published on the website of the Chamber.

(5) Before taking the examination of a bailiff or trustee in bankruptcy and the examination specified in subsection 97 (4) of this Act and a re-examination, the person examined shall pay the fee of 127 euros to the Chamber. In justified cases, the Chamber may decrease the rate of the examination fee or release the person from payment of the fee.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

(6) The Chamber may prescribe the specific procedure for payment of the examination of a bailiff and trustee in bankruptcy, decrease of the fee and release from payment of the fee in its statutes.

[RT I, 31.12.2012, 5 – entry into force 10.01.2013]

## **§ 96. Training**

(1) After appointing a bailiff to office by the minister responsible for the area or passing the examination of trustee in bankruptcy, the examination board shall prepare an individual training programme for the person. Training programme of a trustee in bankruptcy shall be prepared with the consideration that the compliance therewith would not prevent working on his or her principal job.

(2) Training shall be organised by the management board of the occupational and professional union and the examination board. The organisation and procedure for evaluation shall be prescribed in the statutes of the Chamber.

(3) The management board of the occupational or professional union shall assign at least two supervisors for the person in training who, after the termination of training, shall submit a reasoned opinion concerning the person supervised to the examination board in written form.

(4) A bailiff shall submit a report on compliance with the training programme to the examination board within six months and a person having passed an examination of trustee in bankruptcy within ten months as of approval of the training programme. On the basis of a person's application, the examination board may extend the term of submitting the report on compliance with the training programme.

(5) On the basis of the report on compliance with training programme and opinions of the supervisors, the examination board shall deem the training as passed or failed. The examination board may choose not to evaluate the results of the training of trustee in bankruptcy and extend the time of compliance with the training programme.

(6) If the examination board evaluates the training of a bailiff as failed or deems the person unfit for acting as a bailiff due to his or her personal characteristics, the management board of the occupational union shall make a proposal to the minister responsible for the area to remove the bailiff from office.

(7) If the examination board evaluates the training of a person having passed an examination of trustee in bankruptcy as failed or deems the person unfit for acting as a trustee in bankruptcy due to his or her personal characteristics, the person shall not be granted the profession of a trustee in bankruptcy.

(8) A bailiff who is in training shall be paid remuneration by the Chamber from the budget section of the occupational union.

## **§ 97. In-service training**

(1) Compliance with in-service training liability shall be inspected by the examination board once in every five years (hereinafter *evaluation period*). Requirements for in-service training and extent of in-service training shall be established by a regulation of the minister responsible for the area.

(2) No less than two months before the termination of the evaluation period, the examination board shall send a person a notice concerning the termination of the evaluation period and explain which data and by which term shall be submitted concerning the passing of in-service training liability.

(3) A person who has acquired master's or doctor's degree in law during the evaluation period is not required to pass in-service training during this period. Sworn advocates and auditors who pass in-service training either in the bar or the Board of auditors are not required to pass the in-service training of the Chamber.  
[RT I, 21.12.2012, 1 - entry into force 01.03.2013]

(4) If during the evaluation period a person has failed to pass in-service training in the required extent or has failed to submit data concerning the passing of in-service training to the examination board by the given term, the examination board shall send the person to an examination. The examination shall be passed within four months as of the date of sending to examination. If the person fails to pass the examination, he or she will be sent to a re-examination. In case the person fails to appear for examination without good reason, the examination shall be deemed to be failed.

(5) If a bailiff or assistant bailiff fails to appear for re-examination without good reason or fails to pass it, the management board of the occupational union shall make a proposal to the minister responsible for the area to remove the bailiff from office or deletes the assistant bailiff from the list specified in § 24 of this Act.

(6) If a trustee in bankruptcy fails to appear for the examination without good reason or fails to pass the examination in two attempts, the examination board shall make a proposal to the management board of the professional union of trustees in bankruptcy to withdraw the vocation of trustee in bankruptcy from the person.

## **Subdivision 5 Revision Committee**

### **§ 98. Revision committee**

(1) The revision committee shall inspect the economic activities and management of the Chamber. The revision committee has the right to receive documents and information from the bodies of the Chamber, chairman and chancellor of the Chamber necessary for the performance of its assignments.

