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## State Legal Aid Act

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RT I 2004, 56, 403  
Entry into force 01.03.2005

Amended by the following acts

Passed	Published	Entry into force
15.06.2005	RT I 2005, 39, 308	01.01.2006
07.12.2006	RT I 2006, 58, 439	01.01.2007
13.12.2006	RT I 2007, 2, 7	01.02.2007
21.11.2007	RT I 2007, 67, 413	28.12.2007
10.12.2008	RT I 2008, 59, 330	01.01.2009
03.12.2008	RT I 2009, 1, 1	01.01.2010
16.12.2009	RT I 2009, 67, 460	01.01.2010
27.01.2011	RT I, 23.02.2011, 3	01.01.2012
17.02.2011	RT I, 14.03.2011, 2	18.06.2011
17.02.2011	RT I, 14.03.2011, 3	24.03.2011
07.12.2011	RT I, 28.12.2011, 1	01.01.2012
13.03.2013	RT I, 22.03.2013, 9	01.04.2013, in part 01.01.2014
28.03.2013	RT I, 18.04.2013, 2	28.04.2013
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
07.05.2014	RT I, 21.05.2014, 1	01.01.2015, in part 31.05.2014
12.06.2014	RT I, 21.06.2014, 11	01.07.2014
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the ministers' official titles have been replaced on the basis of subsection 107 <sup>3</sup> (4) of the Government of the Republic Act starting from the wording in force as of 1 July 2014.
10.12.2014	RT I, 31.12.2014, 1	10.01.2015
18.02.2015	RT I, 12.03.2015, 4	01.10.2015
17.12.2015	RT I, 06.01.2016, 5	16.01.2016
26.04.2016	RT I, 28.04.2016, 2	26.04.2016 – based on point 1 of the operative part of the judgment of the Supreme Court en banc in case no. 3-2-1-40-15, sentences 1-3 of subsection 21 (3) have been declared unconstitutional and repealed and, based on point 4 of the operative part, the entry into force has been postponed by six months as of the entry force of this judgment, except with regard to sentences 1-3 of subsection 21 (3) to the extent that these authorise the Estonian Bar Association to establish the provisions contained in subpoints 2-3 of point 4 of the operative part of this judgment.
07.06.2016	RT I, 22.06.2016, 21	01.08.2016

## **Chapter 1**

# **GENERAL PROVISIONS**

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

This Act sets out the types of legal aid granted by the state and the conditions of and procedure for obtaining such legal aid.

### **§ 2. Purpose of Act**

The purpose of this Act is to ensure the timely and sufficient availability of competent and reliable legal services to all persons.

### **§ 3. Application of Administrative Procedure Act**

The provisions of the Administrative Procedure Act apply to the administrative proceedings set out in this Act, taking account of the specifications provided for in this Act.

### **§ 4. State legal aid**

(1) State legal aid means providing a natural person or a legal person with a legal service at the expense of the state on the grounds and in accordance with the procedure provided for in this Act.

(2) Under this Act, state legal aid is granted to a natural person or a legal person in connection with proceedings in an Estonian court or administrative body or otherwise in the protection of their rights if deciding thereon is within the competence of an Estonian court, unless otherwise provided for in Chapter 7 of this Act.

(3) The types of state legal aid include the following:

- 1) appointed defence in criminal proceedings;
- 2) representing a person in pre-trial proceedings in a criminal case and in court;
- 3) defending a person in extrajudicial proceedings in a misdemeanour case and in court;
- 4) representing a person in pre-litigation proceedings in a civil case and in court;
- 5) representing a person in administrative court proceedings;
- 6) representing a person in administrative proceedings;
- 7) representing a person in enforcement proceedings;
- 7<sup>1</sup>) representing a person in judicial review proceedings;
- 8) drawing up legal documents;
- 9) other legal counselling or representing of a person.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

### **§ 5. Provider of state legal aid**

(1) State legal aid is provided by an advocate under the Bar Association Act, taking account of the specifications provided for in this Act.

(2) The management of a law office ensures that explanations concerning the grounds of and procedure for obtaining state legal aid provided for in this Act are given to persons in need of state legal aid during the opening hours of the law office without charge.

## **Chapter 2**

# **GROUND AND WAYS OF GRANTING STATE LEGAL AID**

### **§ 6. Persons entitled to state legal aid**

(1) A natural person may receive state legal aid if the person is unable to pay for competent legal services due to the person's financial situation at the time the person needs legal aid or if the person is able to pay for legal services only partially or in instalments or if the person's financial situation does not allow for meeting basic subsistence needs after paying for legal services.

(1<sup>1</sup>) State legal aid is granted to a natural person who, at the time of submission of the application for state legal aid, is domiciled in the Republic of Estonia or another Member State of the European Union or is a citizen of the Republic of Estonia or another Member State of the European Union, except in the event specified in subsection (2) of this section. Determination of a domicile within the meaning of this Act is based on Article 62 of Regulation No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition

and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, pp. 1–32). Legal aid will be granted to other natural persons only if this arises from an international obligation binding upon Estonia. [RT I, 31.12.2014, 1 – entry into force 10.01.2015]

(2) In criminal proceedings, a suspect or accused natural person who has not chosen a criminal defence counsel by agreement and in whose criminal case the participation of a criminal defence counsel is required by law (except in the events specified in § 44<sup>1</sup> and subsection 227 (5) of the Code of Criminal Procedure) or who applies for the participation of a criminal defence counsel will receive state legal aid regardless of their financial situation. In misdemeanour proceedings, a natural person subject to the proceedings who has not chosen a defence counsel by agreement and in whose misdemeanour case the participation of a defence counsel is required by law will receive state legal aid regardless of their financial situation. [RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(2<sup>2</sup>) In criminal proceedings, state legal aid is available to the injured party whose active legal capacity is limited, regardless of their economic situation, if:

- 1) based on the circumstances, it can be presumed that the interests of the legal representative of the injured party are in conflict with the interests of the injured party;
- 2) the minor injured party is separated from the family;
- 3) the injured party is an unaccompanied minor for the purposes of the Act on Granting International Protection to Aliens.

[RT I, 06.01.2016, 5 – entry into force 16.01.2016]

(3) A non-profit association or foundation that has been entered in the list of non-profit associations and foundations entitled to income tax incentives or is equal thereto or that is insolvent and applies for state legal aid in the field of environmental protection or consumer protection, or there are other overriding public reasons for granting state legal aid, may receive state legal aid on the grounds and in accordance with the procedure provided for in this Act to achieve the goals and objectives specified in its articles of association, in order to prevent possible damage to the rights of a large number of people, which are protected by law.

(4) In criminal proceedings, a suspect or accused legal person who has not chosen a criminal defence counsel by agreement and in whose criminal case the participation of a criminal defence counsel is required by law (except in the events specified in § 44<sup>1</sup> and subsection 227 (5) of the Code of Criminal Procedure) or who applies for the participation of a criminal defence counsel will receive state legal aid. In misdemeanour proceedings, a legal person that has not chosen a defence counsel by agreement and in whose misdemeanour case the participation of a defence counsel is required by law will receive state legal aid as a person subject to the proceedings.

