

|                        |            |
|------------------------|------------|
| Issuer:                | Riigikogu  |
| Type:                  | act        |
| In force from:         | 19.03.2018 |
| In force until:        | 10.06.2019 |
| Translation published: | 12.03.2018 |

# Imprisonment Act

Passed 14.06.2000  
RT I 2000, 58, 376  
Entry into force 01.12.2000

Amended by the following acts

| Passed                           | Published           | Entry into force                |
|----------------------------------|---------------------|---------------------------------|
| correction notice(RT I 2000, 72) |                     |                                 |
| 12.06.2002                       | RT I 2002, 56, 350  | 01.09.2002                      |
| single text on paper RT          | RT I 2002, 84, 492  |                                 |
| 16.10.2002                       | RT I 2002, 90, 521  | 01.01.2003                      |
| 18.12.2002                       | RT I 2003, 4, 20    | 01.03.2003                      |
| 29.01.2003                       | RT I 2003, 20, 116  | 10.03.2003                      |
| 12.02.2003                       | RT I 2003, 26, 157  | 01.04.2003, partially01.01.2005 |
| 07.08.2003                       | RT I 2003, 58, 387  | 01.09.2003                      |
| 19.11.2003                       | RT I 2003, 78, 524  | 01.01.2004                      |
| 15.06.2005                       | RT I 2005, 39, 308  | 01.01.2006                      |
| 28.09.2005                       | RT I 2005, 54, 430  | 01.01.2006                      |
| 26.01.2006                       | RT I 2006, 7, 42    | 04.02.2006                      |
| 15.02.2006                       | RT I 2006, 12, 79   | 01.04.2006, partially01.07.2006 |
| 17.05.2006                       | RT I 2006, 26, 191  | 01.08.2006                      |
| 27.09.2006                       | RT I 2006, 46, 333  | 01.01.2007                      |
| 22.11.2006                       | RT I 2006, 56, 416  | 01.01.2007                      |
| 13.12.2006                       | RT I 2006, 63, 466  | 01.01.2007                      |
| 13.12.2006                       | RT I 2006, 63, 466  | 01.02.2007                      |
| 13.12.2006                       | RT I 2006, 63, 466  | 01.09.2007                      |
| 13.12.2006                       | RT I 2006, 63, 466  | 01.01.2008                      |
| 13.12.2006                       | RT I 2006, 63, 466  | 01.01.2009                      |
| 13.12.2006                       | RT I 2006, 63, 466  | 01.01.2015                      |
| 20.03.2008                       | RT I 2008, 17, 118  | 30.04.2008                      |
| 20.03.2008                       | RT I 2008, 17, 118  | 01.06.2008                      |
| 20.03.2008                       | RT I 2008, 17, 118  | 01.01.2009                      |
| 19.06.2008                       | RT I 2008, 35, 213  | 01.01.2009                      |
| 18.12.2008                       | RT I 2009, 4, 26    | 26.01.2009                      |
| 17.12.2008                       | RT I 2009, 5, 35    | 01.07.2009                      |
| 20.02.2009                       | RT I 2009, 15, 93   | 01.03.2009                      |
| 20.05.2009                       | RT I 2009, 29, 175  | 01.07.2009                      |
| 18.06.2009                       | RT I 2009, 35, 232  | 27.06.2009                      |
| 18.06.2009                       | RT I 2009, 36, 234  | 01.07.2009                      |
| 15.06.2009                       | RT I 2009, 39, 261  | 24.07.2009, partially01.12.2009 |
| 15.06.2009                       | RT I 2009, 39, 262  | 24.07.2009                      |
| 30.09.2009                       | RT I 2009, 49, 331  | 01.01.2010                      |
| 26.11.2009                       | RT I 2009, 62, 405  | 01.01.2010                      |
| 16.06.2010                       | RT I 2010, 44, 258  | 19.07.2010                      |
| 25.11.2010                       | RT I, 09.12.2010, 1 | 01.01.2011                      |
| 09.02.2011                       | RT I, 04.03.2011, 1 | 01.04.2011                      |

|            |                       |  |
|------------|-----------------------|--|
| 17.02.2011 | RT I, 21.03.2011, 2   | 01.01.2012 Repealed[RT I, 29.06.2012, 2]   |
| 08.12.2011 | RT I, 22.12.2011, 3   | 23.12.2011 Repealed[RT I, 29.06.2012, 2]   |
| 07.12.2011 | RT I, 28.12.2011, 1   | 01.01.2012   |
| 08.12.2011 | RT I, 29.12.2011, 1   | 01.01.2012   |
| 06.06.2012 | RT I, 29.06.2012, 1   | 01.04.2013   |
| 06.06.2012 | RT I, 29.06.2012, 2   | 09.07.2012, partially01.01.2013  |
| 13.06.2012 | RT I, 06.07.2012, 1   | 01.04.2013   |
| 14.06.2012 | RT I, 04.07.2012, 1   | 01.08.2012   |
| 05.12.2012 | RT I, 20.12.2012, 3   | 01.01.2013, partially01.04.2013  |
| 12.06.2013 | RT I, 02.07.2013, 1   | 01.09.2013, partially01.01.2014  |
| 12.06.2013 | RT I, 03.07.2013, 2   | 01.10.2013   |
| 20.06.2013 | RT I, 05.07.2013, 2   | 15.07.2013   |
| 19.02.2014 | RT I, 13.03.2014, 4   | 01.07.2014, partially23.03.2014  |
| 26.03.2014 | RT I, 16.04.2014, 1   | 26.04.2014   |
| 19.06.2014 | RT I, 12.07.2014, 1   | 01.01.2015   |
| 19.06.2014 | RT I, 29.06.2014, 109 | 01.07.2014, the titles of ministers replaced on the basis of subsection 107 <sup>3</sup> (4) of the Government of the Republic Act.  |
| 19.11.2014 | RT I, 13.12.2014, 1   | 01.01.2016, date of entry into force changed to 01.07.2016 [RT I, 17.12.2015, 1]   |
| 18.02.2015 | RT I, 10.03.2015, 4   | 01.06.2015, partially 01.01.2018   |
| 18.02.2015 | RT I, 19.03.2015, 1   | 29.03.2015   |
| 18.02.2015 | RT I, 23.03.2015, 3   | 01.07.2015   |
| 18.02.2015 | RT I, 23.03.2015, 5   | 01.07.2015   |
| 25.11.2015 | RT I, 17.12.2015, 1   | 20.12.2015, partially 01.01.2016 and 01.07.2016  |
| 15.02.2017 | RT I, 01.03.2017, 1   | 01.04.2017   |
| 14.06.2017 | RT I, 07.07.2017, 1   | 01.11.2017   |
| 14.02.2018 | RT I, 09.03.2018, 1   | 19.03.2018   |
| 15.02.2023 | RT I, 18.02.2023, 3   | 15.02.2023 – A judgment of the Supreme Court en banc declares § 31 <sup>1</sup> of the Imprisonment Act in the wording in force from 24 July 2009 to 31 July 2019 unconstitutional and invalid to the extent that it precluded a prisoner serving a sentence in a closed prison from accessing the part of the webpage of the Supreme Court where decisions of the Supreme Court are not published and the online publication of Ametlikud Teadaanded. |

## Chapter 1 GENERAL PROVISIONS

### § 1. Scope of application of Act

This Act provides the procedure for and organisation of execution of imprisonment, detention and custody pending trial, and the definition and conditions of prison service and service as a prison officer.  
[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

### § 1<sup>1</sup>. Application of Administrative Procedure Act

(1) The provisions of the Administrative Procedure Act apply to administrative proceedings prescribed in this Act, taking account of the specifications provided by this Act.  
[RT I 2006, 63, 466 - entry into force 01.01.2008]

(2) Clause 31 (1) 1), subsection 35 (2) and clause 62 (3) 1) of the Administrative Procedure Act do not apply to the administrative proceedings prescribed in this Act and to the administrative proceedings prescribed on the basis of this Act.

[RT I 2006, 63, 466 - entry into force 01.01.2008]

(3) A minor or any other person with restricted active legal capacity may independently perform procedural acts in administrative procedure independently.

[RT I 2006, 63, 466 - entry into force 01.01.2008]

(4) All challenges and requests for commencement of administrative proceedings and all requests in administrative proceedings shall be submitted in writing unless the minister responsible for the area has permitted, by a regulation, submission of oral requests.

[RT I 2006, 63, 466 - entry into force 01.01.2008]

(4<sup>1</sup>) The Ministry of Justice shall review the challenges filed against administrative acts issued or measures taken by a director of a prison. The prison service shall review challenges filed against administrative acts issued or measures taken by other persons working at the prison.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(5) Prisoners and persons in custody have the right to file complaints with an administrative court against administrative acts issued or measures taken by a prison on the bases and pursuant to the procedure provided for in the Code of Administrative Court Procedure provided that the prisoner or person in custody has previously filed a challenge to the prison service or the Ministry of Justice and the prison service or the Ministry of Justice has rejected the challenge, satisfied the challenge in part, denied the challenge or failed to adjudicate the challenge during the term.

[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

(6) [Repealed - RT I 2009, 39, 261 - entry into force 24.07.2009]

(7) A challenge shall be resolved within 30 days as of the date of the forwarding of the challenge to the administrative authority which reviews the challenge.

[RT I 2006, 63, 466 - entry into force 01.01.2008]

(8) A prisoner or a person in custody has the right of recourse to an administrative court for compensation for damage caused by a prison on the condition that the prisoner or the person in custody has previously submitted an application for compensation for damage pursuant to the procedure provided for in the State Liability Act to the prison and the prison has returned the application or refused to satisfy the application or to review the application during the term.

[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

(8<sup>1</sup>) If a challenge or an application is rejected due to the reason that the person filing the challenge or application failed to eliminate the deficiencies in the challenge or application within the designated term, the prisoner or the person in custody has no right to file an application with an administrative court concerning the same object of the challenge proceedings or an application for compensation for damage.

[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

(9) Challenges of houses of detention shall be resolved pursuant to the general procedure of administrative procedures.

[RT I 2006, 63, 466 - entry into force 01.01.2008]

## **§ 2. Prisoner**

For the purposes of this Act, a prisoner means a convicted offender who is serving a sentence of imprisonment in a prison.

## **§ 2<sup>1</sup>. Person in detention after service of sentence**

[Repealed - RT I, 05.07.2013, 2 - entry into force 15.07.2013]

## **§ 3. Detained person**

For the purposes of this Act, a detained person means a person who is serving detention in a house of detention.

[RT I 2006, 63, 466 - entry into force 01.01.2009]

#### **§ 4. Person in custody**

For the purposes of this Act, a person in custody means a person who is taken into custody as a preventive measure and who is serving custody pending trial in a ward prescribed for custody pending trial in a closed prison or in a house of detention.

#### **§ 4<sup>1</sup>. Respect of human dignity and compliance with rights**

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

(1) Prisoners, detained persons or persons in custody are treated in a manner that respects their human dignity and ensures that their serving of the sentence or being held in custody does not cause them more suffering or inconvenience than that inevitable in association with detention in prisons or houses of detention.  
[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

(2) Liberties of prisoners, detained persons or persons in custody shall be subject to the restrictions provided by law. Unless the law provides a specific restriction, a prison, the Ministry of Justice or a house of detention may apply only such restrictions which are necessary for reasons of security of the prison or house of detention. The restrictions shall comply with their objective of application and the principles of human dignity and may not distort the nature of the other rights and liberties provided by law.  
[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

#### **§ 5. Treatment plan**

(1) A treatment plan determines the prisons competent to receive prisoners, persons in detention after service of a sentence and persons in custody.  
[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

(2) A treatment plan shall be prepared on the basis of the provisions of subsection 11 (1) of this Act.

(3) A treatment plan shall be approved the minister responsible for the area.

#### **§ 5<sup>1</sup>. Database of prisoners, detained persons, persons in custody and probationers**

(1) The database of prisoners, detained persons, persons in custody and probationers (hereinafter *prisoners' register*) is a database in the state information system the objective of which is:

- 1) to enter the personal data of prisoners, detained persons, persons in custody and probationers specified in § 2 of the Probation Supervision Act in one database and process these;
- 2) to provide reliable information concerning a person's imprisonment, custody pending trial and serving detention or being under probation supervision and course of execution of imprisonment;
- 3) to maintain records of persons serving imprisonment, custody pending trial and detention or being under probation supervision;
- 4) to process the information of persons and vehicles, which enter and exit a prison, and technical devices accompanying them in order to decide on allowing entry to the prison, and ensure security and order in the prison;
- 5) to enable the prison service and detention house, in the performance of their functions, quickly and efficiently process the personal data entered and stored in the database;
- 6) to enable preservation, storage of electronic documents, and communication and sending of information and documents, including information exchange with other databases;
- 7) to ensure systematized collection of information concerning for conducting surveys, statistical surveys and making criminal policy decisions;
- 8) to enable exercise of supervision over prisons and detention houses;
- 9) to consolidate information in order to ensure security and order in prisons;
- 10) to consolidate information concerning surveillance proceedings and parties related thereto.

[RT I, 10.03.2015, 4 - entry into force 01.01.2018]

(2) The controller of the prisoners' register database is the Ministry of Justice. The processors of the prisoners' register shall be provided for in the statutes of the prisoners' register.

(3) The prisoners' register shall be established and the statutes thereof shall be approved by a regulation of the Government of the Republic.

[RT I, 10.03.2015, 4 - entry into force 01.06.2015]

#### **§ 5<sup>2</sup>. Access to prisoners' register and release of data**

(1) Data entered in the prisoners' register are intended for internal use.

(2) Data are released to persons or databases specified in the statutes of the prisoners' register only for the purpose of performance of the functions assigned by an Act or legislation passed on the basis thereof and to the extent necessary.