(2) Before the governing body of the Chamber submits the management report and annual report of the Chamber to the occupational and professional union of the Chamber for approval, the revision committee shall express its opinion concerning the reports. Upon inspecting the management report and annual report, the revision committee shall also observe if the budget of the period under inspection complies with the development plan. The revision committee submits its opinion to the occupational and professional union.

(3) The revision committee shall be composed with four members for five years. The members of the revision committee shall elect a chairman amongst themselves.

## **Subdivision 6 Court of Honour**

### **§ 99. Court of honour**

(1) The court of honour shall be composed with seven members for five years.

(2) The court of honour comprises of three bailiffs, three trustees in bankruptcy and one person appointed by the minister responsible for the area.

(3) The members of the court of honour shall elect the chairman of the court of honour amongst the members who are bailiffs or trustees in bankruptcy.

(4) The court of honour shall hear a matter in the composition of at least three members.

(5) The court of honour adopts resolutions by a majority of the votes of the members participating in hearing of the matter.

(6) If a member of the court of honour cannot be impartial in a matter under hearing, the member shall remove himself or herself from the hearing.

### **§ 100. Competence of court of honour**

The court of honour may resolve:

- 1) offences of wrongful non-performance or inadequate performance of obligations resulting from the decisions of the Chamber and good occupational and professional practice;
- 2) complaints filed against the conduct of bailiffs or trustees in bankruptcy;

3) complaints filed against the activities of bailiffs or trustees in bankruptcy or disciplinary matters commenced against bailiffs and trustees in bankruptcy and also matters which have been transferred for hearing by the Ministry of Justice.  
[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

#### **§ 101. Commencement of proceedings of court of honour**

(1) An interested person may turn to the Chamber in order to commence the proceedings of court of honour. Application for the commencement of proceedings of court of honour shall be filed within six months as of the date on which the applicant became aware or should have become aware of the circumstances being the basis for the application.

(2) The court of honour shall commence the proceedings of court of honour upon the request of an interested person, Ministry of Justice or other body of the Chamber if there are grounds to believe that a bailiff or trustee in bankruptcy has committed a disciplinary offence.  
[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(3) The commencement of proceedings of court of honour shall be decided by the court of honour within one month as of the date on which it became aware of the commission of an act with elements of disciplinary offence. The court of honour shall forward the decision on commencement or failure to commence the proceedings of court of honour immediately to the management board of the occupational and professional union and to the Ministry of Justice.

(4) Upon delivery of the complaint filed by the Ministry of Justice, the proceedings of court of honour shall be deemed to be commenced.

#### **§ 102. Proceedings of court of honour**

(1) The court of honour may resolve a matter in written proceeding.

(2) Upon the hearing of a matter, the court of honour shall require explanations from the persons concerned. The court of honour shall establish the material circumstances in the matter and gather evidence on its own initiative, if necessary. Upon the request of the court of honour, the bailiff, assistant bailiff or trustee in bankruptcy shall submit the evidence at their disposal to the court of honour.

(3) The court of honour shall resolve the disciplinary offence matter within three months since the commencement of proceedings of court of honour by making a reasoned judgement thereon. Upon good reason, the court of honour may extend the hearing of disciplinary offence matter up to two months. The time during which it is not possible to hear the disciplinary offence matter due to the person towards whom the proceedings of court of honour have been commenced shall not be accounted in the time of proceeding a disciplinary offence matter.

#### **§ 103. Decision of court of honour**

(1) Disciplinary penalties imposed by the court of honour are reprimand and fine of 64–6400 euros which shall be collected in the budget section of the occupational or professional union respectively. In the decision on imposing a fine, the court of honour of the Chamber may prescribe that the fine shall be paid in parts at specific dates within one year.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(11) A decision of the court of honour concerning a fine imposed as disciplinary punishment serves as an enforcement instrument for the purposes of clause 2 (1) 21) of the Code of Enforcement Procedure.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(2) If the court of honour has established the commission of such disciplinary offence for which an appropriate punishment would be removal from office or deprivation of the right to act in the profession, the court of honour shall make a proposal to the minister responsible for the area to remove the bailiff from office or a proposal to the management board of the professional union to deprive the trustee in bankruptcy of the right to act as such. The court of honour shall annex the materials gathered in the course of proceedings of court of honour to the proposal.