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

(5) In judicial review proceedings, a natural person specified in subsection (1) of this section may receive state legal aid regardless of the type of the case.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

## **§ 7. Grounds for refusal to grant state legal aid**

(1) State legal aid will not be granted if:

- 1) the applicant is able to protect their rights on their own;
- 2) the applicant cannot have the right for the protection of which the applicant is applying for state legal aid;
- 3) the applicant could bear the costs of legal services at the expense of their existing property that can be sold without any major difficulties, except at the expense of the assets specified in subsection 14 (2) of this Act;
- 4) the costs of legal services do not presumably twice exceed the applicant's average monthly income that is calculated on the basis of the average monthly income in the last four months preceding the submission of the application, from which taxes and compulsory insurance payments, amounts earmarked for fulfilment of a maintenance obligation arising from law and also reasonable housing and transport costs have been deducted; [RT I 2009, 1, 1 – entry into force 01.01.2010]
- 5) under the circumstances it is clearly unlikely that the applicant will be able to protect their rights;
- 6) state legal aid is applied for in order to file a claim for non#pecuniary damages and there are no overriding public reasons in the case; [RT I 2005, 39, 308 – entry into force 01.01.2006]
- 7) the dispute is related to the business activities of the applicant and does not harm their rights that are unrelated to their business activities;
- 8) state legal aid is applied for to protect a trademark, patent, utility model, industrial design or a layout-design of integrated circuits or another form of intellectual property, except rights arising from the Copyright Act;
- 9) state legal aid is applied for in a case in which the applicant clearly has joint interests with a person who is not entitled to state legal aid;
- 10) state legal aid is applied for to protect a right transferred to the applicant and there is reason to believe that the right was transferred to the applicant in order to receive state legal aid;

11) provision of legal services is guaranteed to the applicant under a legal expenses insurance contract or compulsory insurance;

12) the possible gains of the applicant upon adjudication of the case are unreasonably small in comparison with the estimated legal aid expenses of the state.

(1<sup>1</sup>) In addition to the ground for refusal specified in subsection (1) of this section, state legal aid will also not be granted for judicial review proceedings if the grounds for review are not indicated in the application for state legal aid or if, based on the grounds for review indicated, it is evident that the applicant is clearly unlikely to succeed in protecting their rights or if the term for submission of an application for review has expired. The Supreme Court does not have to give reasons for its refusal to grant state legal aid.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) State legal aid will not be refused on the ground specified in subsection (1) of this section if state legal aid is applied for in the case specified in subsection 6 (2) of this Act. State legal aid will not be refused on the basis of clauses (1) 1), 2), 5)–10) or 12) of this section if state legal aid is applied for in the case specified in subsection 6 (4) of this Act.

(3) State legal aid may be granted without the restriction provided for in clause 1) of subsection (1) of this section if the assistance of an advocate is clearly necessary for the correct adjudication of the case in order to ensure the equality of the parties or due to the complexity of the case.

### **§ 8. Manners of granting state legal aid**

State legal aid will be granted as follows:

- 1) without the obligation to compensate for the state legal aid fee or state legal aid expenses;
- 2) with the obligation to partially or fully compensate for the state legal aid fee and state legal aid expenses in a lump sum;
- 3) with the obligation to partially or fully compensate for the state legal aid fee and state legal aid expenses in instalments.

## **Chapter 3 DECIDING GRANTING OF STATE LEGAL AID**

### **§ 9. Applying for state legal aid**

(1) The granting of state legal aid will be decided on the basis of an application of a person.

(2) [Repealed – RT I 2008, 59, 330 – entry into force 01.01.2009]

### **§ 10. Submission of application for state legal aid**

(1) An application for state legal aid in judicial proceedings as a party to proceedings in civil, administrative or misdemeanour cases will be submitted to the court conducting proceedings in the case or the court that would be competent to conduct proceedings in the case.

(2) If an applicant would like to receive state legal aid for drawing up a statement of claim, an application in non-contentious application proceedings or an appeal in administrative court proceedings or misdemeanour proceedings, the applicant will submit an application to the court that is competent to hear the claim, application or appeal.

(3) An application for state legal aid in the form of representation in pre-litigation proceedings in a civil case, in administrative proceedings or extrajudicial proceedings in a misdemeanour case, preparation of a legal document or other legal counselling or representation will be submitted to the county court of the applicant's domicile or of the presumed place of provision of the legal services. If an applicant for state legal aid has no domicile in Estonia, the applicant may submit an application to the county court in the territorial jurisdiction of which the applicant is staying.

(4) If the participation of a criminal defence counsel throughout criminal proceedings is not required and a suspect has not chosen a counsel but requests the participation of a criminal defence counsel, the suspect will submit an application for state legal aid to the investigative body or the Prosecutor's Office.

(5) If a person applies for state legal aid as an injured party in criminal proceedings, a civil defendant or a third party, the court conducting the proceedings or, in pre-trial proceedings in a criminal case, the county court competent to conduct proceedings in the given criminal case will decide the granting of state legal aid to the person.

[RT I 2007, 2, 7 – entry into force 01.02.2007]

(5<sup>1</sup>) If a person applies for state legal aid for judicial review proceedings, the Supreme Court will decide the granting of state legal aid to the person. An application for state legal aid may be submitted to the Supreme Court without the intermediation of an advocate.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(6) An application for state legal aid in the form of representation in enforcement proceedings will be submitted to the court competent to adjudicate an appeal against the activities of an enforcement officer conducting the enforcement proceedings.

(7) If an application is submitted to a court whose jurisdiction does not include deciding the granting of state legal aid in the given case, the court will forward the application immediately to the competent court and notify the applicant thereof.

(8) The court or another agency specified in subsections (1) to (6) of this section is also the authority competent to receive applications for procedural assistance within the meaning of Article 14 of Council Directive No. 2003/8/EC to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes (OJ L 026, 31.01.2003, pp. 41–47). The applicant will not be requested to have the application legalised or officially certified in another manner.

### **§ 11. Granting state legal aid if defence counsel is required**

(1) A suspect who is a natural person and in whose criminal case the participation of a criminal defence counsel is required under § 45 of the Code of Criminal Procedure and who has not chosen a defence counsel by agreement is not required to submit an application to receive state legal aid in the criminal case.

(2) In judicial misdemeanour proceedings, a natural person subject to proceedings, in whose misdemeanour case the participation of a defence counsel is required under subsection 19 (3) of the Code of Misdemeanour Procedure and who has not chosen a defence counsel by agreement, is not required to submit an application for state legal aid.

### **§ 12. Application form and information contained in application**

(1) The following must be set out in an application for state legal aid:

- 1) the name, address and personal identification code or, in the absence of the latter, the date of birth of the applicant, or the registry code of the applicant who is a legal person;
- 2) a description of the problem for the resolution of which state legal aid is applied for;
- 3) the type of state legal aid specified in subsection 4 (3) or § 34 of this Act, which is applied for;
- 4) the reasons why state legal aid is necessary to protect the rights of the applicant;
- 5) the extent of profit possibly received by the applicant upon adjudication of the case;
- 6) the name of the provider of state legal aid from whom the applicant wishes to receive legal services if an advocate has granted their consent to the applicant for provision of state legal aid to the applicant in the given case;
- 7) the language in which the applicant is able to communicate with the provider of state legal aid;
- 8) [Repealed – RT I 2008, 59, 330 – entry into force 01.01.2009]
- 9) other relevant information.