(3) Data may be transmitted to other countries for compliance with law, international agreements or other international obligations binding on Estonia only in the case the data are used for the performance of the functions determined by law and in compliance with the purpose of processing and entry of data in databases.

(4) Prisoners, detained persons, persons in custody and probationers are released data entered in the database about them on the basis of an application which bears their digital or hand-written signature.

(5) On the basis of the application provided for in subsection (4) of this section, copies on paper or printouts, up to 20 pages per calendar month, are issued from the prisoners' register free of charge. The person making a request for information shall pay 0.19 euros per each page issued starting from the 21st page in a calendar month before the issue of a copy or printout.

(6) Prison service officers may refuse to issue data from the prisoners' register if these data contain information concerning the methods, tactics used in prison work or security risks assessment and if disclosure of such information could compromise the execution of imprisonment, custody pending trial, detention or probation supervision, and on other bases provided by law.

(7) In the cases provided by legislation, the controller may release data of the prisoners' register for statistical purposes. Data shall be released in a form which prevents identification of persons.

[RT I, 10.03.2015, 4 - entry into force 01.06.2015]

### **§ 5<sup>3</sup>. Information entered in prisoners' register and processing thereof**

(1) The following shall be entered in the prisoners' registers:

- 1) data on prisoners, persons in custody, detained persons or probationers;
- 2) data on the basis for admission of prisoners, persons in custody or detained persons to prisons or detention houses or probationers to probation supervision;
- 3) data on depositing and returning of the personal effects, documents and money of prisoners, persons in custody or detained persons, and items given to them by the prison service or house of detention;
- 4) data on the location of prisoners, persons in custody or detained persons and probation supervision departments of probationers and data on the movement of such persons;
- 5) data on the education, occupation and previous work experience of prisoners, detained persons, persons in custody or probationers;
- 6) data on the state of health of prisoners, detained persons, persons in custody or probationers, including their addictions, restrictions resulting from health and provision of health care services to them;
- 7) data on the former course of life and attitudes of prisoners or probationers and risks of new crimes resulting therefrom and how dangerous they are and the risk management methods and the implementation thereof;
- 8) data on the supervision and security measures taken with respect to prisoners, persons in custody or detained persons, including on use of search, physical force, service weapons, special equipment or locked cells;
- 9) data on disciplinary punishments imposed on prisoners, persons in custody or detained persons and the execution thereof;
- 10) data on relations, contacts, correspondence and telephone calls of prisoners, detained persons or persons in custody and on checks or restrictions thereof;
- 11) data on relations and contacts of probationers;
- 12) data on the time of beginning, stopping and end of employment of probationers and basis therefor;
- 13) data on ascertaining the possibility of use of electronic surveillance devices on prisoners or probationers and the use thereof;
- 14) data on persons in cooperation with whom employment of prisoners, community service of probationers, addiction treatment of drug addicts and complex treatment of sex offenders is arranged;
- 15) data collected in the course of preparation for probation supervision;
- 16) data on persons, vehicles which enter and exit prisons, and technical devices accompanying them;
- 17) data collected in the course of surveillance, information concerning the methods, tactics and resources utilised upon collection of data in the course of surveillance;

[RT I, 10.03.2015, 4 - entry into force 01.01.2018]

18) data on execution of imprisonment or events compromising security in prisons or information referring to the risk of occurrence thereof;

19) digital documents which are prepared and communicated in the course of performance of the functions provided for in this Act, the Probation Supervision Act or other Acts or legislation established on the basis thereof.

(2) Data shall be entered in the database on the basis of source documents, information obtained from other databases, information received from persons and institutions or on the basis of the information obtained in the course of the activities of the prison service.

(3) In order to obtain the information to be entered in the database provided for in subsection (1) of this section, the prison service shall be entitled to submit inquiries and obtain data from other databases of the state, local government or other persons in public law or persons in private law performing public law functions or by way of cross-usage of other databases.

(4) The detailed composition of the information to be entered in the database, including an exhaustive list of the persons submitting data specified in subsection (3) of this section, shall be provided by the statutes of the database.

[RT I, 10.03.2015, 4 - entry into force 01.06.2015]

#### **§ 5<sup>4</sup>. Storage and archiving of data entered in prisoners' register and access to data and deletion of data**

(1) Data of persons are processed in the prisoners' register during the time the person is in imprisonment or custody pending trial, detained or under probation supervision. After release from imprisonment, custody pending trial or detention or after termination of probation supervision, the information collected on persons shall be processed, achieved and deleted upon expiry of the term and to the extent provided for in this Act.

(2) Data collected on persons, except the beginning, place of and basis for serving of sentence or probation supervision by the person, time and place of release from serving the sentence or termination of probation supervision and the name and personal identification code or date of birth, which enable identification of the person, shall be entered in the archives of the prisoners' register and the processing thereof shall be restricted in the following cases:

- 1) the person has died;
- 2) one year has passed since service of detention imposed for a misdemeanour;
- 3) three years have passed since the end of the probationary period determined upon release on parole from fixed-term prison sentence or performance of community service, or two years in the case the person was a minor at the time of commission of the offence;
- 4) five years have passed since an imprisonment of less than five years was served, or three years in the case the person was a minor at the time of commission of the offence;
- 5) ten years have passed since an imprisonment of five to twenty years was served, or five years in the case the person was a minor at the time of commission of the offence;
- 6) fifteen years have passed since an imprisonment of more than twenty years was served;
- 7) after the entry into force of the court judgment in the case of serving custody pending trial if the person is acquitted or he or she is punished by a pecuniary punishment.

(3) Data stored in the archives are deleted in the case detention is imposed for misdemeanours if ten years have passed since achieving the data and fifty years as of the date of entry in the archives in the case of punishments imposed for criminal offences.

(4) The data specified in clause 5<sup>3</sup>(1) 16) of this Act are achieved when ten years have passed since the latest entry of the person into a prison, and deleted when ten years have passed since the latest entry into a prison. If the entry of a person into a prison was related to a specific prisoner or person in custody, the time limits provided for in other subsections of this section shall apply to achieving of data.

(5) The running of the term for archiving and deletion of data shall be interrupted if the person starts to serve an imprisonment, custody pending trial, detention or he or she is ordered to be under probation supervision. In this case, the archived data are activated and collection of new data shall continue.

(6) Release of data from the achieve is permissible to investigative bodies in order to ascertain facts relating in criminal proceedings to criminal offences in the first degree or intentionally committed criminal offences in the second degree for which at least up to three years' imprisonment is prescribed as punishment, and to security authorities for performance of functions provided for in the Security Authorities Act or for conducting the security vetting specified in the State Secrets and Classified Information of Foreign States Act. The issue of data from the archives and the extent thereof shall be decided by the controller of the prisoners' register within fifteen days as of receipt of the application. The applicant is obliged to state reasons for the application.

[RT I, 10.03.2015, 4 - entry into force 01.06.2015]

## **Chapter 2 EXECUTION OF IMPRISONMENT**

### **Division 1 General Provisions**

#### **§ 6. Objective of execution of imprisonment**

(1) The objective of execution of imprisonment is to help prisoners lead law-abiding life and to defend public order.

(2) Imprisonment is executed in closed or open prisons.

## **§ 6<sup>1</sup>. Right of victim to obtain information**

(1) A victim has the right to request and obtain information from a prison about prisoners or probationers who have committed offences with regard to the victim if:

- 1) a restriction order has been imposed on the prisoner;
- 2) the prisoner has been convicted in the offences provided for in Chapter 9 or 11 of the Penal Code.

(2) A victim has the right to obtain information about commencement of serving of sentence and compliance with the obligations set out in the court decision and execution of imprisonment and probation, excluding sensitive personal data.

(3) The minister responsible for the area may establish by a regulation a more detailed procedure for informing victims.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

## **§ 7. Closed prisons**

(1) A closed prison is a prison with a guarded wall or other barrier which enables constant supervision of prisoners.

(2) For the accommodation of prisoners, a closed prison has cells which enable constant visual and electronic surveillance of prisoners.

(3) A closed prison may have a ward in conformity with the requirements of § 9 of this Act where the general conditions of open prisons provided for in § 10 of this Act apply.

[RT I 2003, 26, 157 - entry into force 01.04.2003]

## **§ 8. General conditions in closed prisons**

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(1) Prisoners shall be permitted to move about within the territory of a closed prison at the locations and at the times provided in the internal rules and rules of procedure of a prison. Prisoners shall be separated in locked cells allocated to them from lights-out until wake-up and at other times provided in the internal rules and rules of procedure of the prison.

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

(2) In the case of justified need, the prison service may lock prison wards and cells or lodge prisoners temporarily in other rooms in a time other than prescribed in subsection (1) of this section if this is necessary for ensuring security in the prison or prevention of unlawful behaviour of a prisoner. Decisions concerning making of exceptions shall be made in writing.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

## **§ 9. Open prisons**

(1) An open prison is a prison with a territory marked by clearly visible signs.

(2) An open prison has residential buildings with rooms for the accommodation of prisoners.

## **§ 10. General conditions in open prisons**

(1) Prisoners are permitted to move about freely within the territory of an open prison from wake-up time until lights-out. With the permission of the prison service, prisoners are also permitted to move outside the territory of an open prison in connection with their studies, work or provision of health care services.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) From lights-out until wake-up, prisoners shall be separated in the rooms allocated to them which shall be locked, if necessary. With the permission of a prison service officer, prisoners shall be permitted to stay from lights-out until wake-up within or outside the territory of an open prison in connection with their work.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) The provisions of § 22 of this Act apply to the movement of prisoners outside the territory of open prisons.

## **§ 11. Placement of prisoners to prison**

(1) Prisoners shall be placed to prisons pursuant to a treatment plan, taking into consideration the length of the actual sentence imposed, age, sex, state of health and characteristic features of the prisoners.

(2) In prisons, prisoners shall be placed in cells or rooms.

### **§ 11<sup>1</sup>. Prohibition of overcrowding**

(1) The number of prisoners in a prison shall not exceed the maximum number of prisoners established for the prison by the minister responsible for the area.

(2) Upon determination of the permitted maximum number of prisoners in a prison, the potential of a prison for organising the living conditions, work, study and leisure activities of prisoners shall be taken into account.

(3) The minister responsible for the area shall determine the permitted maximum number of prisoners in a prison in a treatment plan.

[RT I 2006, 63, 466 - entry into force 01.01.2015]

### **§ 12. Requirement of segregation**

(1) The following shall be segregated in prisons:

- 1) men and women;
- 2) minors and adults;
- 3) imprisoned persons and persons in custody;
- 4) persons who due to their previous professional activities are in risk of revenge.
- 5) [Repealed - RT I, 05.07.2013, 2 - entry into force 15.07.2013]

(2) As an exception, the prison service may segregate prisoners on a basis not specified in subsection (1) of this section.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) In order to comply with the requirement of segregation, closed prisons shall have separate prison wards and cells.

(4) In open prisons, the provisions of subsection (1) of this section shall be considered in the prescription of different treatment regimes to prisoners.

(5) Exceptions to the requirement for segregation specified in subsection (1) of this section may be made if this is necessary in connection with studies, work or other activities.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

## **Division 2 Reception of Prisoners**

### **§ 13. Basis for reception**

A person is received into a prison on the basis of a copy of a court judgment or court ruling entered into force and the identity document, or if the person has no identity document, on the basis of identification documents prepared by the police.

### **§ 14. Reception of prisoners into prisons**

(1) Upon arrival in a prison, a prisoner and his or her personal effects are subject to a search. A prisoner shall be searched by a prison officer of the same sex as the prisoner. A prisoner is required to undergo medical examination performed by a medical officer of a prison.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(2) Not later than on the day following the prisoner's arrival in a prison, he or she shall meet a prison service officer who shall explain to the prisoner his or her rights and obligations as a prisoner. A prisoner shall be given written information concerning the Acts which regulate the execution of his or her imprisonment, the internal rules of the prison and the submission of complaints.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) A prisoners shall be placed in a reception ward. In the reception ward, the biographical data of a prisoner shall be verified, his or her socio-psychological prognosis shall be defined and other information necessary for the preparation of an individual treatment plan for the prisoner pursuant to § 16 of this Act shall be ascertained.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(4) Prisoners shall not stay in a reception ward for more than three months.

### **§ 15. Prisoners' personal effects and prohibited items**

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]



(1) The prison service shall deposit the personal effects which a prisoner has with him or her and his or her identity documents upon reception into a prison. The codes which enable digital use of the identity document or residence permit card of the prisoner shall be deposited at the request of the prisoner.  
[RT I, 09.12.2010, 1 - entry into force 01.01.2011]

(2) Prisoners are prohibited to have substances and items, which:

- 1) endanger security of people;
- 2) are particularly suitable for damaging property;
- 3) may endanger the security or order in the prison;
- 4) are not in compliance with the objectives of execution of the imprisonment imposed as a punishment;
- 5) impede compliance with hygiene requirements by the prison to a significant extent; or
- 6) require the authorization of a prison service officer pursuant to subsection 31 (2) of this Act.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(3) The minister responsible for the area shall establish by a regulation a list of the items which are prohibited for prisoners in closed or open prisons, total weight of the items kept with them and in storage, and the procedure for storage of deposited items.  
[RT I 2008, 17, 118 - entry into force 01.06.2008]

(4) The prison service may additionally prohibit substances and items which are not included in the list of prohibited items but meet the requirements provided for in subsection (2) of this section.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

#### **§ 16. Individual treatment plan of prisoner**

(1) For prisoners whose actual term of imprisonment exceeds one year, an individual treatment plan of a prisoner shall be prepared which prescribes:

[RT I 2006, 63, 466 - entry into force 01.02.2007]

- 1) the placement of the prisoner to a prison;
- 2) the transfer of the prisoner to an open prison or another closed prison;
- 3) the prisoner's ability to work and his or her professional skills;
- 4) the need to provide general education or vocational education or in-service training for the purpose of professional development to the prisoner;
- 5) the privileges granted to the prisoner;
- 6) the measures necessary for the preparation of the release of the prisoner;
- 7) other measures necessary to achieve the objective of the execution of imprisonment.