(3) The decision of the court of honour on imposing a disciplinary penalty shall be announced after the term for appeal has passed to the members of the occupational or professional union, depending on the appeal filed against the activity of whom the court of honour heard.

(4) The judgment of the court of honour may be appealed to the administrative court by bailiffs and trustees in bankruptcy.

(5) The court of honour shall forward its decision promptly to the Ministry of Justice. The Ministry of Justice shall also be entitled to request other documents of the proceedings of the court of honour for examination in the given matters of proceedings of the court of honour.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

(6) The Ministry of Justice may file a protest with an administrative court against a decision of the court of honour within 30 days after the receipt of a decision of the court of honour.

[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

## **Division 3**

### **Arbital Court of Chamber**

[RT I, 30.12.2017, 2 - entry into force 09.01.2018]

#### **§ 103<sup>1</sup>. Arbital court of Chamber**

(1) The arbitral court of the Chamber is a body for the extrajudicial adjudication of disputes.

(2) The arbitral court of the Chamber shall hear financial claims upon parties' agreement.

(3) The Chamber shall establish the rules of the arbitral court, setting out the competence and proceedings of the arbitral court, taking account of the imperative provisions of the Code of Civil Procedure and Conciliation Act, and the fee.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

## **Chapter 4**

### **IMPLEMENTING PROVISIONS**

#### **Division 1**

### **Transitional Provisions**

#### **§ 104. Specification on educational requirements of bailiffs**

The educational requirement specified in § 17 (1) of this Act shall not be applied to bailiffs who have been appointed to office until 1 July 2002.

#### **§ 105. Specification on limitation period of disciplinary penalty of bailiffs**

A disciplinary penalty imposed before entry into force of this Act expires if a new disciplinary penalty has not been imposed on a bailiff within one year since the imposing of penalty.

#### **§ 106. Specification on substitution of bailiffs**

(1) A person who passed substitute bailiff's examination or evaluation before entry into force of this Act shall be entitled to substitute a bailiff after five years since the passing of substitute bailiff's examination or last evaluation.

(2) Substitute bailiff specified in subsection (1) of this section shall substitute a bailiff pursuant to the procedure specified in this Act.

#### **§ 107. Application of rates of bailiff's fee**

For a professional act of a bailiff which is made before entry into force of this Act, fee shall be charged according to the rate of fee and procedure for charging a fee applicable at the time of performing the act.

#### **§ 108. Requirements for becoming a member of the Chamber**

(1) All persons acting as bailiffs at the time of entry into force of this Act and substitute bailiffs appointed by the Minister of Justice specified in § 17 (5) of the Bailiffs Act shall become members of the Chamber upon entry into force of this Act.

(2) A trustee in bankruptcy, sworn advocate and senior clerk of sworn advocate who wish to continue their activity as a trustee in bankruptcy shall submit an application to the Ministry of Justice in order to become a member of the Chamber within two months as of entry into force of this Act. If a trustee in bankruptcy fails to submit an application in order to become a member of the Chamber in time, the Minister of Justice shall deprive the person of the right to act as a trustee in bankruptcy.



### **§ 109. Calling the first occupational and professional union**

The Minister of Justice shall call the first occupational and professional union who shall elect the bodies of the Chamber. Until the election of the governing body and the management board, a person appointed by the Minister of Justice shall be in charge of the Chamber.

### **§ 109<sup>1</sup>. Implementation of § 90 of this Act**

The chancellor of the Chamber who is in office upon entry into force of the amendment specified in § 90 of this Act, shall be deemed to be appointed to office for five years as of entry into force of amendment of the aforesaid provision.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

### **§ 110. Transfer of bankruptcy matters in proceeding**

(1) A trustee in bankruptcy, sworn advocate or senior clerk of sworn advocate who do not wish to become a member of the Chamber may proceed bankruptcy matters in which he or she has been appointed as trustee until termination thereof.