(2) If an application has been submitted in extrajudicial proceedings and the type of state legal aid specified in subsection 4 (3) of this Act which is applied for has not been indicated in the application, the application for state legal aid in the form of other legal counselling of the person will be deemed to be submitted.

(3) The standard form of the application for state legal aid and a list of information to be specified therein will be established by a regulation of the minister responsible for the field, and the standard form of the application must be freely accessible to everyone on the website of the Ministry of Justice as well as in each court and law office.

(4) In criminal proceedings, an application for the appointment of a criminal defence counsel submitted by a suspect who is a natural person must set out at least the information specified in clauses 1) and 7) of subsection (1) of this section and a reference to the criminal case in which participation of the criminal defence counsel is requested.

(5) An application for state legal aid is submitted in Estonian.  
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

(6) An application can be submitted in English if legal assistance is applied for by a natural person whose place of residence is in another Member State of the European Union or who is a citizen of another Member State of the European Union or a legal person seated in another Member State of the European Union.  
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

(7) The processing authority organises the translation of an application submitted in another language widely used in Estonia.  
[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

(8) If an application has other deficiencies that impede processing, the court will explain to the person the possibilities of receiving aid for the submission of an application in accordance with the requirements from the winner of the competition specified in subsection 31 (2) of this Act and, if the person requests it, submit the application to the winner of the competition for the purpose of submission in accordance with the requirements. [RT I, 28.12.2016, 14 – entry into force 07.01.2017]

### **§ 13. Documents annexed to application**

(1) An applicant who is a natural person must annex to an application for state legal aid a proper notice concerning their financial situation, which has been signed by the applicant and, if possible, other evidence characterising their financial situation. A suspect in criminal proceedings who applies for the appointment of a criminal defence counsel or a child applying for legal aid in a case involving the maintenance support of the child does not need to annex a notice concerning their financial situation. [RT I, 12.03.2015, 4 - entry into force 01.10.2015]

(2) If a person's domicile is not in Estonia, the person must annex to an application a notice the competent authorities of the state where the person is domiciled concerning their income and that of the members of their family during the last three years. If the notice cannot be submitted for reasons independent of the applicant, the granting of state legal aid may be decided without the notice.

(3) A notice concerning the financial situation of an applicant for state legal aid must be submitted in writing in Estonian. On the conditions provided for in subsection 12 (5) of this Act, the notice may also be submitted in English.

(4) A list of information contained in a notice concerning the financial situation of an applicant and the standard form of the notice will be established by a regulation of the minister responsible for the field. The standard form must be freely accessible to everyone on the website of the Ministry of Justice as well as in each court and law office. The minister responsible for the field may also establish requirements for documents submitted by the applicant, which set out the reasons for the application.

(5) An applicant who is a legal person must annex to an application for state legal aid a copy of the memorandum of association or foundation resolution that has been submitted to the register in accordance with law and a copy of the registered articles of association, a copy of the registry card and an certified copy of the annual report of the previous financial year.

(6) If an advocate has granted their consent to an applicant for state legal aid regarding provision of state legal aid to the applicant in the given case and the applicant wishes to receive legal services from the advocate, the consent of the advocate must be annexed to the application or the application must be submitted via the corresponding law office. [RT I 2005, 39, 308 – entry into force 01.01.2006]

### **§ 14. Assessment of financial situation of applicant**

(1) Upon assessing the financial situation of an applicant, the applicant's assets and income and the assets and income of the family members who live together with the applicant, the number of dependants of the applicant, reasonable housing expenses and other relevant circumstances will be taken into account.

(2) Upon assessing the financial situation of an applicant, property belonging to the applicant which, in accordance with law, cannot be subject to a claim for payment will not be taken into account. The housing or a necessary vehicle belonging to the applicant, which is used on a daily basis by the applicant and the family members who live together with the applicant, will not be taken into account if the number and value of the housing and vehicles equitably correlate to the size, driving needs and income of the family.

(3) Where the applicant applies for State-funded legal aid to file a claim against a family member who lives together with the applicant, the income of that family member or any property that belongs to them is not taken into account when assessing the applicant's financial situation.

(4) The Tax and Customs Board will submit, at the request of a court, a notice concerning the income of an applicant for state legal aid and members of their family during the last year or a notice concerning the lack of information on the income of an applicant for state legal aid and members of their family. The format of the notice will be established by a regulation of the minister responsible for the field.

(5) A court may request information from an applicant or other persons or agencies, including credit institutions, concerning the financial situation or solvency of the applicant for state legal aid and of the family members who live together with the applicant. A reply to an enquiry must be given within the term set by the court.

(6) If an applicant fails to submit evidence-backed data concerning their personal status or financial situation or to answer questions asked or gives insufficient answers, the court will refuse to grant the person state legal aid to the extent not supported by evidence. [RT I 2005, 39, 308 – entry into force 01.01.2006]

## **§ 15. Deciding granting of state legal aid**

(1) An application for state legal aid submitted in the course of judicial proceedings will be adjudicated by an order of a court conducting the proceedings in accordance with the procedure provided for in the respective court procedure Act.

(2) A county court or an administrative court will decide the granting of state legal aid on the basis of an application submitted in extrajudicial proceedings in a manner provided for in § 8 of this Act in accordance with the non-contentious application procedure provided for in the Code of Civil Procedure. In court, assistant judges may resolve issues relating to state legal aid.

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

(3) The granting of state legal aid to a suspect or accused in criminal proceedings will be decided by the court, Prosecutor's Office or investigative body who will issue an order to that effect. Upon appointment of a criminal defence counsel in criminal proceedings in all cases and in misdemeanour proceedings where the participation of a defence counsel is required, state legal aid will be granted to the applicant without determining the manner provided for in § 8 of this Act, and the state legal aid fee and state legal aid expenses will be compensated for in accordance with the procedure provided for in the Code of Criminal Procedure.

[RT I, 14.03.2011, 3 – entry into force 24.03.2011]

(3<sup>1</sup>) The provision of the injured party with state legal aid in an event specified in subsection 6 (2<sup>2</sup>) of this Act is decided by an order the court, Prosecutor's Office or investigative body.

[RT I, 06.01.2016, 5 – entry into force 16.01.2016]

(4) If necessary, the court, Prosecutor's Office or investigative body will set a term for the provision of state legal aid.

(5) An order on granting state legal aid specifies the manner of granting state legal aid in accordance with § 8 of this Act and the compensation obligation of the recipient of state legal aid in accordance with § 16. A copy of the regulation will be sent to the Estonian Bar Association (hereinafter also *Bar Association*).

[RT I, 21.05.2014, 1 – entry into force 31.05.2014]

(5<sup>1</sup>) The procedure for sending state legal aid orders to the Bar Association via the e-file procedural information system (hereinafter *e-file system*) will be established by a regulation of the minister responsible for the field.

[RT I, 21.05.2014, 1 – entry into force 31.05.2014]

(6) Annually by April 1, the investigative body and the Prosecutors' Office submit to the minister responsible for the field a report on granting state legal aid in the previous year. The standard form for the reports will be approved by a regulation of the minister responsible for the field.