(2) An individual treatment plan of a prisoner shall be discussed with the prisoner.

(3) An individual treatment plan of a prisoner shall be amended along with the development of the prisoner.

(4) An individual treatment plan of a prisoner shall be approved by a prison service officer. The treatment plan shall be annexed to the personal file of the prisoner.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(5) The instructions for preparation of individual treatment plans of prisoners and implementation thereof shall be established by the minister responsible for the area.

#### **§ 17. Personal file of prisoner**

(1) The personal file of a prisoner shall be opened upon his or her reception into a prison if this has not been done during serving of custody pending trial pursuant to subsection 91 (1) of this Act.  
[RT I 2006, 63, 466 - entry into force 01.02.2007]

(2) Documents pertaining to the grounds for detention of a prisoner, disciplinary penalties imposed on the prisoner, the time and the reason for imposition thereof, and information on the conduct, studies and work of the prisoner and other information and documents provided for in the internal rules of the prison shall be entered in the personal file of the prisoner.

(2<sup>1</sup>) The identity documents of a prisoner are stored in his or her personal file. Codes enabling the digital use of an identity card or residence permit card shall be stored separately from the identity card or residence permit card.  
[RT I, 09.12.2010, 1 - entry into force 01.01.2011]

(3) The internal rules of a prison shall provide for the procedure for the examination of the personal file of a prisoner by the prisoner and for the terms and procedure for the retention of the personal files of prisoners.

(4) If a prisoner is transferred to another prison, his or her personal file shall be sent to that prison.

#### **§ 18. Fingerprinting, photographing of prisoners and collecting of their DNA samples**

(1) A person who is received into a prison for serving a sentence shall be photographed and fingerprinted and his or her DNA sample is collected for the purposes of identification of the person, detection and prevention of offences, unless these acts have been carried out during the custody pending trial or earlier in the course of criminal proceedings.

(2) The signalitic photographs of a prisoner shall be annexed to the personal file of the prisoner. One set of signalitic photographs shall be forwarded to the investigative body which requested that the person be taken into custody where it shall be annexed to the criminal file.

(3) Fingerprints of a prisoner are recorded on two fingerprint cards, one of which is kept in the personal file of the prisoner and the other is delivered to the Estonian Forensic Science Institute. The data obtained upon fingerprinting the prisoner shall be entered in the state fingerprints register.

(4) The minister responsible for the area shall establish by a regulation the procedure for fingerprinting and delivery of fingerprint cards in prisons.

(5) The data obtained upon analysis of the DNA samples collected from prisoners shall be entered in the state DNA register.

(6) The minister responsible for the area shall establish by a regulation the procedure for collecting of DNA samples in prisons and forwarding thereof.

(7) Coercion may be imposed with regard to a prisoner who refuses to give fingerprints or DNA samples.  
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

#### **§ 18<sup>1</sup>. Certificate of imprisonment**

(1) A prisoner has the right to apply for a certificate of imprisonment which shall be the identity document for the purposes of subsection 2 (1) and subsection 4 (1) of the Identity Documents Act.

(2) A prison shall issue the certificate specified in subsection (1) of this section to a person if the person does not have another valid identity document.

(3) A prisoner may prove the legality of his or her stay in the state and his or her identity in public law and private law relationships, including vital statistics acts and notarial acts, by a certificate of imprisonment.

(4) A certificate of imprisonment shall be valid until the release of the person from prison. Upon release, the prison service shall withdraw the certificate from the person and annex it to the personal file of the prisoner.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(5) Records shall be maintained on certificates of imprisonment issued.

(6) The format of certificates of imprisonment and the list of the data entered therein shall be established by a regulation of the minister responsible for the area.  
[RT I 2006, 12, 79 - entry into force 01.07.2006]

#### **§ 19. Transfer of prisoners**

(1) A prisoner may be transferred from one closed prison to another or from one open prison to another if such transfer is necessary for the implementation of the individual treatment plan of the prisoner, the achievement of the objectives of execution of imprisonment or for reasons of security.

(2) The minister responsible for the area shall approve the procedure for transfer of prisoners.

#### **§ 20. Transfer of prisoners to open prisons**

(1) A prisoner may be transferred to an open prison with his or her consent if it becomes evident on the basis of the individual treatment plan of the prisoner that it is not practical for the prisoner to serve his or her sentence in a closed prison, the actual term of his or her imprisonment is not more than one year or if the unserved term is not more than 18 months, and there is adequate reason to presume that the prisoner will not commit new offences.

(2) Prisoners who are serving life imprisonment shall not be transferred to open prisons.  
[RT I 2006, 63, 466 - entry into force 01.02.2007]

(3) the minister responsible for the area shall approve the procedure for the transfer of prisoners from closed prisons to open prisons.

#### **§ 21. Transfer of prisoners to closed prisons**

(1) A prisoner may be transferred to a closed prison if he or she fails to comply with the requirements of this Act or the internal rules of the prison or commits new offences. It is also permitted to transfer a prisoner from an open prison to a closed prison if this is necessary to achieve the objectives of execution of imprisonment.

(2) The minister responsible for the area shall approve the procedure for the transfer of prisoners from open prisons to closed prisons.

#### **§ 22. Privileges**

(1) A prison service officer may grant the following privileges to a prisoner with the consent of the prisoner:  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

- 1) work off-grounds under supervision;
- 2) unsupervised movement off-grounds relating to studies, work, participation in a social programme or undergoing treatment or for family reasons.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(2) The privileges provided for in subsection (1) of this section may be granted to a prisoner whose conduct has been good during the time of serving the sentence if there is adequate reason to presume that the prisoner will not commit new offences and will act in compliance with the precepts issued to him or her concerning the privileges.

(2<sup>1</sup>) The prison service may use electronic surveillance upon granting the privileges specified in subsection (1) of this section.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(3) A prisoner staying at an open prison may be allowed outside the prison for a short period of time in the cases not specified in subsection (1) of this section if the requirements specified in subsection (2) of this section are met.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

## **Division 3 Prisoners' Contact with Outside World**

#### **§ 23. Objective of prisoners' contact with outside world**

(1) The objective of prisoners' contact with the outside world is to facilitate the prisoners' contact with their families, relatives and other close people in order to prevent the breaking of the prisoners' social links.

(2) Prison services shall facilitate the prisoners' contact with the outside world.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

#### **§ 24. Short-term visits to prisoners**

(1) Prisoners shall be permitted to receive at least one supervised visit per month from their family members and other people with regard to whose reputation the prison service has no reasoned doubts.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(1<sup>1</sup>) Authorisation for short-term visits shall be refused if:

- 1) the visits are not in compliance with the objectives of execution of the imprisonment;
- 2) the visits may endanger the security or order in the prison;
- 3) there is reason to doubt the reputation of the visitor; or
- 4) the visit may endanger the health and well-being of the visitor or the prisoner.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(2) The duration of a short-term visit shall be up to three hours. The procedure for the visits shall be provided for in the internal rules of the prison.

(3) [Repealed - RT I 2006, 63, 466 - entry into force 01.02.2007]

(4) A prisoner who is committed to a punishment cell to serve a disciplinary penalty shall not be allowed to receive short-term visits.

## **§ 25. Long-term visits to prisoners**

(1) A prisoner shall be allowed to receive long-term visits from his or her spouse, father, mother, grandfather, grandmother, child, grandchild, adoptive parent, adoptive child, step parent or foster parent, step child or foster child, brother or sister. Long-term visits from a cohabitee shall be allowed on the condition that they have common children or at least two years of cohabitation prior to commencement of serving the sentence.  
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(1<sup>1</sup>) Authorisation for long-term visits shall be refused if:

- 1) the visits are not in compliance with the objectives of execution of the imprisonment;
- 2) the visits may endanger the security or order in the prison;
- 3) there is reason to doubt the reputation of the visitor; or
- 4) the visit may endanger the health and well-being of the visitor or the prisoner.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(2) A long-term visit means that a prisoner and a visitor are allowed to be together without constant supervision in prison premises designated for such purpose during a twenty-four hour period. Upon adjudicating an application for a long-term visit of a prisoner, a prison service officer may prolong, in justified cases, the long-term visit to the term of up to three days, provided that this is in compliance with the objectives of execution of imprisonment and the conduct of the prisoner has been good during the time of serving the sentence. The procedure and frequency of long-term visits and the list of items permitted on visits shall be provided for in the internal rules of the prison.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) A prisoner who is staying in the reception ward of a prison or in an open prison or is committed to a punishment cell to serve a disciplinary penalty shall not be allowed to receive long-term visits.

(4) The costs of long-term visits shall be borne by the prisoner or the visitor. The costs shall include the costs incurred on the use of premises, alimentation and toiletries of the visitor.

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

(5) The rates of costs of long-term visits, the procedure for the calculation of and compensation for such costs shall be established by a regulation of the minister responsible for the area.

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

## **§ 25<sup>1</sup>. Restriction of right of contact with outside world and communication inside prison**

(1) A security authority may restrict a prisoner's right of contact with the outside world prescribed in §§ 24 and 25 of this Act and also require restriction of freedom of movement and communication pursuant to clause 69 (2) 1) of this Act, if the prisoner has committed an offence against the state provided for in Chapter 15 of the Penal Code and there is reasonable doubt that contacts with the outside world or contacts inside prison with other prisoners may create a danger to the security of the state or that contacts with the outside world or contacts inside the prison with other prisoners may promote the commission of another criminal offence.

(2) In order to apply the restriction specified in subsection (1) of this section, the head of a security authority shall submit a reasoned written request to the chairman of the administrative court or an administrative judge appointed by the chairman for an authorisation to restrict the prisoner's right of contact with the outside world and communication inside the prison.

(3) The chairman of the administrative court or a judge appointed by the chairman shall immediately review a request and authorize by a ruling the restriction of the prisoner's right of contact with the outside world and communication inside the prison or refusal to grant such authorisation.

(4) The ruling shall be sent to the prison for immediate execution. A copy of the ruling shall be sent to the prisoner.

(5) A prisoner has the right to file an appeal against a ruling on restriction of contacts with the outside world and communication inside the prison made on the basis of this section with the administrative court pursuant to the procedure provided for in the Code of Administrative Court Procedure.

(6) An authorization for restriction of the prisoner's right of contact with the outside world and communication inside the prison is granted for the term of up to six months. This term may be extended at the request of the head of a security authority on the same grounds by up to two months at a time for a total of up to six years.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

## **§ 26. Visits from criminal defence counsel, representative who is advocate, minister of religion, notary and consular officer of country of nationality to prisoners**

(1) A prisoner has unrestricted right to receive visits from his or her criminal defence counsel, representative who is an advocate, minister of religion and a consular officer of his or her country of nationality and with a notary for performance of a notarial act. Visits shall be uninterrupted.

(2) A criminal defence counsel, a representative who is an advocate or a consular officer has the right to hand over materials necessary for the preparation of defence to a prisoner. It is prohibited to review the content of the written materials brought along by a criminal defence counsel, a representative who is an advocate or a consular officer.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

## **§ 27. Surveillance of visits to prisoners**

(1) Prison service officers have the right to search the person who is permitted to visit a prisoner, and the personal effects of the visitor. Search of the people specified in § 26 of this Act is only permitted upon reasonable doubt. The search shall be conducted by a prison service officer of the same sex as the visitor. Items the holding of which is prohibited in a prison shall be temporarily deposited by the prison service during the duration of the visit.

(2) Short-term visits to prisoners are allowed in the presence of a prison service officer. With the knowledge of the prison administration, an official of security authorities may be present at a short-term visit in addition to a prison service officer if the prisoner has committed an offence against the state provided for in Chapter 15 of the Penal Code. Visits from a criminal defence counsel, a representative who is an advocate, a minister of religion, notary or consular officer of their countries of nationality shall be allowed within sight but not within hearing distance from prison service officers.

(3) A prison service officer has the right to immediately terminate a short-term visit if the visit may endanger the security or violate the internal rules of the prison or the visit may the objective of the punishment or promote the commission of another criminal offence. It is not permitted to terminate visits from a criminal defence counsel.

(4) An official of a security authority has the right to immediately terminate a short-term visit if the visit may endanger the security of the state or promote the commission of another criminal offence. It is not permitted to terminate visits from a criminal defence counsel.

(5) If a prisoner does not agree with the termination of the visit by an official of a security authority, the prisoner has the right to file a written challenge with the security authority pursuant to the procedure provided for in the Administrative Procedure Act or an appeal with the administrative court pursuant to the procedure provided for in the Code of Administrative Court Procedure.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

## **§ 28. Correspondence and telephone calls**

(1) Prisoners have the right to correspondence and use of telephone (except mobile phone) if relevant technical conditions exist. Correspondence and the use of telephone shall be effected pursuant to the procedure provided for in the internal rules of the prison.

(2) Costs related to a prisoner's correspondence and use of telephone shall be borne by the prisoner.

(3) A prison service officer may restrict the right provided for in subsection (1) of this section if such right endangers the security or violates the order of the prison or damages the objectives of execution of imprisonment. It is prohibited to restrict a prisoner's right of correspondence or use of telephone for communication with state agencies, local governments or their officials or with the prisoner's criminal defence counsel or a representative who is an advocate.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(4) The prison service may additionally prohibit to receive items by means of correspondence on the bases provided for in subsection 15 (2) of this Act.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

## **§ 29. Surveillance of correspondence and telephone calls**

(1) A prison service officer shall open letters sent by or to a prisoner in the presence of the prisoner, except letters addressed to the persons and agencies provided for in subsections (4) to (5) of this section, and shall confiscate any items the holding of which in a prison is prohibited by the internal rules of the prison.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) The content of the correspondence and messages forwarded by telephone by or to a prisoner may be examined on the bases and pursuant to the procedure provided for in Chapter 3<sup>1</sup> of the Code of Criminal Procedure and Division 3<sup>1</sup> of Chapter 2 of this Act.