(2) A person who has been appointed as a trustee in bankruptcy or interim trustee in bankruptcy proceedings after entry into force of this Act and who does not submit an application for becoming a member of the Chamber within the term specified in § 107 (2) of this Act shall be obligated to notify the court thereof. The court shall release the trustee in bankruptcy pursuant to the procedure specified in § 68 of the Bankruptcy Act.

### **§ 111. Statutes of the Chamber**

The first occupational and professional union shall adopt the statutes previously co-ordinated with the Ministry of Justice. If the first occupational and professional union fails to adopt the statutes, extraordinary occupational and professional union shall be called within two months as of the first occupational and professional union. If the extraordinary occupational and professional union fails to adopt the statutes previously co-ordinated with the Ministry of Justice, the statutes of the Chamber shall be adopted by a regulation of the minister responsible for the area. The regulation of the Minister of Justice shall be revoked if the occupational and professional union adopt the statutes previously co-ordinated with the Ministry of Justice which becomes valid after revocation of the regulation by the Minister of Justice.

### **§ 112. Minimum rate of membership fee**

(1) The first occupational and professional union shall establish the minimum rate of membership fee in the amount previously co-ordinated with the Ministry of Justice. The minimum rate of membership fee within the first five years shall be at least three per cent of the amounts received within the financial year of the Chamber as bailiff's fee or at least three per cent of the amounts determined by court as the fee of trustee in bankruptcy or the fee of interim trustee, but not less than 31 euros per month.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(2) If the first occupational or professional union does not establish the minimum rate of membership fee, it will be established by a regulation of the minister responsible for the area. The minister responsible for the area may establish the minimum rate as a fee of up to five per cent of the amounts received within the financial year of the Chamber as bailiff's fee or up to five per cent of the amounts determined by court as the fee of trustee in bankruptcy or the fee of interim trustee, but not less than 31 euros per month.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) A regulation of the Minister of Justice shall be revoked if the occupational and professional union establish the minimum rates of membership fee co-ordinated with the Ministry of Justice in advance which shall become applicable after the regulation of the Minister of Justice has been revoked.

### **§ 113. The first evaluation period for compliance with in-service training liability and time of establishment of related acts**

The beginning of the first evaluation period for compliance with the in-service training liability of bailiffs and trustees in bankruptcy shall be the date of entry into force of this Act.

### **§ 114. Termination of activity of plenary assembly of bailiffs**

Upon entry into force of this Act, the activity of plenary assembly of bailiffs shall be terminated and the plenary assembly shall be liquidated. The members of plenary assembly shall implement the liquidation. If they decide to transfer the assets of the plenary assembly to the Chamber, the assets shall remain in the disposition of the occupational union of bailiffs.

#### **§ 115. Requirements for information system of bankruptcy proceedings and information systems of bailiffs**

(1) The minister responsible for the area may establish, by a regulation, requirements for the content and data processing of the information system of bankruptcy proceedings and the information system of bailiffs, and determine the extent in which these must enable digital data interchange with other databases.

(2) Electronic auction environment shall be taken into use no later than by 1 January 2013. Oral auctions shall be conducted before taking the auction media into use.

#### **§ 116. Applicable law for insurance events**

The law applicable at the time of occurrence of an insurance event and the terms of insurance contract shall be applied with regard to insurance events having taken place before entry into force of this Act.

#### **§ 116<sup>1</sup>. Authority of members of examination committee assigned by minister responsible for area**

The authority of persons in the examination committee assigned by the minister responsible for the area based on clause 93 (2) 3) of this Act shall terminate on 31 December in 2019.  
[RT I, 31.05.2018, 2 – entry into force 10.06.2018]

## **Division 2 Amendment and Revocation of Acts**

§ 117.–§ 131.[Omitted from this text.]

## **Division 3 Entry into Force of Act**

#### **§ 132. Entry into force**

(1) This Act enters into force on 1 January 2010.

(2) §§ 120, 122 and 128 enter into force pursuant to general procedure.