(7) If an application for state legal aid was forwarded to a court or another agency by an agency of another Member State of the European Union that is competent to forward applications for legal aid, a transcript of the order made concerning the application for legal aid will also be sent to such agency.

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

(8) An appeal against an order granting or refusing to grant state legal aid may be submitted in accordance with the procedure established in Acts regulating judicial proceedings. An order concerning the granting of state legal aid, which has been made in a civil or administrative case, can also be appealed against by the Bar Association.

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

## **§ 16. Determining compensation obligation of recipient of state legal aid**

(1) If state legal aid is granted to a person with the obligation to partially or fully compensate for the state legal aid fee and state legal aid expenses, the person's compensation obligation will be determined as a proportion or, if possible, as a specific amount, and it will be decided whether compensation will be paid in a lump sum or in instalments.

(2) A court will determine the scope of the compensation obligation of a recipient of state legal aid and the procedure for compensation on the basis of the circumstances specified in subsections 14 (1) to (3) or 13 (5) of this Act, taking into account the nature of the case, the type of state legal aid applied for and the estimated time of providing state legal aid.

(3) If state legal aid is granted to a person with the obligation to compensate for the state legal aid fee and state legal aid expenses in a lump sum, the court will, if possible, also determine the due date of compensation.

(4) If state legal aid is granted to a person together with the obligation to compensate for the state legal aid fee and state legal aid expenses in instalments, the court will, if possible, also determine the size and due dates of the instalments.

(5) If state legal aid is granted with the obligation to fully or partially compensate for the state legal aid fee and state legal aid expenses in a lump sum or in instalments, the court may require the recipient of state legal aid to make an advance payment for the full or partial performance of their compensation obligation. Upon failure to make the advance payment, state legal aid will not be granted to the person.

### **§ 17. Continuity of state legal aid**

(1) A person who has received state legal aid retains the right to receive state legal aid if the case is transformed to another type of state legal aid provided for in subsection 4 (3) of this Act and the advocate appointed earlier will continue to provide state legal aid to the person, except in the case provided for in subsection (2) of this section. The court, the investigative body or the Prosecutor's Office who decided the granting of state legal aid may, on the basis of the request of the advocate providing state legal aid or on its own motion, at any time reassess, in accordance with the procedure provided for in this Act, whether the grounds of granting state legal aid to the applicant which are provided for in this Act continue to exist and, if the grounds for granting state legal aid have ceased to exist, terminate the granting of state legal aid to the person.  
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(2) If state legal aid has been granted to a person in criminal proceedings and the criminal proceedings are terminated due to the absence of the elements of a criminal offence in the case and misdemeanour proceedings are commenced instead, the person must, in order to continue to receive state legal aid, submit within ten days and in accordance with the procedure provided for in this Act an application for state legal aid to be granted in accordance with subsection 10 (3) of this Act. Until the court reviews the person's application, the advocate appointed earlier will continue providing state legal aid to the person in the case.  
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(3) A person who has received state legal aid in judicial proceedings as a party to the proceedings has the right to receive state legal aid also in proceedings regarding an appeal against an order or judgment in the same case or in compulsory enforcement proceedings.

(4) The court conducting proceedings or the court competent to hear an appeal against the activities of an enforcement officer conducting enforcement proceedings may, on its own motion, in all stages of proceedings reassess in accordance with the procedure provided for in this Act whether the grounds for granting state legal aid to an applicant which have been provided for in this Act continue to exist and, if the grounds for granting state legal aid cease to exist, terminate the granting of state legal aid to the person. The court must verify the existence of the prerequisites for granting state legal aid if legal aid is requested for representation in enforcement proceedings more than one year after the entry into force of the order or judgment made in the case.

(5) In the event of the reassessment provided for in subsections (1) and (4) of this section, the court has the right to demand, if necessary, that the recipient of state legal aid submit a new notice concerning their financial situation and to request information concerning the financial situation or solvency of the recipient of state legal aid and of their family members from the Tax and Customs Board, credit institutions and other persons or agencies.

(6) If the granting of state legal aid is terminated on the basis of subsections (1) and (4) of this section, the advocate who has provided state legal aid will be released from the obligation to provide state legal aid and the court will determine, on the basis of the application of the advocate, the amount of the state legal aid fee for the advocate and the extent of compensation for state legal aid expenses. Simultaneously, the court will determine the obligation of the recipient of state legal aid to fully or partially compensate for the amount paid to the advocate in accordance with the procedure provided for in § 25 of this Act.

(7) A court or another competent agency may suspend payment of the instalments ordered by way of state legal aid or alter the amount and the term for payment of the instalments in accordance with the procedure provided for in § 188 of the Code of Civil Procedure. Section 189 of the Code of Civil Procedure will be followed upon termination of granting procedural assistance.  
[RT I 2005, 39, 308 – entry into force 01.01.2006]

### **§ 18. Appointment of provider of state legal aid**

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

(1) At the request of the court, the Prosecutor's Office or the investigative body, the Bar Association will promptly appoint an advocate to provide state legal aid. The advocate appointed by the Bar Association must promptly assume the obligation to provide state legal aid and organise their activities in such a manner that it would be possible for the advocate to participate in procedural steps on time.  
[RT I, 21.06.2014, 11 – entry into force 01.07.2014]

(1<sup>1</sup>) The procedure for submission of a request to the Bar Association by the court, the Prosecutor's Office or the investigative body via the e-file system will be established by a regulation of the minister responsible for the field.

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

(2) The court, the Prosecutor's Office or the investigative body does not have the right to make an agreement with the advocate on the provision of state legal aid or to appoint an advocate to provide state legal aid.

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

(3) Upon provision of state legal aid, the authorisation of an advocate to represent or protect a recipient of state legal aid is certified by the confirmation of the advocate that the advocate has been appointed to provide state legal aid. In case of doubt, confirmation concerning the appointment of the advocate may be requested from the Bar Association.

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

### **§ 18<sup>1</sup>. Information system of state legal aid**

(1) The information system of state legal aid is a database maintained for the purpose of organisation of the provision of state legal aid, which forms a part of the state information system and the purpose of which is:

1) electronic administration of data for appointment of a provider of state legal aid;

[RT I, 22.03.2013, 9 – entry into force 01.04.2013]

1<sup>1</sup>) electronic administration of payment of fees and compensation of expenses by way of state legal aid;

[RT I, 22.03.2013, 9 – entry into force 01.04.2013]

2) enabling the electronic availability of the data of the members of the Bar Association;

3) ensuring easier availability of the state legal aid service;

4) obtaining a statistical overview of provision of the state legal aid service.

(2) The chief processor of the information system of state legal aid is the Estonian Bar Association. The Board of the Estonian Bar Association will establish the statutes of the information system of state legal aid.