[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

(2<sup>1</sup>) The prison service shall verify with whom the prisoner communicates by telephone or corresponds. In the case of telephone calls, the prison service has the right to register the given name and surname of the person or the name of the institution to whom the prisoner makes the telephone call, the telephone number, time and duration of the call. In the case of correspondence, the prison service has the right to register the given name and surname of the addressee or the name and address of the institution to whom the prisoner writes and the date of mailing the letter.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(3) Upon examination of correspondence pursuant to the procedure provided for in subsection (2) of this section, a prison service officer has the right to refuse to forward a letter if:

[RT I 2009, 39, 261 - entry into force 24.07.2009]

1) the forwarding of the letter endangers the objectives of execution of imprisonment or the security or violates the order of the prison;

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

2) the forwarding of the letter may result in a criminal offence;

3) the forwarding of the letter endangers the objectives of execution of imprisonment of another prisoner;

4) the letter is enciphered or illegible.

(4) It is prohibited to examine the contents of prisoners' letters and telephone messages to a criminal defence counsel, representative who is an advocate, prosecutor, court, the Chancellor of Justice or the Ministry of Justice.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(5) It is prohibited to refuse to forward a prisoner's letters to state agencies, local governments and the officials thereof, to criminal defence counsels and representatives who are advocates and consular officers of prisoner's country of nationality.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

### **§ 30. Newspapers and periodicals**

(1) Prisoners shall be provided with the possibility to read national daily newspapers and national periodicals in a prison.

(2) A prisoner shall be permitted to subscribe, through the mediation of the prison service, for a reasonable number of newspapers, periodicals and other pieces of literature out of his or her personal resources unless the subscription endangers the objectives of execution of imprisonment or the security or violates the order of the prison.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

### **§ 31. Radio and television**

(1) Prisoners shall be allowed to listen to radio broadcasts and watch television broadcasts in a prison.

(2) With the permission of a prison service officer, a prisoner shall be allowed to possess a personal radio, television set or other necessary electrical equipment, unless the use of such item violates the internal rules or order of the prison or disturbs other people and the prisoner has no such disciplinary punishment in force which was imposed on him or her for the violation of the requirements for the use of a personal radio, television set or other necessary electrical equipment.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(3) A prisoner shall bear the costs related to the use of electrical equipment specified in subsection (2) of this section. The duration of the accounting period of the costs related to the use of the electrical equipment shall be one month and the capacity of the electrical equipment shall constitute the basis for the calculation of the costs.

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

(4) The rates of costs related to the use of the electrical equipment specified in subsection (2) of this section, the procedure for the calculation of and compensation for such costs shall be established by a regulation of the minister responsible for the area.

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

### **§ 31<sup>1</sup>. Use of Internet**

Prisoners are prohibited to use the Internet, except in the computers specially adapted for such purpose by the prison service which enable access under the supervision of the prison service to public legislation databases and register of judicial decision.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

[RT I, 18.02.2023, 3 – entry into force 15.02.2023 – A judgment of the Supreme Court *en banc* declares § 31<sup>1</sup> of the Imprisonment Act in the wording in force from 24 July 2009 to 31 July 2019 unconstitutional and invalid to the extent that it precluded a prisoner serving a sentence in a closed prison from accessing the part of the webpage of the Supreme Court where decisions of the Supreme Court are not published and the online publication of Ametlikud Teadaanded.]

## **§ 32. Prison leave**

(1) A prison service officer may grant permission for prison leave with the overall duration of twenty one calendar days annually to a prisoner who serves his or her sentence in a closed prison and who has served at least one year of the sentence.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) A prison service officer may grant permission for prison leave with the duration provided for in subsection (1) of this section to a prisoner who serves, for at least the second time, his or her sentence in the prison for an intentionally committed crime in the first degree and who has actually served at least half of the term of the imposed punishment.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) A prison service officer of an open prison may grant permission for prison leave with the duration provided for in subsection (1) of this section to a prisoner serving his or her sentence in the open prison, regardless of the duration of the time of the imprisonment the prisoner has already served.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(4) In deciding on the grant of permission for prison leave, a prison service officer shall take into consideration facts relating to the commission of the criminal offence, the fulfilment of his or her individual treatment plan and compatibility of the grant of the permission with the objectives of execution of imprisonment.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(4<sup>1</sup>) A prison service officer may determine by a directive the places where a prisoner may or shall stay during a leave, and the time periods during which the prisoner is required to or shall not stay in the determined places, or activities, which are excluded during the leave or which the prisoner is required to do. The prison service may apply electronic surveillance when authorizing a prison leave.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(5) A prison service officer may grant permission to a prisoner for prison leave with the duration of up to seven days in the case of the terminal illness or death of the prisoner's spouse, father, mother, grandfather, grandmother, child, grandchild, adoptive parent, adoptive child, brother or sister, or in the case of other family emergencies. The duration of prison leave granted in the case of a family emergency shall not be included in the calculation of the duration of the prison leave specified in subsections (1), (2) and (3) of this section.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(6) Prisoners serving a life sentence and prisoners who are likely to attempt escape shall not be granted permission for the prison leave specified in subsection (1), (2), (3) and (5) of this section.

[RT I 2003, 78, 524 - entry into force 01.01.2004]

(7) A prisoner shall bear the cost of his or her prison leave. The time spent by a prisoner on prison leave shall be included in the duration of the prisoner's sentence.

[RT I 2003, 78, 524 - entry into force 01.01.2004]

(8) The minister responsible for the area shall approve the procedure for the grant of prison leave.

[RT I 2003, 78, 524 - entry into force 01.01.2004]

## **§ 32<sup>1</sup>. Prison leave certificate**

(1) A prison leave certificate shall be issued to a prisoner for the period of prison leave and it shall be the identity document of the prisoner during prison leave for the purposes of subsection 2 (1) and subsection 4 (1) of the Identity Documents Act.

(2) When on prison leave, a prisoner may prove the legality of his or her stay in the country of nationality and his or her identity in public law or private law relationships, including vital statistics acts or notarial acts, by a prison leave certificate.

(3) A prison leave certificate shall be valid until the end of the period of prison leave set out in the prison leave certificate. The prison service shall withdraw the prison leave certificate from a prisoner who returns from prison leave and annex it to the personal file of the prisoner.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3<sup>1</sup>) The prison leave certificates issued upon granting the privilege specified in subsection 22 (1) of this Act may be reused, if this is reasonable having regard to the nature of the privilege granted. In such case, the prison service shall deposit the prison leave certificate upon return of the prisoner and give it to the prisoner before the next prison leave. If the granting of the privilege is terminated, the prison leave certificate shall be annexed to the personal file of the prisoner.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(4) The format of prison leave certificates and the list of data entered therein shall be established by a regulation of the minister responsible for the area.

[RT I 2006, 12, 79 - entry into force 01.07.2006]

### **§ 33. Prison leave under supervision**

[RT I 2003, 78, 524 - entry into force 01.01.2004]

(1) A prison service officer may grant permission to a prisoner for prison leave under supervision of up to three days if it is not possible to grant prison leave to the prisoner arising from the objectives of execution of imprisonment. The prison service may apply electronic surveillance in addition to supervision in the case of prison leave under supervision.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(2) The prisoner shall bear the costs of a prison leave under supervision prior to the prison leave under supervision. As an exception, a prison service officer may authorise reimbursement for the costs after the prison leave under supervision.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2<sup>1</sup>) The rates of costs of prison leaves under supervision, the procedure for the calculation of and compensation for such costs shall be established by a regulation of the minister responsible for the area.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) The time spent by a prisoner on prison leave under supervision shall be included in the duration of the prisoner's sentence.

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

## **Division 3<sup>1</sup>**

### **Inquiries to Electronic Communications Undertakings, Surveillance Activities and Secret Co-operation**

[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

#### **§ 33<sup>1</sup>. Inquiries to electronic communications undertakings**

(1) The Prison Department of the Ministry of Justice and the prison may make enquiries to electronic communications undertakings on the basis specified in clauses 126<sup>2</sup>(1) 1) and 2) of the Code of Criminal Procedure and with regard to the persons specified in clauses 126<sup>2</sup>(3) 1) and 2) of the Code of Criminal Procedure for obtaining the following data:

- 1) the data required for the identification of an end-user related to the identification tokens used in the electronic communications network, except the data relating to the fact of transmission of messages;
- 2) to electronic communications undertakings, the data specified in subsections 111<sup>1</sup>(2) and (3) of the Electronic Communications Act and not specified in clause 1) of this section.

(2) The prosecutor's office shall grant permission for making the inquiry specified in clause (1) 2) of this section. The permission to make inquiries shall set out the dates of the period of time about which the requesting of data is permitted.

[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

#### **§ 33<sup>2</sup>. Collection of information for deciding on access of person to surveillance information and employment of person**

(1) The Prison Department of the Ministry of Justice may, with a person's written consent, collect his or her personal data by the surveillance activities specified in subsection 126<sup>3</sup>(1) of the Code of Criminal Procedure and by the inquiries to electronic communications undertakings concerning the data specified in subsections 111<sup>1</sup>(2) and (3) of the Electronic Communications Act, if this is necessary to decide on the access of the person to surveillance information or employment of the person in the Prison Department of the Ministry of Justice or a prison.

(2) A person shall be notified of the surveillance activities conducted with respect to him or her and which are prescribed in subsection (1) of this section after making the decision and the data collected by the activities shall be submitted to him or her for examination at his or her request.

[RT I, 29.06.2012, 2 - entry into force 01.01.2013]



### **§ 33<sup>3</sup>. Secret co-operation and covert measures**

(1) The Prison Department of the Ministry of Justice and a prison have the right to recruit persons for secret co-operation and use undercover agents in order to conduct surveillance activities, ensure the conducting thereof or collection of information and to use covert measures on the terms and conditions provided for in the Police and Border Guard Act.

(2) The head of the Prisons Department of the Ministry of Justice or a prison or an official authorised by him or her shall authorize the recruitment of a person.

(3) The head of the Prisons Department of the Ministry of Justice or a prison shall authorize the use of an undercover agent.

(4) The documents necessary for using covert measures are issued and the necessary amendments in databases and registries are made, at a reasoned request of the head of the Prisons Department of the Ministry of Justice or a prison or an official authorized by him or her, by an administrative authority or a legal person into whose competence the issue of corresponding type of documents or making of amendments in the database or register falls.

[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

## **Division 4 Education and Work in Prison**

### **§ 34. Opportunity to acquire education**

(1) The objective of providing an opportunity to prisoners to acquire education is to ensure that prisoners have adequate knowledge, skills and ethical principles which would allow the prisoners to continue their education and work after release.

(2) The provision of education in prisons shall be organised pursuant to the Republic of Estonia Education Act, the Basic Schools and Upper Secondary Schools Act and the Vocational Educational Institutions Act and legislation issued on the basis thereof.

(3) The prison service shall ensure that general premises, classrooms and workshops necessary for the acquisition of general education, vocational education and in-service training for the purpose of professional development exist, as well as the possibility to receive practical training in the areas of specialisation taught in the prison.

[RT I, 23.03.2015, 5 - entry into force 01.07.2015]

(4) Prisoners who are not proficient in Estonian shall, at their request, be provided with an opportunity to study Estonian. If the Estonian language instruction is not provided as prescribed in §§ 35 and 36 of this Act, the provision of the Estonian language instruction shall be organized and financed by the prison service.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(5) The acquisition of education shall be organised during working hours.

(6) The prison service shall direct and encourage prisoners in the acquisition of education.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

### **§ 34<sup>1</sup>. Remuneration of studies of prisoner**

(1) Remuneration for studies may be paid to adult prisoners.

(2) The form of study, participation in the studies and the efficiency thereof shall constitute the bases for remuneration of studies.

(3) The Government of the Republic shall establish by a regulation the rates of and procedure for calculation and payment of remuneration for studies to prisoners.

[RT I 2006, 63, 466 - entry into force 01.09.2007]

### **§ 35. Basic education and general secondary education**

(1) Prisoners who have not acquired basic education shall be provided with the opportunity to acquire basic education on the basis of a corresponding national curriculum in the case when is prescribed in the individual treatment plan. If no individual treatment plan is prepared for a prisoner in accordance with subsection 16 (1)

of this Act, the opportunity of the prisoner to acquire basic education shall be decided depending on his or her development needs.

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

(2) Prisoners who have acquired basic education shall be provided with the opportunity to acquire general secondary education on the basis of the national curriculum in the case this is prescribed in the individual treatment plan. If no individual treatment plan is prepared for a prisoner in accordance with subsection 16 (1) of this Act, the opportunity of the prisoner to acquire secondary education shall be decided depending on his or her development needs.

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

(3) A prisoner shall be ensured vocational training within the framework of elective subjects prescribed by the national curriculum for basic schools or upper secondary schools on the basis of the provisions of the Vocational Education Institutions Act.

[RT I, 02.07.2013, 1 - entry into force 01.09.2013]

(4) Prisoners may, at their request, be permitted to study at educational institutions located outside prisons. The minister responsible for the area shall establish the procedure for the application for permission and the grant thereof.

(5) The provisions of § 22 of this Act shall apply to prisoners who are granted permission to study outside prisons.

(6) Educational institutions providing basic and general secondary education within the territory of a prison shall be state schools, municipal schools or their structural units operating in the prison, financed out of allocations from the state budget on the bases and pursuant to the procedure provided by the Basic Schools and Upper Secondary Schools Act. The costs related to the furnishing, repairs and operation of the premises of which educational institutions are granted use shall be covered from the budget of the prison.

[RT I 2003, 26, 157 - entry into force 01.04.2003]

### **§ 36. Vocational education**

(1) Prisoners shall be provided with the opportunity to acquire vocational education and participate in in-service training for the purpose of professional development in the case this is prescribed in the individual treatment plan. Areas of specialisation which are in higher demand in society shall be preferred upon providing vocational education to prisoners. If no individual treatment plan is prepared for a prisoner in accordance with subsection 16 (1) of this Act, the opportunity of the prisoner to acquire vocational education and participate in-service training for the purpose of professional development shall be decided depending on his or her development needs.

[RT I, 23.03.2015, 5 - entry into force 01.07.2015]

(1) Prisoners shall be provided with the opportunity to acquire vocational education and participate in vocational training in the case this is prescribed in the individual treatment plan. Areas of specialisation which are in higher demand in society shall be preferred upon providing vocational education to prisoners. If no individual treatment plan is prepared for a prisoner in accordance with subsection 16 (1) of this Act, the opportunity of the prisoner to acquire vocational education and participate in vocational training shall be decided depending on his or her development needs.

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

(2) Educational institutions providing vocational education within the territory of a prison shall be state or municipal schools or their structural units operating in the prison, financed out of allocations from the state budget on the bases and pursuant to the procedure provided by the Vocational Education Institutions Act. The costs related to the furnishing, repairs and operation of the premises of which educational institutions are granted use shall be covered from the budget of the prison.

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

### **§ 37. Mandatory work**

(1) Prisoners are required to work unless otherwise provided by this Act.

(2) The following categories of prisoners are not required to work:

- 1) prisoners of more than sixty-three years of age;
- 2) prisoners who are acquiring general or vocational education or participating in in-service training for the purpose of professional development;
- 3) prisoners who are unable to work for health reasons;
- 4) prisoners who are raising a child of less than three years of age.

[RT I, 23.03.2015, 5 - entry into force 01.07.2015]

(3) A medical officer shall determine the ability of prisoners to work.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(4) The manner and content of work organisation shall correspond, as far as possible, to the organisation of work outside prisons.

(5) Prisoners may be required to work at the plants specified in subsection 38 (3) of this Act only with the consent of the prisoners.

### **§ 38. Providing prisoners with work in prison**

(1) The prison service shall ensure, if possible, that a prisoner is provided with work, considering the physical and mental abilities and skills of the prisoner. If it is impossible to ensure that a prisoner is provided with work, the prisoner shall be required, if possible, to participate in the maintenance of the prison.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) In order to ensure prisoners with work, the prison service may build plants within or outside its territory, allow prisoners to work outside the prison or require prisoners to participate in the maintenance of the prison.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2<sup>1</sup>) If it is possible to employ a prisoner, the prison service shall employ the prisoner.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2<sup>2</sup>) A prisoner may be suspended from work or released from mandatory work if the prisoner is unable to perform the mandatory work or if the working endangers the security of the prisoner or the prison or if the working poses a threat to the discipline in the prison. The minister responsible for the area shall establish by a regulation the procedure for employment of prisoners, suspension and release of prisoners from work.  
[RT I 2006, 63, 466 - entry into force 01.02.2007]

(3) In order to ensure prisoners with work, permission to build plants may be also granted within the territory of a prison to natural persons or companies if such persons or companies enter into a respective contract with the state or a legal person in private law carrying out administrative duties of the state. The minister responsible for the area shall establish the requirements for such contracts.

### **§ 39. Working conditions in prison**

(1) Prisoners' working conditions shall comply with the requirements established by labour protection law, except the specifications arising from this Act. The prison service is required to ensure that prisoners are guaranteed working conditions which are safe to life and health.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) Prisoners may be required to work overtime, on their days off and on public holidays only with the consent of the prisoners.

(3) Prisoners participating in the maintenance of the prison are required to work according to the nature of the work at the discretion of the prison service.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(4) On the order of a prison service officer, prisoners shall be required to participate in the prevention of a natural disaster, epidemic, accident or catastrophe or the elimination of the effects thereof and in case of other emergencies. In such case, the prison shall ensure the security and safety of the prisoners.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

### **§ 40. Pension for incapacity for work**

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

### **§ 41. Work outside prison**

(1) A prisoner with regard to whom there is adequate reason to presume that he or she will not commit a new offence shall, with his or her consent, be allowed to work outside a prison without supervision or under supervision if this complies with the objectives of execution of imprisonment and the individual treatment plan of the prisoner. In such case the provisions of § 22 of this Act shall apply.

(1<sup>1</sup>) The specific conditions and procedure for granting permission to prisoners for working outside a prison and the procedure for prisoners' working outside a prison shall be established by a regulation of the minister responsible for the area.  
[RT I 2006, 63, 466 - entry into force 01.02.2007]

(2) Provisions of labour laws, including provisions concerning entry into employment contracts, remuneration and holidays, shall apply to unsupervised work of prisoners outside prisons. An employment contract entered into with a prisoner shall not indicate that he or she is serving a sentence.

[RT I 2009, 5, 35 - entry into force 01.07.2009]

(2<sup>1</sup>) If a prisoner works outside prison without supervision on temporary basis on a paid work which does not require professional, special or occupational preparation, payment of his or her wages shall be governed by § 43 of this Act.

[RT I 2009, 35, 232 - entry into force 27.06.2009]

(3) An employer shall transfer the wages of a prisoner who is working outside a prison to the bank account of the prison service.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

#### **§ 42. Release from mandatory work**

(1) If a prisoner has worked or participated in the maintenance of the prison for one year, the prisoner has the right to apply for release from mandatory work for up to twenty one calendar days. Prisoners shall not be remunerated for the time when they are released from mandatory work.

(2) Days on which a prisoner did not work due to an illness shall be included in the working year of a prisoner, however, not more than to the extent of six weeks.

[RT I 2003, 78, 524 - entry into force 01.01.2004]

#### **§ 43. Remuneration of work of prisoners**

(1) Prisoners who work shall receive remuneration. Prisoners who are required to participate in the maintenance of a prison shall also be remunerated.

(2) Remuneration of a prisoner shall be at least 10 per cent of the minimum wage rate established on the basis of subsection 29 (5) of the Employment Contracts Act. The remuneration of a prisoner shall be calculated on the basis of the specific character of the work and the amount of time that the prisoner worked. The Government of the Republic shall establish the rate of and procedure for calculation and payment of remuneration of prisoners.

[RT I 2009, 35, 232 - entry into force 27.06.2009]

(3) The prison service may reduce the remuneration of a prisoner working in the prison for up to 60 per cent for unsatisfactory work results due to the fault of the prisoner. Remuneration shall be reduced on the proposal of the person who organises the work.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(4) The prisoner shall be informed in writing of the amount of his or her remuneration.

#### **§ 44. Personal account**

(1) The prison service shall transfer the wages of a prisoner and other funds paid to the prisoner to the internal personal account of the prisoner.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) Of the funds deposited in the personal account of a prisoner, 50 per cent shall be reserved for the satisfaction of monetary/financial claims, 20 per cent shall be deposited as a savings fund to be handed over to the prisoner on release and the rest of the funds shall be reserved for the use of the prisoner inside the prison pursuant to the internal rules of the prison. If no monetary/financial claims exist against the prisoner or if the claims amount to less than 50 per cent of the funds in the prisoner's personal account, the corresponding funds in the personal account of the prisoner shall also be deposited as a savings fund to be handed over to the prisoner on release.

(3) The savings fund shall be deposited in the amount equal to three times the minimum monthly wages established by the Government of the Republic.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(4) At the request of the prisoner, the savings fund may be deposited in an amount exceeding the amount provided for in subsection (3) of this section and the funds reserved for the use of the prisoner inside the prison may be used for the satisfaction of monetary/financial claims, sent to his or her family members or dependants or transferred to his or her bank account.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

#### **§ 44<sup>1</sup>. Accounting system of financial resources of prisoners**

(1) The accounting system of financial resources of prisoners (hereinafter *database*) is a database belonging to the state information system kept for accounting of the financial resources of persons imprisoned and in custody pending trial, the objective of which is:

[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

1) to provide an overview of the amounts received on the personal accounts of prisoners and persons held in custody;

[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

2) to keep account of fulfilment of claims filed against prisoners and persons held in custody;

[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

3) to collect statistics related to crime which is necessary for the making criminal policy decisions;

4) to enable electronic forwarding of data and documents.

(2) The following information shall be entered in the database:

1) information concerning wages and other income transferred to personal accounts;

2) information concerning amounts deducted from personal accounts and fulfilment of claims;

3) information concerning shopping and other services consumed in prison.

(3) The database and its statutes shall be established by the minister responsible for the area.

(4) The controller of the database is the Ministry of Justice. The processors of the database are the prisons and other agencies or persons specified in the statutes of the database.

[RT I, 28.12.2011, 1 - entry into force 01.01.2012]

## **Division 5**

### **Living Conditions and Health Care in Prisons**

#### **§ 45. Cell of prisoner**

(1) The cell of a prisoner shall meet the general requirements established for dwellings on the basis of the Building Code which ensures the air flow and circulation, light and temperature in the cell which is necessary for living. A cell must have a window and artificial lighting which ensures sufficient lighting of the room.

The minister responsible for the area shall establish the size of cells and the list of the items belonging to the furnishings of the cell in internal rules of prisons.

[RT I, 23.03.2015, 3 - entry into force 01.07.2015]

(2) Prisoners are required to clean their cells and the furnishings and keep them in order.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

#### **§ 46. Clothing of prisoners**

(1) Prisoners shall wear prison clothing unless otherwise provided by this Act. Prisoners are required to wear a name tag attached to their clothing.

(2) A prisoner wears personal clothing in an open prison and the prisoner ensures the cleaning, keeping in order and regular change thereof at his or her own expense. If a prisoner does not have suitable personal clothing, the prison service shall provide the prisoner with prison clothing.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(3) The minister responsible for the area shall establish by a regulation the description of prison clothing and the procedure for wearing thereof.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

#### **§ 47. Provision of food for prisoners**

(1) The provision of food for prisoners shall be organised in conformity with the general dietary habits of the population with a view to meet the food requirement necessary for survival. Food shall be provided for prisoners on a regular basis and it shall be such as to meet the requirements of food hygiene.

(2) A medical officer shall supervise the preparation of the prison's menu and the provision of food.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(3) Prisoners shall be ensured with dietetic food as prescribed by a medical officer. As far as possible, prisoners shall be permitted to observe the dietary habits of their religion.

#### **§ 48. Shopping**

(1) Prisoners may buy foodstuffs, toiletries and other items the holding of which is permitted in prison, out of the funds deposited in their personal accounts pursuant to the procedure provided for in the internal rules of the prison. The goods are sold by the prison or a legal person governed by private law with whom the respective

civil law contract has been entered into. The price of the goods sold may be up to 20 per cent higher than their wholesale purchase price. Prisoners of open prisons may also do the shopping outside the prison.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(1<sup>1</sup>) The expenses on shopping specified in subsection (1) of this section done by a prisoner in one month may not exceed the limits of the minimum monthly wages established by the Government of the Republic.  
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(2) A prisoner may be prohibited to buy particular foodstuffs or the right to buy particular foodstuffs may be restricted as prescribed by a medical officer if such foodstuffs may damage the prisoner's health.

#### **§ 49. Organisation of health care in prisons**

(1) Health care in prisons constitutes a part of the national health care system. Health care in prisons shall be organised pursuant to the Health Care Services Organisation Act.

(2) Provision of health care services to prisoners shall be financed from the state budget through the Ministry of Justice.  
[RT I 2006, 56, 416 - entry into force 01.01.2007]

#### **§ 49<sup>1</sup>. Funding of provision of health care services**

Health care services and the acquisition of medicinal products and medical devices necessary for the provision of health care services are funded from the state budget to the extent, under the conditions and pursuant to the procedure established by a regulation of the Government of the Republic.  
[RT I 2003, 78, 524 - entry into force 01.01.2004]

#### **§ 50. Personal hygiene of prisoners**

(1) Prisoners must take care of their personal hygiene.

(2) Prisoners shall be given the opportunity to have a sauna, bath or shower at least once a week and upon reception into prison.

(3) Prisoners shall be provided with hairdressing and barber's services. It is permitted to shave a prisoner's head only with respective prescription of a medical officer or at the prisoner's request.

#### **§ 51. Imposition of coercion in personal hygiene**

The prison service may impose coercion to ensure compliance with hygiene requirements if a prisoner fails to take care of his or her personal hygiene to a necessary extent and this has brought about actual danger to his or her health or to the health of other prisoners. The imposition of coercion shall not endanger the life or damage the health of a prisoner.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

#### **§ 52. Provision of health care services in prisons**

(1) Health care services in prisons are provided by health care professionals pursuant to the provisions of the Health Care Services Organisation Act regulating the provision of specialised medical care. The requirements of the legal form set out in subsection 21 (1) and subsection 22 (2) of the Health Care Services Organisation Act do not apply to prisons upon provision of specialised medical care.  
[RT I 2006, 56, 416 - entry into force 01.01.2007]

(2) Medical officers of prisons are required to supervise the state of prisoners' health on a constant basis, treat them in prison to the extent possible and, if necessary, refer them to treatment at relevant providers of specialised medical care, and perform other functions assigned to medical officers.  
[RT I 2006, 56, 416 - entry into force 01.01.2007]

#### **§ 53. Treatment of prisoners**

(1) The availability of emergency care twenty-four hours a day shall be guaranteed to prisoners.