[RT I, 14.03.2011, 3 – entry into force 24.03.2011]

### **§ 19. Refusal of advocate to provide state legal aid**

(1) If an advocate has commenced providing legal services in accordance with the procedure for provision of state legal aid, the advocate will continue providing legal services until the final adjudication of the case, unless otherwise provided by law. If the recipient of state legal aid applies for the protection of an interest that is in conflict with law or if the alleged claim of the recipient of state legal aid is not based on law or if there is no procedural possibility to protect the rights and interests of the recipient of state legal aid, the provision of state legal aid will be restricted to substantiation of the aforementioned circumstances in writing to the recipient of state legal aid by the advocate.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) In the event of the occurrence of the circumstances specified in § 44 of the Bar Association Act and also if their interests or the interests of their spouse or close relative or a close relative of their spouse in the same case are in conflict with the interests of the recipient of state legal aid, an advocate will not provide state legal aid to the person and is required to refuse to provide legal services or immediately terminate the provision of the legal services already commenced.

(3) With the consent of the Board of the Bar Association or if the advocate is released from the professional confidentiality obligation in accordance with the procedure provided for in subsection 45 (5) of the Bar Association Act, an advocate may terminate the provision of state legal aid on the grounds provided for in subsection 44 (5) of the Bar Association Act. If the recipient of state legal aid is not at fault for termination of the provision of state legal aid or if the participation of an advocate in the proceedings is required by law, the Board of the Bar Association will, without delay, appoint a new advocate to provide state legal aid.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(4) If an advocate terminates the provision of legal services on the basis of subsection (2) of this section and the advocate was aware or should have been aware of the circumstances precluding the provision of legal services at the time of commencing the provision of legal services, the advocate will not be receive a fee for provision of state legal aid.

(5) If an advocate terminates the provision of legal services on the basis of subsection (3) of this section, the advocate will be paid a fee for the work performed in the provision of state legal aid. The said fee will be included in the compensation obligation of the recipient of state legal aid. A recipient of state legal aid will not be released from compensating for the state legal aid fee and state legal aid expenses relating to the provision of legal services terminated on the basis of subsection (3) of this section.

## **§ 20. Change of provider of state legal aid**

(1) By agreement between an advocate providing state legal aid and the recipient of state legal aid, legal services in the same case may be provided to the person by another advocate who grants their consent for the transfer of the obligation to provide state legal aid to such person. The new provider of state legal aid will be appointed on the basis of an order of the court, the Prosecutor's Office or the investigative body in accordance with the procedure provided for in § 18 of this Act. In such an event, the court, the Prosecutor's Office or the investigative body will decide the amount of the state legal aid fee and state legal aid expenses that will be compensated to the former provider of state legal aid.

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

(2) If, under this Act, a provider of state legal aid is unable to continue to provide legal services to a recipient of state legal aid, the provider of state legal aid will submit an application for the appointment of a new provider of state legal aid to the court, the Prosecutor's Office or the investigative body. The new provider of state legal aid will be appointed in accordance with the procedure provided for in § 18 of this Act.

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

(3) Upon exclusion of an advocate providing state legal aid from the Bar Association or their disbarment or upon suspension of the professional activities or long-term incapacity for work or the death of an advocate, and in other events provided by law, the Bar Association will appoint a new provider of state legal aid at the request of the former provider of state legal aid or the recipient of state legal aid or on the basis of an order of the court, the Prosecutor's Office or the investigative body or on its own motion in accordance with the procedure provided for in § 18 of this Act.

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

(3<sup>1</sup>) The court will, at the request of the recipient of legal aid or on its own motion, remove an advocate from the provision of state legal aid by an order if the advocate has demonstrated incompetence or negligence. The court may request the submission of clarifications from the recipient of state legal aid and the advocate beforehand. The court will forward the order concerning the removal of the advocate from the provision of state legal aid to the Bar Association for the commencement of proceedings of its court of honour and, if necessary, for the appointment of a new provider of state legal aid.

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

(4) If the provider of state legal aid is changed, the new provider of state legal aid will continue providing the person with legal services from where the former provider of state legal aid finished. The state legal aid fee will be paid to the former provider of state legal aid according to the work performed and the state legal aid expenses borne thereby will be compensated for.

## **Chapter 4**

### **PAYMENT OF STATE LEGAL AID FEE TO ADVOCATE AND COMPENSATION FOR STATE LEGAL AID EXPENSES**

## **§ 21. State legal aid fee and state legal aid expenses**

(1) The state legal aid fee is a fee paid to an advocate for provision of state legal aid.

(2) State legal aid expenses are the necessary costs incurred by an advocate or the management of a law office upon provision of state legal aid by the advocate.

(3) The bases for calculation of fees payable for provision of state legal aid, the procedure for payment and rates of the fees, and the extent of and procedure for compensation for expenses relating to provision of state legal aid (hereinafter *procedure for fees and expenses*) will be established by the minister responsible for the field, taking into account the amount of funds allocated for such purpose from the state budget, an estimate of the volume of state legal aid and having heard the opinion of the board of the Bar Association beforehand. During the budgetary year, the minister responsible for the field may alter the bases for the calculation of the fees payable for the provision of state legal aid, the procedure for payment, the rates of fees and the extent of and procedure for compensation for expenses.

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

(3<sup>1</sup>) [Repealed – RT I, 22.06.2016, 21 – entry into force 01.08.2016]

(32) If the state budget has not been passed by the beginning of the budgetary year, the Ministry of Justice will allocate one twelfth of the relevant expenses in the budget for the previous year to the Bar Association for covering state legal aid fees and state legal aid expenses each month until the state budget is passed.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(3<sup>3</sup>) The procedure for submission of documents via the e-file for the purpose of identification of the fees and expenses to be compensated by way state legal aid will be established by a regulation of the minister responsible for the field.

[RT I, 22.03.2013, 9 – entry into force 01.01.2014]

(4) The requirement to maintain the confidentiality of persons who request an advocate to provide legal services and of the amount of the fee paid for legal services, as provided for in subsection 45 (1) of the Bar Association Act, does not apply to the provision of state legal aid.

## **§ 22. Determination of amount of state legal aid fee and extent of compensation for state legal aid expenses**

(1) In order to determine the amount of the state legal aid fee and the extent of compensation for the state legal aid expenses, the advocate will submit to the court, Prosecutor's Office or investigative body who decided on granting state legal aid an application that must set out:

1) the fee payable and the necessary costs incurred subject to compensation on the basis of the procedure for fees and expenses specified in subsection 21 (3) of this Act together with the calculations, taking into account the provisions of subsection (5) of this section;

2) the justified steps taken in the course of provision of state legal aid, the justified time spent for the taking the steps, the date of taking each step and the time of commencement and completion of a step if the state legal aid fee is calculated as an hourly fee;

3) the justified steps taken in the course of provision of state legal aid and the date of taking each step if the state legal aid fee is calculated as a flat fee;

4) the grounds for the time spent, the steps taken and the necessity and justification of the expenses incurred.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) The documents certifying the expenses incurred by the advocate or the management of the law office will be annexed to the application if the court, investigative body or the Prosecutor's Office cannot verify the incurred expenses by electronic means. The minister responsible for the field may establish coefficients applicable upon calculation of the fee, which fully or partially cover the expenses of state legal aid.

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

(3) An advocate will submit an application provided for in subsection (1) of this section at the end of each procedural step in the pre-trial proceedings of cases concerning offences and at the end of the proceedings in each court instance or at least three months after adjudication of an application submitted for determining the amount of the state legal aid fee and the extent of compensation for state legal aid expenses. If state legal aid is provided in enforcement proceedings, upon drawing up a legal document, in the course of legal counselling a person or representing a person in any other way, the application will be submitted after termination of provision of legal aid.

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

(4) The form of the application provided for in subsection (1) of this section will be established by the Board of the Bar Association. An advocate will submit the application specified in subsection (1) of this section by electronic means, except in the events and in accordance with the procedure established by the minister responsible for the field. The minister responsible for the field may establish specific requirements and a procedure for the applications and the submission thereof by electronic means.

[RT I, 14.03.2011, 3 – entry into force 24.03.2011]

(5) The use of the application form and compliance with the procedure for the submission thereof is mandatory for advocates. An application will not be reviewed if a non-standard application is submitted for determining the amount of the state legal aid fee and the extent of compensation for the state legal aid expenses, the application does not set out all the information required in accordance with subsection (1) of this section or the application is not submitted in accordance with the procedure in force.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(6) The amount of the state legal aid fee and the extent of compensation for the state legal aid expenses will be determined on the basis of the procedure for fees and expenses specified in subsection 21 (3) of this Act which was in force at the time of taking the step that served as the basis for payment of the corresponding fee or compensation for the expenses.

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

(7) The court, Prosecutor's Office or investigative body that decided the granting of state legal aid will verify whether the application submitted by an advocate is correct and justified and determine on the basis of the application of the advocate the justified time spent for provision of state legal aid, the justified steps taken for provision of state legal aid and the justified fee payable to the advocate for provision of state legal aid and the necessary expenses incurred upon provision of state legal aid to be compensated. The aforementioned will be determined on the basis of the application of the advocate at the end of the pre-trial or pre-litigation proceedings of cases and at the end of the proceedings in each court instance or at least three months after the adjudication of the application submitted for determining the amount of the state legal aid fee and the extent of compensation for state legal aid expenses. In order to determine the information provided in this subsection,

the court, investigative body or Prosecutor's Office may request additional clarifications or documents from the advocate.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

### **§ 23. Procedure for determination of state legal aid fee and state legal aid expenses**

(1) If state legal aid is granted in the course of judicial proceedings, the court conducting the proceedings will determine the state legal aid fee and state legal aid expenses in a judgment made in the case or an order terminating the proceedings, or the state legal aid fee and state legal aid expenses will be determined in accordance with the procedure for the determination of procedural expenses provided for in the Code of Civil Procedure.

(2) Outside judicial proceedings, the county court or the administrative court will determine the state legal aid fee and state legal aid expenses in proceedings on petition.

[RT I, 21.05.2014, 1 – entry into force 01.01.2015]

(3) The investigative body or the Prosecutor's Office will determine the state legal aid fee and state legal aid expenses in accordance with the procedure provided for in the Code of Criminal Procedure.

(4) In accordance with Acts regulating judicial proceedings, the Bar Association has the right to appeal against a court decision made in an administrative or civil case regarding determining the amount of state legal aid and the extent of compensation of state legal aid expenses.

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

### **§ 24. Payment of state legal aid fee and state legal aid expenses**

(1) The Bar Association will organise payment of the state legal aid fee and state legal aid expenses to an advocate who has provided state legal aid on the basis of a decision or an order of an investigative body or the Prosecutor's Office. In the event of doubt, the Board of the Bar Association is required to verify whether the state legal aid fee and state legal aid expenses are justified. In order to assess whether the state legal aid fee and state legal aid expenses are justified, the Bar Association has the right to demand clarifications from the advocate, the recipient of state legal aid, the court, the investigative body, the Prosecutor's Office, and to examine the records of the case. The decision of the court or the order of the investigative body or the Prosecutor's Office will not release the advocate from liability for the submission of false or clearly unjustified information in an application for determining the amount of the state legal aid fee and the extent of compensation for the state legal aid expenses.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) An advocate will not request remuneration for the provision of state legal aid from the person to whom the advocate provided legal services in the given case.

## **Chapter 5 COMPENSATION FOR STATE LEGAL AID FEE AND STATE LEGAL AID EXPENSES**

### **§ 25. Compensation for state legal aid fee and state legal aid expenses**

(1) After termination of the provision of a person with legal services a court will, in accordance with the procedure provided for in § 23 of this Act, determine the obligation of the recipient of state legal aid to fully or partially compensate the state for the fee and expenses paid to the advocate to the justified and necessary extent thereof.

[RT I 2009, 1, 1 – entry into force 01.01.2010]

(2) Upon deciding on the granting of state legal aid, the court will determine the exact scope of the compensation obligation of the recipient of state legal aid and establish a detailed procedure for compensation, taking into account the scope of the compensation obligation determined in accordance with § 16 of this Act and the procedure for compensation and the advance payment required of the recipient.

(3) In the event of significant changes in the financial situation or solvency of a recipient of state legal aid, the court may, at the request of the recipient of state legal aid or the Ministry of Finance or a governmental authority within its area of government, amend the scope of the compensation obligation of the recipient of state legal aid or the procedure for compensation determined before provision of legal services, taking into account the circumstances specified in subsections 14 (1)-(3) or 13 (5) of this Act.

(4) A person who has received state legal aid in criminal and misdemeanour proceedings will compensate for the state legal aid fee and state legal aid expenses in accordance with the procedure provided for in the Code of Criminal Procedure.

## **§ 26. Collection of state legal aid fee and state legal aid expenses**

(1) A judgment or order ordering a person to pay the state legal aid fee and state legal aid expenses will be sent by the court to the authority designated by a directive of the minister responsible for the field.  
[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(2) A person who has received state legal aid and is required to compensate for the state legal aid fee and state legal aid expenses under this Act or a person who has been ordered by a court to pay the legal aid expenses because the party in whose favour a judgment was made received state legal aid must comply with the judgment or order within the term provided for therein. If the judgment or order does not set out a term for compliance therewith, the judgment or order must be complied with within 15 days as of the entry into force thereof.

(3) The authority designated by a directive of the minister responsible for the field may forward the judgment or order specified in subsection (1) of this section for enforcement if the obligated person has failed to comply with the judgment or order within the term provided for therein or, if no term has been specified, within 15 days after the entry into force of the judgment or order.  
[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

## **§ 27. Release from obligation to compensate for state legal aid fee and state legal aid expenses**

(1) A recipient of state legal aid does not need to compensate for the state legal aid fee or state legal aid expenses and an advance payment paid for the performance of the compensation obligation will be refunded to the recipient as follows if:

1) in the adjudication of a civil case, the opposing party is ordered to pay the legal expenses in full or in part – to the extent the legal expenses are borne by the opposing party;

1<sup>1</sup>) a representative was appointed to the person in non-contentious civil proceedings on petition without the person's request;

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

2) the administrative court grants the person's appeal in full or in part – to the extent the appeal is granted;

3) the administrative court terminates proceedings in the case in connection with the approval of a compromise;

[RT I, 23.02.2011, 3 – entry into force 01.01.2012]

4) the administrative authority grants the person's intra-authority appeal in full or in part – to the extent the intra-authority appeal is granted.