(2) Prisoners who need treatment which cannot be provided in prison shall be referred to treatment at relevant providers of specialised medical care by the medical officer of the prison. Prison services shall ensure the guard of prisoners during the time when prisoners are provided with health care services.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) The time during which a prisoner is provided with health care services shall be included in the prisoner's sentence.  
[RT I 2003, 26, 157 - entry into force 01.04.2003]

(4) Prisons shall have the right of recourse against prisoners who have intentionally caused bodily harm to themselves to reclaim the amounts spent on health care services.  
[RT I 2009, 35, 232 - entry into force 27.06.2009]

#### **§ 54. Special conditions for women prisoners**

(1) Prisons shall provide separate premises fitted out for women prisoners who are pregnant and organise care for children. A mother and her child of up three years of age (inclusive) shall be allowed to live together at the request of the mother if the guardianship authority grants consent.

(2) The prison service shall ensure that the ties of a mother with her child over three years of age are sustained unless this disturbs the normal raising of the child or has a negative influence on the child.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

#### **§ 55. General physical condition of prisoners**

(1) Prisoners shall be provided with the opportunity to engage in sports.

(2) Prisoners shall be allowed at least one hour of walk in the open air daily.

#### **§ 56. Informing of death or illness**

Upon serious illness or the death of a prisoner, the prison service shall promptly inform the immediate family of the prisoner or any other person as designated by the prisoner. Upon death of a prisoner who is citizen of a foreign state, the prison service shall promptly inform the foreign mission of the country of nationality of the prisoner.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

## **Division 6 Social Welfare in Prison**

#### **§ 57. Objective of social welfare**

The objective of social welfare is to assist the prisoners to sustain and develop essential and positive contacts with the outside world, to increase the prisoners' independent coping abilities and to encourage law-abiding behaviour of prisoners.

#### **§ 58. Social workers of prisons**

[Repealed - RT I, 20.12.2012, 3 - entry into force 01.01.2013]

#### **§ 59. Social welfare upon reception of prisoners into prisons**

Upon reception into prison, a prisoner shall be counselled with regard to ensuring of social security to people close to him or her and the retention of the prisoner's property and legal assistance shall be provided to the prisoner.

#### **§ 60. Social welfare on release of prisoners**

(1) In preparation of the release of a prisoner, the prisoner shall be provided with assistance in resolving issues related to the management of his or her financial affairs and personal life, and in preparation of documents. A prisoner shall be informed of the possibility to receive social benefits provided by general social welfare.

(2) In preparation of the release of a prisoner, information concerning the prisoner's need for social welfare services after his or her release shall be forwarded to the rural municipality or city government of the prisoner's residence and the prisoner's possibilities to receive specific aid shall be ascertained.

(3) If the residence of a prisoner or his or her family is not known or if a prisoner does not wish to return to his or her former residence, information concerning the prisoner shall be forwarded to another rural municipality or city government considering, if possible, the prisoner's wishes concerning his or her choice of residence.

(4) At the request of a rural municipality or city government, the prison service is required to forward to a rural municipality or city government the information and documents necessary for the provision of social welfare services to a released prisoner.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

## **§ 61. Involvement of probation officers**

(1) Upon preparation of the release of a prisoner before the prescribed time, information concerning the prisoner shall be forwarded to the probation supervision department of the residence of the prisoner or his or her family.

(2) If the residence of a prisoner or his or her family is not known or if a prisoner does not wish to return to his or her former residence, information concerning the prisoner shall be forwarded to another probation supervision department considering, if possible, the prisoner's wishes concerning his or her choice of residence.

(3) [Repealed - RT I, 20.12.2012, 3 - entry into force 01.01.2013]

## **§ 62. Religious assistance in prison**

The prison service shall ensure that prisoners are provided with an opportunity to satisfy their religious needs.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

# **Division 7**

## **Disciplinary Penalties Imposed on Prisoners**

## **§ 63. Disciplinary penalties**

(1) Disciplinary penalties may be imposed on a prisoner for the violation of the requirements of this Act, internal rules of the prison or other legislation by the prisoner's fault. The following disciplinary penalties may be imposed:

- 1) reprimand;
- 1<sup>1</sup>) prohibition of the use of a personal radio, television set or other necessary electrical equipment for up to 45 days;  
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]
- 2) prohibition of one short or long-term visit;
- 3) removal from work for up to one month;
- 4) commission to a punishment cell for up to 45 twenty-four hour periods.

(2) Young prisoners may be committed to a punishment cell for up to 20 twenty-four hour periods.

(3) In the choice of a disciplinary penalty, the objective of the execution of imprisonment shall be considered. Only one disciplinary penalty may be imposed for the commission of one and the same disciplinary offence. It is prohibited to impose collective disciplinary penalties.

(4) In the case of a serious violation of discipline, the prison service has the right to place the disciplinary offender in a separate cell prior to the termination of disciplinary proceedings.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

## **§ 64. Disciplinary proceedings**

(1) Disciplinary proceedings shall be conducted and the facts of disciplinary penalties shall be ascertained by the prison service.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) A prisoner shall be immediately informed of the disciplinary offence of which he or she is accused. The prisoner has the right to make statements.

(3) Minutes shall be taken of the process of disciplinary proceedings. The minutes shall be signed by the prison officer who conducted the disciplinary proceedings. The format of the minutes and information set out therein shall be provided for in the internal rules of the prison.

(4) A disciplinary penalty shall be imposed by the prison service on the proposal of the officer who conducted the disciplinary proceeding. The imposition of a disciplinary penalty shall be effected in the form of a directive and it shall be substantiated. The directive by which a disciplinary penalty is imposed is delivered to a prisoner against a signature.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(4<sup>1</sup>) A disciplinary penalty may be imposed within six months as of the date when an offence is committed, but not later than one month after the date of becoming aware of the offence. The term shall not include the time during which the prisoner is staying at a house of detention or hospital.  
[RT I 2006, 63, 466 - entry into force 01.02.2007]

(5) Material concerning an imposed disciplinary penalty shall be annexed to the personal file of a prisoner.



## **§ 65. Execution of disciplinary penalty**

(1) Disciplinary penalties shall, as a rule, be enforced immediately.

(2) A prison service officer may suspend the enforcement of a disciplinary penalty or an aspect thereof on the condition that the prisoner does not commit another disciplinary offence during a probationary period. The duration of the probationary period shall be from one up to six months.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) If a prisoner commits a new disciplinary offence during a probationary period, penalties imposed for both offences shall be enforced immediately.

(4) If a prisoner does not commit a new disciplinary offence during a probationary period, the disciplinary penalty shall not be enforced.

(5) A disciplinary punishment shall expire within one year as of the imposition of the disciplinary punishment.

[RT I, 10.03.2015, 4 - entry into force 01.06.2015]

(6) A disciplinary penalty shall not be executed if the disciplinary penalty is not enforced within eight months as of the imposition of the disciplinary penalty.

## **§ 65<sup>1</sup>. Execution of disciplinary penalty in case of commission to punishment cell**

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(1) Punishment cells shall be in compliance with the conditions provided for in subsection 45 (1) of this Act and ensure constant visual and electronic surveillance of prisoners.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(2) Upon reception into a punishment cell, a prisoner shall be searched and shall receive clothing provided by the punishment cell. The personal belongings which a prisoner kept in his or her cell shall be deposited and returned to the prisoner after release from the punishment cell.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(3) A prisoner who is committed to a punishment cell does not have the right to move about within the territory of the prison pursuant to the procedure provided for in §§ 8 and 10 of this Act. A prisoner shall be allowed, at his or her request, to be in the open air for at least one hour daily.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(4) The prison service may partially or fully restrict application of the provisions of §§ 22, 30 to 32, 34 to 38, 41, 43, 46 and 48 with regard to a prisoner who is committed to a punishment cell.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

# **Division 8 Ensuring Security in Prison**

## **§ 66. Supervision of prisoners**

(1) Supervision of prisoners shall be organised such as to ensure compliance with this Act and the internal rules of a prison and to safeguard general security in a prison.

(1<sup>1</sup>) The minister responsible for the area shall establish the specific procedure for supervisory control.

(2) Prison service officers are responsible for compliance with internal rules of the prisons and for security in the prisons.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

## **§ 67. Obligations of prisoners**

In order to ensure security in prison, prisoners are required to:

1) observe the internal rules of the prison and follow lawful commands given by prison service officers;

[RT I 2009, 39, 261 - entry into force 24.07.2009]

2) not to prevent prison service officers from performing their duties and not to disturb other prisoners or other persons;

[RT I 2009, 39, 261 - entry into force 24.07.2009]

3) promptly inform a prison service officer of all the circumstances which may endanger the security or violate the order of the prison or the life or health of other persons;

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

4) handle the things entrusted to the prisoner rationally and keep in order the dwelling and non-work rooms which the prisoner uses.

### **§ 67<sup>1</sup>. Control over consumption of substances prohibited for prisoners**

(1) Prisoners are prohibited to consume alcoholic beverages, except the alcohol offered during religious ceremonies, and other substances containing spirit, and narcotic drugs and psychotropic substances (hereinafter *prohibited substances*) without doctor's prescription. An officer of the prison service has the right to examine the prisoner and establish the consumption of prohibited substances. Establishment of the consumption of prohibited substances shall be based on the procedure specified in §§ 38 to 41 of the Law Enforcement Act.

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

(2) If an officer of the prison service does not deem it necessary to collect other data and the prisoner does not require establishment of consumption of prohibited substances in exhaled breath or by testing blood or biological liquids, an indicating meter may be used and the signs of consumption of prohibited substances exhibited by the person may be described.

(3) If a prisoner demands establishment of the consumption of prohibited substances in exhaled breath or by testing of blood or biological liquids, the prisoner shall reimburse for the costs relating to taking, preservation and delivery of the blood or biological liquid samples (hereinafter *sample*) and testing thereof, unless the test result of the sample is negative. In such case the costs shall be covered by the prison.

(4) If a sample is taken at a health care provider, a prison shall organise the delivery of the sample taken to a state forensic institution for testing and establishment of consumption of prohibited substances.

(5) If a prisoner refuses to give a sample at the health care provider, a prison service officer has the right to use direct coercion in order to ensure taking of the sample as long as this is unavoidable for the achievement of the objective.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

### **§ 68. Search**

(1) In order to discover prohibited items or substances, prison service officers have the right to search prisoners, their personal effects, dwellings, non-work rooms, other premises and the territory of the prison. A prisoner shall be searched by a prison officer of the same sex as the prisoner.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) Prohibited items and substances discovered by a prison service officer in the process of a search are subject to confiscation and sale or destruction. Funds received from the sale of confiscated items or substances shall be transferred to the state budget. The prison service shall deposit the documents found in the course of a search and shall return these to the prisoner on upon release from the prison.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) A prison service officer has the right to search people received into a prison and leaving the prison and search their items. The search shall be conducted by a prison service officer of the same sex as the person searched.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(4) The search procedure shall be established by a regulation of the minister responsible for the area.

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

### **§ 69. Additional security measures**

(1) Additional security measures shall be imposed with regard to a prisoner who regularly violates the requirements of this Act or the internal rules of the prison, damages his or her health or is likely to attempt suicide or escape, and to a prisoner who poses a threat to other persons or security in the prison. Additional security measures may also be imposed for prevention of grave offences.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(2) It is permitted to apply the following as additional security measures:

- 1) restriction of a prisoner's freedom of movement and communication inside the prison;
- 2) prohibition for a prisoner to wear personal clothing or use personal effects;
- 3) prohibition for a prisoner to engage in sports;
- 4) commission of a prisoner in an isolated locked cell;
- 5) use of means of restraint.

(3) The application of additional security measures shall be terminated if the circumstances specified in subsection (1) of this section cease to exist.

(4) Additional security measures shall be imposed by the prison service. In case of urgency, additional security measures shall be imposed by a higher prison service officer currently present.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

#### **§ 70. Use of means of restraint**

(1) In addition to the bases specified in subsection 69 (1) of this Act, means of restraint may be also used upon escorting a prisoner. Legcuffs may be used as a means of restraint only upon escorting of a prisoner or placement of a prisoner inside the prison.  
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(2) Means of restraint shall not be applied for longer than 12 hours.

#### **§ 70<sup>1</sup>. Special equipment and service weapons used in prison service**

[RT I, 09.03.2018, 1 - entry into force 19.03.2018]

(1) The following are the special equipment used in the prison service:

[RT I, 09.03.2018, 1 - entry into force 19.03.2018]

- 1) handcuffs, legcuffs, bindings, restraint-jackets, restraint chairs and beds used as means of restraint;
- 2) service animal;
- 3) means for stopping vehicles;
- 4) water cannon;
- 5) grenades which cause lacrimation, smoke grenades, grenades which cause sound, light or another effect or sense of pain;
- 6) blasting devices for special purposes which are not used against people;
- 7) lighting and audio equipment for special purposes;
- 8) colouring and marking devices for special purposes.

(2) The following are the service weapons used in the prison service:

[RT I, 09.03.2018, 1 - entry into force 19.03.2018]

- 1) firearms;
- 2) gas weapons;
- 3) pneumatic weapons;
- 4) cut-and-thrust weapons;
- 5) electric shock weapons.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(3) The provisions of the Weapons Act apply to service weapons and ammunition thereof, taking account of the specifications provided for in this Act or on the basis thereof.

[RT I, 09.03.2018, 1 - entry into force 19.03.2018]

#### **§ 71. Use and handling of special equipment and service weapons in prison service**

[RT I, 09.03.2018, 1 - entry into force 19.03.2018]

[RT I 2003, 26, 157 - entry into force 01.04.2003]

(1) The use of special equipment and service weapons specified in clauses 70<sup>1</sup>(1) 3)-8) of this Act by a prison service officer is permitted only in extreme cases as a measure of last resort if all the remaining measures are exhausted to prevent a prisoner's escape, apprehend an escaped prisoner, neutralise an armed or otherwise dangerous prisoner or prevent an attack or intrusion of other people in the prison. In using special equipment and service weapons, one must avoid causing harm to the health of persons insofar as possible in a particular case.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(2) A prison service officer has the right to use self-defence equipment and physical force upon the performance of service duties or for ensuring his or her own safety.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) Upon the performance of service duties, a prison service officer has the right to establish, with the aim to ensure safety, a safety zone around himself or herself, other persons or objects which no person shall enter without the permission of the prison officer. A prison service officer may use physical force, special equipment, cut-and-thrust weapons or gas weapons if this requirement is violated.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3<sup>1</sup>) Upon performance of his or her employment duties, including upon performance of his or her employment duties outside a prison, a prison service officer has the right to detain a person whose activities directly endanger

the execution of imprisonment in the prison. Detention of a person shall comply with the procedure provided for in § 46 of the Law Enforcement Act.

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

(3<sup>2</sup>) If the person specified in subsection (3<sup>1</sup>) of this section is in a vehicle, a prison service officer has the right to stop the vehicle. Stopping of the vehicle shall comply with the procedure provided for in § 45 of the Law Enforcement Act.

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

(3<sup>3</sup>) When detaining a person, a prison service officer shall use direct coercion, if necessary, which means affecting of a person by physical force and in the extreme cases specified in subsection (1) of this section by special equipment or a service weapon. Application of direct coercion shall be based on the procedure provided for in §§ 76 to 78 of the Law Enforcement Act.

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

(3<sup>4</sup>) An apprehended person shall be handed over to a police officer as soon as possible, with the exception of persons who have escaped from prison, who are apprehended in an attempt to escape or who have been permitted to leave prison and who avoid continuing of service of the punishment. Such person shall be taken to prison.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(4) It is prohibited to use firearms against women and minors, except in the case where a woman or minor escapes, uses firearms to initiate resistance against a prison service officer or attacks a prison service officer or other people.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(5) It is allowed to use service dogs, in addition to the bases provided for in subsections (1), (3) and (4) of this section, in detecting narcotic drugs and psychotropic substances.

[RT I 2003, 26, 157 - entry into force 01.04.2003]

(6) The use of firearms shall be preceded by a warning to use a firearm or by a warning shot. The use of firearms without a prior warning or warning shot is permitted in the case of urgency to prevent imminent and direct danger to life or health.

[RT I 2003, 26, 157 - entry into force 01.04.2003]

(7) In the case of mass disorders, use of special equipment and service weapons shall be decided pursuant to the legislation regulating response to emergencies.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(7<sup>1</sup>) After use of direct coercion with regard to a prisoner, a health care professional shall examine the state of health of the prisoner as soon as possible. The circumstances of use of direct coercion and the results of health examination shall be recorded.

[RT I, 10.03.2015, 4 - entry into force 01.06.2015]

(7<sup>2</sup>) Where means of restraint are used with regard to a prisoner, the provisions of subsection (7<sup>1</sup>) of this section are mandatory only in the following cases:

- 1) physical force was used upon use of means of restraint;
- 2) means of restraint are used continually for more than fifteen minutes, unless the operation is performed on the basis of a pre-issued administrative act or in the case handcuffs and legcuffs are used during escort;
- 3) a prisoner files a complaint relating to his or her state of health;
- 4) in other cases if the need to check the state of health of a prisoner becomes evident.

[RT I, 10.03.2015, 4 - entry into force 01.06.2015]

(7<sup>3</sup>) The minister responsible for the area shall establish by a regulation the more detailed procedure for checking of means of restraint and state of health, including the frequency of checks in the case of prolonged use of the means of restraint, and the requirements for the minutes.

[RT I, 10.03.2015, 4 - entry into force 01.06.2015]

(8) The terms and conditions of and the procedure for use, handling and transfer of special equipment, service weapons in prison service and ammunition thereof and any parts thereof shall be established by a regulation of the minister responsible for the area.

[RT I, 09.03.2018, 1 - entry into force 19.03.2018]

## **§ 71<sup>1</sup>. List of self-defence equipment of prison service and requirements therefor**

(1) The self-defence equipment of the prison service include the means used for ensuring the physical safety of a prison service officer or a service animal upon exercise of supervision.

(2) The minister responsible for the area may establish by a regulation the list of self-defence equipment of the prison service and the requirements set for self-defence equipment.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

#### **§ 72. Responding to emergencies in prisons**

(1) Responding to emergencies in a prison shall be directed by the prison or the Ministry of Justice, unless the emergency plan provides otherwise.

(2) Police officers, official of the rescue service and providers of health care services who are involved in the responding to the emergencies in a prison shall obey the lawful orders of the agency directing the responding to emergencies.

(3) In connection with responding to emergencies, a prisoner and person in custody may be granted a prison leave without compliance with the conditions provided for in subsections 32 (1) to (3) if this is necessary for the protection of the life and health of the prisoners and persons in custody present in the prison or it is necessary to use the prison facilities in connection with responding to emergencies and the grant of prison leave does not cause more damage than would be caused when the prisoners and persons in custody stay in the prison.

[RT I 2009, 39, 262 - entry into force 24.07.2009]

#### **§ 72<sup>1</sup>. Prison security systems and equipment**

(1) Acquisition of prison security systems or equipment and special equipment, service weapons and ammunition and ordering of services associated with these shall ensure that this does not endanger the prison security.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(2) An estimate of the potential danger of the activities provided for in subsection 1 of this section shall be given and the required measures for preventing the danger shall be determined by the minister responsible for the area.

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

## **Division 9 Release of Prisoner**

#### **§ 73. Grounds for release from prison**

A prisoner shall be released from prison after serving the sentence and on other grounds prescribed by law.

#### **§ 74. Pre-release preparation**

Upon preparation of the release of a prisoner, the social welfare of the prisoner shall be organised, the prisoner shall be granted privileges or a prison leave or the prisoner shall be transferred to an open prison pursuant to §§ 20, 22, 32, 60 or 61 of this Act.

#### **§ 75. Release from prison**

(1) A prisoner shall be released on the last day of the sentence as early as possible, however, not later than at 12:00. If the date of the release of a prisoner falls on a public holiday or a day off, the prisoner shall be released on the last working day before the public holiday or day off.

(1<sup>1</sup>) The release provided for in the second sentence of subsection (1) of this section shall not apply to prisoners who bear liability in instalments pursuant to § 66 of the Penal Code or who serve a partially enforced imprisonment of up to 30 days pursuant to § 73 or 74 of the Penal Code.

[RT I, 07.07.2017, 1 - entry into force 01.11.2017]

(2) If several prisoners are to be released on one day, the prison service shall ensure that the prisoners leave the prison separately.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) On release, the items, documents and personal clothing deposited in the prison service shall be returned to the prisoner. If the prisoner has no personal clothing or if the prisoner's personal clothing is not suitable for the season, the prison service shall provide the prisoner to be released with clothing without charge.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(4) On release, the deposited savings fund accrued from the funds deposited on the personal account of the prisoner and the funds reserved for the use inside the prison shall be paid to the prisoner. If the amount payable from the personal account of the prisoner is smaller than the rate of the benefit, the prisoner shall be paid a

lump-sum benefit to the extent of the difference between the established rate and the amount payable from the personal account.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(4<sup>1</sup>) On the release of a prisoner, the prison service may, with the consent of the prisoner, transfer a part of the savings fund to be handed over to the prisoner on release to a special account of the social affairs department of the residence of the prisoner to be paid to the released prisoner in instalments.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(4<sup>2</sup>) The rate of the benefit specified in subsection 4 of this section shall be established by a regulation of the minister responsible for the area.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(5) A prisoner who is an alien and who has no residence permit, right of residence or right of stay in Estonia shall be expelled from Estonia upon release. If immediate expulsion from Estonia is not possible, the alien shall be placed in an detention centre upon release.

[RT I, 03.07.2013, 2 - entry into force 01.10.2013]

(6) The minister responsible for the area shall establish the procedure for release of prisoners from prison.

## **§ 76. Release on parole**

(1) For release of a prisoner on parole, the prison shall communicate to the court, after the prisoner has served the term of punishment provided for in § 76, 76<sup>1</sup> or 77 of the Penal Code, the personal file of the prisoner, an assessment, which states the opinion of the prison concerning the possibility of commission of a new criminal offence, how dangerous the prisoner is and about the release of a prisoner before the prescribed time, the opinion of the probation supervisor concerning the probationary period, period of supervision of conduct and the selected obligations to be imposed upon the prisoner and the term for imposition thereof and the consent of the prisoner to application of electronic monitoring if the prisoner applies for release on the basis of clause 76 (1) 1) or clause 76 (2) 1) of the Penal Code.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(2) If a prisoner is not released on parole on the basis of clause 76 (1) 1) or clause (2) 1) of the Penal Code, the prison service shall forward the materials specified in subsection (1) of this section to the court again after the term of punishment provided for in clause 76 (1) 2) or clause 76 (2) 2) of the Penal Code has been served but not earlier than six months after the entry into force of a ruling on refusal to release on parole.

(3) If a prisoner who was younger than eighteen years of age at the time of commission of a criminal offence is not released on parole on the basis of subsection 76<sup>1</sup>(1) of the Penal Code, the prison service shall recommunicate the materials specified in subsection (1) of this section to the court after service of the sentence provided for in clause 76 (2) 2) or subsection 76<sup>1</sup>(2) of the Penal Code but not later than six months after the entry into force of a ruling on refusal to release on parole, unless the court has provided a longer or shorter term for re-submission of the materials in a ruling.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(4) If a prisoner is not released on parole on the basis of clause 76 (1) 2) or clause 76 (2) 2) of the Penal Code, the prison service shall forward the materials specified in subsection (1) of this section to the court again after one year has expired after the entry into force of a ruling on refusal to release on parole, unless the court has provided a longer or shorter term for re-submission of the materials in a ruling.

(5) If a court has enforced the unserved part of the sentence of a convicted offender according to subsection 76 (7) of the Penal Code, the prison service shall forward the materials specified in subsection (1) of this section to the court again after serving of the term of punishment provided for in clause 76 (1) 2) or clause (2) 2) or subsection 76<sup>1</sup>(2), but not earlier than after one year has expired from commencement of the serving of the unserved part of the sentence by the convicted offender. The court may provide in its ruling upon enforcing the unserved part of the sentence a term for filing again the materials that is longer or shorter than one year.

(6) A prison shall not communicate the materials specified in subsection (1) of this section to a court for release of a prisoner on parole pursuant to subsection 76 (3) of the Penal Code if the prisoner has less than two months of the sentence to serve. A prison shall communicate the materials to a court for application of supervision of conduct after service of the sentence if the prisoner complies with the requirements provided for in § 87<sup>1</sup> of the Penal Code.

(7) The responsible for the area shall establish by a regulation the procedure for preparation of materials for release of prisoners on parole.

[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

### **§ 76<sup>1</sup>. Certificate of release from prison**

(1) On release or release on parole from prison, the prison service shall issue a certificate of release from prison with a period of validity of six months to the person.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) The format of certificates of release from prison and the list of data to be entered therein shall be established by a regulation of the minister responsible for the area.  
[RT I 2006, 12, 79 - entry into force 01.07.2006]

### **§ 76<sup>2</sup>. Pre-release preparation with application of supervision of conduct after service of sentence**

(1) Upon making preparations by the prison service for deciding the issue of the application of supervision of conduct after service of the sentence and forwarding of materials to the court, the provisions of release of prisoners on parole shall apply, taking into account the specifications provided in this section.

(2) If the bases provided for in clause 87<sup>1</sup>(1) 1) and 2) or subsection (2) exist, the prison service shall forward to the court the personal file of the prisoner and the opinion of the probation supervisor concerning the probationary period and the selected obligations to be imposed upon the prisoner and the term of imposition thereof at the latest two months prior to serving the full term of the imprisonment.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

## **Chapter 3 EXECUTION OF IMPRISONMENT IN CASE OF YOUNG PRISONERS**

### **§ 77. Young prisoners**

For the purposes of this Act, a young prisoner means a person who at the time of enforcement of his or her punishment is younger than 21 years of age.

### **§ 78. Imprisonment of young prisoner**

Young prisoners shall be imprisoned in closed or open prisons prescribed exclusively for such purpose (juvenile prisons) or in separate wards of closed prisons (juvenile wards).

### **§ 79. Reception of young prisoners into prison**

Upon reception into prison, young prisoners shall not stay in the reception ward of a prison for more than two weeks.

### **§ 80. General conditions of execution of imprisonment in case of young prisoners**

The provisions of Chapters 1, 2 and 6 of this Act with the specifications provided for in this Chapter shall be applied to the execution of imprisonment in the case of young prisoners.

### **§ 81. Segregation of young prisoners**

Young prisoners shall be segregated in juvenile prisons and juvenile wards as follows:

- 1) young prisoners less than 15 years of age;
- 2) 15 up to 16 years of age;
- 3) 16 up to 18 years of age;
- 4) 18 up to 21 years of age.

### **§ 82. Transfer into adults' prison or adults' ward**

(1) A prisoner who attains 21 years of age in a juvenile prison or juvenile ward shall be transferred to an adults' closed prison or adults' ward in a closed prison pursuant to his or her treatment plan.

(2) As an exception, a prisoner of 18 up to 21 years of age may be transferred to an adults' closed prison or adults' ward in a closed prison if such transfer is necessary due to the prisoner's character or arising from his or her individual treatment plan.

### **§ 83. Specifications for young prisoners' work**

All specifications for the work of minors arising from labour protection laws, including the specifications for working hours, shall be applied to the work of young prisoners less than 18 years of age.

### **§ 84. Specifications for provision of education to young prisoners**

(1) Young prisoners of up to 18 years of age are required to acquire basic education to the extent prescribed by law. Young prisoners shall be granted an opportunity to acquire vocational education according to their wish and aptitude.

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

(2) The number or duration of visits provided for in §§ 24 and 25 of this Act and prison leaves provided for in § 32 of this Act may be increased with a view to achieve the objectives of execution of imprisonment in the case of a young prisoner.