(2) A person who has received state legal aid in criminal or misdemeanour proceedings is released from the obligation to compensate for the state legal aid fee and state legal aid expenses on the grounds and in accordance with the procedure provided for in Chapter 7 of the Code of Criminal Procedure or § 23 and subsection 38 (1) of the Code of Misdemeanour Procedure.

(3) A recipient of state legal aid will not be released from the obligation to compensate for the state legal aid fee and state legal aid expenses on the conditions provided for in subsection (1) of this section to the extent in which the fee paid to the advocate and the necessary costs compensated to the advocate were caused by the failure of the recipient of state legal aid to appear, without a legal impediment, when summoned by the court or administrative authority or failure of the recipient of state legal aid to comply with a demand of the court or administrative authority if appearing or compliance with the demand is mandatory in accordance with law.

## **§ 28. Compensation obligation upon improvement of financial situation**

(1) If a recipient of state legal aid was fully or partially released from compensation for the state legal aid fee and state legal aid expenses, except on the grounds provided for in subsections 27 (1) or (2) of this Act, and the recipient's financial situation or solvency improves significantly within five years after terminating the provision of state legal aid, the court that decided the granting of state legal aid will, on the basis of an application of the Ministry of Finance or an authority within the area of government of the Ministry of Finance designated by the minister responsible for the field, demand that the person compensate for the state legal aid fee and state legal aid expenses in a lump sum or in instalments.

(2) Compensation for the state legal aid fee and state legal aid expenses will not be required if the estimated costs of collection exceed or are equal to the collectable amount or more than three years have passed since the claim for the compensation of the state legal aid fee and state legal aid expenses fell due.

(3) The Ministry of Finance or an authority within the area of government of the Ministry of Finance designated by the minister responsible for the field has the right to request supplementary evidence or information from persons that received state legal aid and credit institutions concerning the improvement of their financial situation or solvency within five years after terminating the provision of state legal aid. An inquiry must be replied to within a reasonable term determined by the Ministry of Finance or an authority within the area of government of the Ministry of Finance designated by the minister responsible for the field.

## **§ 29. Compensation obligation upon submission of false information**

(1) The court that decided on the granting of state legal aid will, on the basis of an application of the Ministry of Finance or an authority within the area of government of the Ministry of Finance designated by the minister responsible for the field, order payment of the state legal aid fee and state legal aid expenses in full extent from a person who has knowingly submitted false information upon application for state legal aid and who, upon submission of correct information, would not have been fully or partially released from the obligation to compensate for the state legal aid fee and state legal aid expenses.

(2) Besides the state legal aid fee and state legal aid expenses, the court will order that a person who submitted false information pay an interest of six per cent per year on the amount of the overdue state legal aid fee and state legal aid expenses calculated as of the payment of the fee and compensation for the costs to the provider of state legal aid.

# **Chapter 6 FINANCING OF AND ADMINISTRATIVE SUPERVISION OVER STATE LEGAL AID**

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

## **§ 30. Principles of financing state legal aid**

(1) Provision of state legal aid is financed from funds allocated for it from the state budget.

(2) The state ensures that sufficient funds are allocated for provision of state legal aid.

(3) The Bar Association ensures that funds earmarked for provision of state legal aid are kept separately from the other assets of the Bar Association.

## **§ 31. Supporting accessibility of legal advice**

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

(1) In order to improve access to legal advice in general, the state supports, within the limits of the funds allocated in the state budget, the winner of the competition specified in subsection (2) of this section in order to ensure the provision of the persons in need of aid with high-quality legal aid.

(2) The Ministry of Justice organises a public competition for distributing the aid. A contract will be awarded to the winner of the competition for up to five years. There can be one winner or multiple winners.

(3) The minister responsible for the field will, by a regulation, establish:

- 1) the target group and fields of law of legal advice;
- 2) the conditions of and procedure for the competition of distribution of aid for legal advice;
- 3) requirements for applications and applicants;
- 4) requirements for legal aid to be supported and for the organisation of granting such aid;
- 5) the self-financing portion of a person who needs legal aid supported from the state budget;
- 6) requirements for reports to be submitted by the recipient of the aid.

(4) The Ministry of Justice exercises supervision over compliance with the requirements established on the basis of subsection (3) of this section and the contract concluded with the recipient of aid. If the recipient of aid fails to perform their duties, the Ministry of Justice may make a precept to them and impose on them a penalty payment of up to 10 000 euros in accordance with the procedure established in the Substitutive Enforcement and Penalty Payment Act for the purpose of ensuring that the precept is complied with. The Ministry of Justice may recover aid used for a purpose other than the intended purpose back to the state budget.

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

## **§ 32. Reporting and administrative supervision over activities of Bar Association**

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

(1) Not later than by April 1 the Bar Association will submit to the Ministry of Justice an annual overview of provision of state legal aid in the previous year and payment of state legal aid fees and state legal aid expenses to advocates.

(2) The specific conditions for the use of funds allocated for the provision of state legal aid may be established by a regulation of the minister responsible for the field.

(3) Not later than by April 1 the Ministry of Finance or an authority within the area of government of the Ministry of Finance designated by the minister responsible for the field will submit to the Ministry of Justice an annual overview of the collection of state legal aid fees and state legal aid expenses from persons with the

compensation obligation. The procedure for the submission of overviews will be established by a regulation of the minister responsible for the field.

(4) Upon exercising supervision over the proper performance of functions arising from this Act by the Bar Association, the Ministry of Justice has the right to:

- 1) receive documents from the Bar Association concerning the use of funds allocated for provision of state legal aid and payment of state legal aid fees and state legal aid expenses;
- 2) carry out inspection of the economic activities of the Bar Association in order to verify the expediency and purposefulness of the use of the funds allocated for provision of state legal aid;  
[RT I 2009, 1, 1 – entry into force 01.01.2010]
- 3) receive other information from the Bar Association necessary for exercising supervision over the legality and efficiency of the use of funds allocated for provision of state legal aid.

## **Chapter 7**

### **INTERNATIONAL LEGAL AID**

#### **§ 33. Granting state legal aid in connection with proceedings regarding civil case in court of Member State of European Union and other body resolving disputes**

(1) An Estonian citizen or a person residing in Estonia on the basis of a residence permit who complies with the requirements of subsection 6 (1) of this Act may receive the state legal aid provided for in clauses 4 (3) 4) and 7) to 9) in connection with proceedings regarding their civil case in a court of a Member State of the European Union or in another body resolving disputes until legal aid is asked from a competent body of the corresponding Member State of the European Union.

(2) If state legal aid is granted in a dispute specified in subsection (1) of this section, this Act will apply, taking into account the specifications provided for in this Chapter.

(3) An application for the receipt of state legal aid on the basis of subsection (1) of this section will be submitted to the Harju County Court.

(4) An application and the documents annexed thereto may be submitted in Estonian or in English.  
[RT I 2009, 1, 1 – entry into force 01.01.2010]

#### **§ 34. Translation assistance in connection with civil proceedings in court of member state of European Union and another body resolving disputes**

(1) In addition to the state legal aid provided for in § 33 of this Act, an Estonian citizen or a person residing in Estonia on the basis of a residence permit who complies with the requirements of subsection 6 (1) of this Act may receive translation assistance upon application for legal aid in disputes specified in subsection 33 (1) of this Act in a Member State of the European Union where the competence of a court or another body resolving disputes includes the adjudication of their civil case.

(2) The translation assistance specified in subsection (1) of this section means the translation of an application for legal aid submitted to a body processing applications for legal aid in a Member State of the European Union and the necessary documents justifying the application and annexed thereto into a foreign language in which the relevant bodies of the corresponding Member State process the applications for legal aid.

#### **§ 35. Forwarding of applications for legal aid**

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

(1) In order to receive state legal aid in connection with civil proceedings in a court of a Member State of the European Union or another body resolving disputes, an application may be submitted to a competent body of the European Union or via the Harju County Court. The provisions of § 193 of the Code of Civil Procedure apply to the forwarding of applications for state legal aid via the Harju County Court.

(2) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

(3) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

(4) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

(5) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

(6) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

### **§ 36. State legal aid in enforcement proceedings regarding official document of foreign state**

(1) A person specified in subsection 6 (1) of this Act may receive state legal aid specified in clause 4 (3) 7) of this Act in accordance with the procedure provided for in this Act in connection with enforcement in Estonia of an official document of a foreign state, which is recognised in Estonia.

(2) An application for the receipt of state legal aid on the basis of subsection (1) of this section will be submitted in accordance with subsection 10 (3) of this Act.

(3) An application and the documents annexed thereto may be submitted in Estonian or English.

### **§ 37. Granting State-funded legal aid for recourse to the European Court of Human Rights**

(1) An Estonian citizen or a person residing in Estonia on the basis of a residence permit who meets the requirements of subsection 1 of § 6 of this Act may, in accordance with the rules provided by this Act, be granted State-funded legal aid for lodging an application with the European Court of Human Rights until they become eligible to apply for legal aid from the European Court of Human Rights, provided the alleged violation of the Convention for the Protection of Human Rights and Fundamental Freedoms or of its Additional Protocols which are binding on Estonia that serves as the reason for the application has been committed by the Estonian State.

(2) An application for the grant of State-funded legal aid under subsection 1 of this section is filed in accordance with subsection 3 § 10 of this Act.

(3) The district court refuses to grant State-funded legal aid under subsection 1 of this section if the court finds that the application would not be admissible under Article 35 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

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

### **§ 37<sup>1</sup>. Granting of state legal aid based on Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations**

(1) Upon granting state legal aid in proceedings carried out on the basis of Council Regulation (EC) No. 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations the provisions of this Act regulating the granting of state legal aid apply only insofar as the Regulation does not provide otherwise.

(2) The functions of the central authority provided for in the regulation specified in subsection (1) of this section are performed by the Ministry of Justice.

(3) If on the basis of the regulation specified in subsection (1) of this section translation assistance needs to be granted to an entitled person, the court will appoint, above all, a sworn translator to provide translation assistance. The provisions of this Act applicable to advocates apply to translators, taking into account the specifics of translation assistance.

[RT I, 14.03.2011, 2 – entry into force 18.06.2011]

### **§ 37<sup>2</sup>. Granting of state legal aid based on the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance**

(1) Upon granting state legal aid in proceedings carried out on the basis of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (OJ L 192, 22.07.2011, pp. 51–70), the provisions of this Act regarding the granting of state legal aid apply only insofar as the Convention does not provide otherwise.

(2) The functions of the central authority provided for in the regulation specified in subsection (1) of this section are performed by the Ministry of Justice.

[RT I, 31.12.2014, 1 – entry into force 10.01.2015]

## **Chapter 8 IMPLEMENTATION OF ACT**

### **§ 38. Application of Act to undertakings whose area of activity includes provision of legal services**

(1) A person who complies with the requirements of subsection 23 (1) of the Bar Association Act, regarding whom the circumstances specified in clauses 27 (1) 1)-3) and 5)-7) of the Bar Association Act do not exist and who, after completion of a nationally recognised curriculum of academic legal studies and immediately prior to joining the Bar Association, has provided, for at least three consecutive years, legal services as a self-employed person registered in the commercial register or through a company whose areas of activity include provision of legal services and in which the person is a shareholder, will be admitted to the Bar Association as a senior

assistant to a sworn advocate, if the person has passed the examination of a senior assistant to a sworn advocate. An application to be admitted to the Bar Association on the basis of this section will be submitted to the Board of the Bar Association not later than by 1 September 2005.

(2) A person admitted to the Bar Association in accordance with this section may provide legal services and act as the management of a law office on the same grounds as a sworn advocate.

(3) A person specified in subsection (1) of this section who has passed the examination of a senior assistant to a sworn advocate will lose the right to provide legal services and act as the management of a law office if the person does not pass the examination of a sworn advocate within two years as of joining the Bar Association. The examination of a sworn advocate cannot be taken before one year has passed after admitting the person as a member of the Bar Association as a senior assistant to a sworn advocate.

(4) A person who has become a member of the Bar Association in accordance with subsection (1) of this section will, not later than within two months after becoming a member of the Bar Association, submit to the registrar of the commercial register an application for the transformation of the company through which the person provides legal services into a company of advocates. The provisions of subsection 54 (1) of the Bar Association Act apply to the company being transformed as of 1 January 2007. A senior assistant of a sworn advocate who has become a member of the Bar Association in accordance with subsection (1) of this section is deemed to be equal to a sworn advocate within the meaning of § 54 of the Bar Association Act.

(5) A person who applies for admission to the Bar Association in accordance with subsection (1) of this section will, within six months after becoming a member of the Bar Association, bring its activities into compliance with § 82<sup>1</sup> of the Bar Association Act.

(6) The provisions of § 48 of the Bar Association Act concerning the professional liability insurance of advocates apply to a person who acts as the management of a law office and has become a member of the Bar Association in accordance with this section as of 1 January 2006.

(7) State fees will not be charged for entry in the commercial register of the amendments made on the basis of this section.

### **§ 38<sup>1</sup>. Specifications of application of fees and expenses procedure**

If the amount of the state legal aid fee or the extent of compensation of the state legal aid expenses has not been established regarding payment of the fee payable for state legal aid provided or payment of compensation for state legal aid expenses incurred before 1 August 2016, the establishment thereof will be subject to the procedure for fees and expenses established on the basis of the wording of subsection 21 (3) of this Act that entered into force on 1 August 2016.

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

### **§ 38<sup>2</sup>. Application of Act to contracts supporting access to legal advice**

Subsection 31 (4) of this Act does not apply to contracts supporting access to legal advice, which have been awarded before the entry into force of the provision.

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

### **§ 38<sup>3</sup>. Renewal of contracts supporting access to legal advice**

The minister responsible for the field may renew contracts supporting access to legal advice, which are in force at the time of entry into force of this section, until a contract has been awarded to the winner of a new competition.

[RT I, 28.12.2016, 14 – entry into force 07.01.2017]

**§ 39.–§ 48.**[Omitted from this text.]

### **§ 49. Entry into force of Act**

(1) This Act will enter into force on 1 March 2005.

(2) Sections 33-35 of this Act will enter into force on 30 November 2004, except in the part where state legal aid is applied for in extrajudicial proceedings. This Act applies to applications for state legal aid in extrajudicial proceedings in international disputes as of 30 May 2006.