## **Chapter 4 GENERAL CONDITIONS OF EXECUTION OF DETENTION**

[RT I 2006, 63, 466 - entry into force 01.01.2009]

### **§ 85. Serving of detention**

[RT I 2008, 17, 118 - entry into force 01.01.2009]

(1) Detention shall be served at a house of detention of the location of the court who adjudicated on a matter or at a house of detention of the prefecture of the residence of the detained person.

[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

(2) A detained person may be placed in a house of detention without adherence to subsection (1) of this section, if this is required due to the house of detention being overcrowded, in the interests of the security of the detained person or in other exceptional cases. The Director General of the Police and Border Guard Board or a police officer appointed by the Director General shall decide the placement of a detained person in exceptional cases.

[RT I 2009, 62, 405 - entry into force 01.01.2010]

(3) Reservists and persons in active service serve the detention imposed to them in the house of detention specified in subsection 156 (1) of this Act, conscripts in the house of detention specified in § 156 of this Act or the house of detention of the Defence Forces. For serving the disciplinary detention imposed to them on the basis of the Military Service Act, servicemen may be placed in the house of detention specified in § 156 of this Act.

[RT I, 01.03.2017, 1 - entry into force 01.04.2017]

### **§ 86. General conditions of execution of detention**

(1) The provisions of Chapters 1, 2 and 7 of this Act together with the specifications provided for in this Chapter apply to the execution of detention.

(2) Detained persons shall be lodged in locked cells on a twenty-four-hour basis.

(3) Detained persons shall not be transferred to open prisons.

(4) Detained persons are not required to work.

(5) Subsection 64 (4<sup>1</sup>) of this Act does not apply to detained persons.

[RT I 2006, 63, 466 - entry into force 01.01.2009]

(6) A detained person is fingerprinted and his or her DNA sample is collected, if necessary, for the purpose of identification of the person, if it is impossible to identify the person otherwise.

[RT I, 10.03.2015, 4 - entry into force 01.06.2015]

(7) Servicemen serving disciplinary detention shall not be fingerprinted and no DNA samples shall be taken from the servicemen.

[RT I, 01.03.2017, 1 - entry into force 01.04.2017]

### **§ 87. Visits received by detained persons**

(1) Detained persons shall be allowed one weekly short-term visit under supervision with their family members or other persons. Servicemen serving disciplinary detention shall not be allowed to receive short-term visits under supervision.

[RT I, 01.03.2017, 1 - entry into force 01.04.2017]



(2) The duration of a visit shall be up to two hours. The procedure for visits shall be provided for in the internal rules of the detention house.

#### **§ 88. Short-term release of detained person**

(1) The director of a detention house may release a detained person for up to three days on the grounds provided for in subsection 32 (5) of this Act.

(1<sup>1</sup>) Decisions on short-term release of servicemen serving disciplinary detention are made by the director of a detention house with the consent of the head of the structural unit of the serviceman.  
[RT I, 01.03.2017, 1 - entry into force 01.04.2017]

(2) The serving of detention shall be suspended for the time during which the detained person is released.

(3) Prison leave under supervision specified in § 33 of this Act shall not apply to detained persons.  
[RT I 2003, 78, 524 - entry into force 01.01.2004]

#### **§ 88<sup>1</sup>. Release of detained person**

(1) The release provided for in subsection 75 (1) of this Act shall not apply to detained persons.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) Upon release of a detained person, no savings fund shall be handed over to the person.

(3) If a detained person has been placed in a house of detention without adherence to subsection 85 (1) of this Act, the prefecture in which house of detention the detained person serves his or her sentence shall ensure transportation upon release of the detained person to the place of residence of the detained person or compensate the detained person for the public transport costs to his or her place of residence.  
[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

(4) Upon release of servicemen having served disciplinary detention, the Defence Forces shall ensure transportation of the serviceman to the location of his or her position of military rank.  
[RT I, 01.03.2017, 1 - entry into force 01.04.2017]

## **Chapter 5 EXECUTION OF CUSTODY PENDING TRIAL**

#### **§ 89. Basis for reception into custody pending trial**

A person is received into a prison or detention house on the basis of a copy of the report on the detention of the person or a misdemeanour report, copy of the report on the detention of a suspect, copy of the court judgment or court ruling/ order, or identity document or, in the absence thereof, identification document prepared by the police.  
[RT I 2006, 63, 466 - entry into force 01.02.2007]

#### **§ 90. General conditions of custody pending trial**

(1) The provisions of Chapters 1, 2 and 7 of this Act together with the specifications provided for in this Chapter apply to being held in custody pending trial.

(2) Custody pending trial shall be served in wards prescribed for custody pending trial in closed prisons or in houses of detention.

(3) A person in custody shall be lodged in a locked cell on a twenty-four-hour basis, except during the time when the person in custody is working or studying. Persons in custody who are accused in the same criminal matter shall be segregated.

(4) Cells where persons in custody are lodged shall be in compliance with the conditions provided for in subsection 45 (1) of this Act and ensure constant visual or electronic surveillance of the persons in custody.

(5) The prison service or house of detention is required to take all measures to prevent any communication between persons in custody who are lodged in different cells.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

## **§ 91. Reception into custody pending trial**

(1) A personal file shall be opened for a person in custody and the data provided for in subsection 17 (2) of this Act shall be entered in the file.

(2) The prison service shall promptly inform the investigative body, Prosecutor's Office or court, if the court is conducting proceedings in the criminal matter, of the reception of a person in custody.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

## **§ 92. Informing of transfer of persons in custody**

The authority who receives a person in custody is required to inform the investigative body or the Prosecutor's Office or court, if the court is conducting proceedings in the criminal matter, of the transfer of a person in custody.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

## **§ 93. Serving of custody pending trial**

(1) Persons in custody shall wear personal clothing. If a person in custody lacks suitable personal clothing or if he or she is unwilling to wear personal clothing, the prison service or house of detention shall provide the person in custody with clothing without charge.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) A personal account shall be opened for a person in custody and the funds paid to the person in custody are transferred to the account.

(3) Persons in custody shall have access to national daily newspapers and books and periodicals stored at the library. A person in custody shall be permitted to subscribe, through the mediation of the prison service, for a reasonable number of newspapers, periodicals and other pieces of literature out of his or her personal resources unless the subscription endangers security in the prison. The prison service may permit the cell of a person in custody to be illuminated outside the prescribed time.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(4) A person in custody who is a minor and who has been in custody pending trial for at least one month shall be allowed to continue to acquire basic education or general secondary education on the basis of a corresponding national curriculum.

(5) A person in custody shall be allowed, at his or her request, to be in the open air for at least one hour daily.

(6) The organisation and funding of the health care of persons in custody shall be carried out on the basis of §§ 49 and 49<sup>1</sup> of this Act and legal acts established on the basis thereof. A person in custody who needs treatment which cannot be provided in prison shall be referred by a medical officer to treatment at a relevant provider of specialised medical care. The prison service or house of detention shall promptly inform the investigative body, Prosecutor's Office or court, if the court is conducting proceedings in the criminal matter, of referring the person in custody to a provider of specialised medical care. The prison service or house of detention shall ensure the guard of the person in custody during the time when the person is provided with health care services.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(7) Persons in custody are not required to work. If a person in custody wishes to work and the prison service can allow it, §§ 39, 40 and 43 of this Act apply to him or her.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(7<sup>1</sup>) The privileges provided for in § 22 of this Act shall not be applied to persons in custody.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(8) A certificate provided for in § 18<sup>1</sup> of this Act shall be issued to a person in custody on the basis of his or her application if the person in custody does not have any other valid identity document.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

## **§ 94. Visits received by persons in custody**

(1) A person in custody shall be permitted to receive short-term visits of personal, legal or commercial interest in matters which the person in custody cannot conduct through third persons.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(2) Persons in custody who are citizens of foreign states have the unrestricted right to receive visits from consular officers of their countries of nationality.

(3) A person in custody shall receive visits in the presence of a prison service officer who has the right to interrupt or immediately terminate the visit if the visit may damage the conduct of criminal proceedings.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(4) The duration and specific procedure for short-term visits received by persons in custody shall be provided for in the internal rules of the prison.

(5) The long-term visits provided for in § 25 of this Act shall not be applied to persons in custody.  
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

#### **§ 95. Visits from criminal defence counsel, representative who is advocate, minister of religion, notary and consular officer of country of nationality**

(1) A person in custody has the unrestricted right to receive visits from his or her criminal defence counsel, representative who is an advocate, minister of religion and a consular officer of his or her country of nationality, and a notary for performance of a notarial act. Visits shall be uninterrupted. Visits shall be within sight but not within hearing distance from prison service officers.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) A criminal defence counsel, a representative who is an advocate or a consular officer has the right to hand over material necessary for the preparation of defence to a person in custody. Prison service officers shall not review the content of such material. Prison service officers shall not review the content of documents of a notary.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

#### **§ 96. Correspondence and telephone calls of persons in custody**

[RT I 2003, 26, 157 - entry into force 01.04.2003]

(1) Persons in custody have the right of correspondence and use of telephone (except mobile phone) if relevant technical conditions exist. Correspondence and use of telephone shall be effected pursuant to the procedure provided for in the internal rules of the prison.

(2) Costs related to correspondence and use of telephone shall be borne by the person in custody.

(3) [Repealed - RT I 2006, 63, 466 - entry into force 01.02.2007]

#### **§ 97. Surveillance of correspondence and telephone calls of persons in custody**

(1) A prison service officer shall open letters sent by or to a person in custody in the presence of the person in custody, except letters addressed to the persons and agencies provided for in subsection (3) of this section, and confiscate any items the holding of which in a prison is prohibited by the internal rules of the prison.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) The content of the correspondence of a person in custody and of messages forwarded by telephone by or to a person in custody may be examined only with the permission of a court and on the bases and pursuant to the procedure provided for in the Code of Criminal Procedure.  
[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

(3) It is prohibited to review the content of letters sent and telephone messages forwarded by a person in custody to his or her criminal defence counsel, a representative who is an advocate, the Chancellor of Justice, a prosecutor, a court and the Ministry of Justice.  
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

#### **§ 98. Packages**

(1) Persons in custody are permitted to receive packages. The list of permitted items shall be established in the internal rules of the prison or house of detention.  
[RT I 2006, 63, 466 - entry into force 01.02.2007]

(2) The prison service shall examine the content of a package before it is handed over to a person in custody in the presence of the person. The prison service has the right to seize items contained in a package the holding of which is prohibited in the prison by the internal rules of the prison or which may endanger the conduct of the criminal proceedings, and not hand over such items to the person in custody.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) Seized items, which may be held only with special permission and such permission does not exist, shall be confiscated and destroyed. The remaining seized items shall be returned to the sender of the package.

(4) The minister responsible for the area shall approve the procedure for the return, confiscation and destruction of seized items.

## **§ 99. Prison leave under supervision of persons in custody**

(1) A prison service officer has the right to grant permission to a person in custody for prison leave under supervision for up to one day if the investigative body, Prosecutor's Office or court, if the court is conducting proceedings in the criminal matter, has granted consent thereto, under essential and urgent personal, legal or commercial circumstances which require the personal attendance of the person in custody. A person in custody shall bear the costs of his or her prison leave under supervision.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) Permission for prison leave under supervision shall be granted on request of the person in custody.

(3) The short-term visits provided for in § 32 of this Act shall not be applied to persons in custody.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

## **§ 100. Disciplinary penalties imposed on persons in custody**

(1) Disciplinary penalties may be imposed on persons in custody for the wrongful violation of the requirements of this Act, internal rules of the prison or other legislation. The following disciplinary penalties may be imposed:

- 1) reprimand;
- 2) deprivation for up to two months of the right of supplementary alimentation purchased out of the personal funds of the person in custody;
- 3) commission to a punishment cell for up to 30 twenty-four hour periods.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(2) A person in custody who is younger than eighteen years of age may be committed to a punishment cell for up to 15 twenty-four hour periods.

(3) The reason and objective of the imposition of custody pending trial shall be considered upon the choice of a disciplinary penalty. Only one disciplinary penalty may be imposed for the commission of one and the same disciplinary offence. It is prohibited to impose collective disciplinary penalties.

## **§ 101. Disciplinary proceedings**

(1) The provisions of § 64 of this Act apply to the conduct of disciplinary proceedings and imposition of disciplinary penalties.

(2) Disciplinary penalties shall be enforced immediately.

(3) A disciplinary penalty imposed on a person in custody shall not be executed if the punishment is not enforced within one month as of the imposition of the disciplinary penalty.

(4) The provisions of subsection 65 (5) of this Act apply to expiry of disciplinary punishments.

[RT I, 10.03.2015, 4 - entry into force 01.06.2015]

## **§ 102. Securing of criminal proceedings**

Additional restrictions may be applied to a person in custody or a suspect or an accused who is imprisoned or serving detention on the basis of an order of the Prosecutor's Office or court ruling on the bases of and pursuant to the procedure provided for in the Code of Criminal Procedure.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

## **§ 103. Ensuring security in custody pending trial**

In order to ensure security in custody pending trial, a prison service officer may apply the security measures specified in §§ 66–72 of this Act with regard to a person in custody.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

## **§ 104. Release from custody pending trial**

(1) A person in custody shall be released upon the expiry of the term of custody, and on other bases provided by law.

(2) A prison service officer shall notify the preliminary investigator or the prosecutor who is conducting proceedings in the criminal matter of the pending release of a person in custody three days before the expiry of the term of custody.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) A person in custody shall be released not later than at 12:00 on the last day of the term of custody unless the term of custody is extended.

(4) Upon release of a person in custody, no savings fund shall be handed over to the person.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

## **Chapter 5<sup>1</sup>**

### **EXECUTION OF DETENTION AFTER SERVICE OF SENTENCE**

[Repealed -RT I, 05.07.2013, 2 - entry into force 15.07.2013]

§ 104<sup>1</sup>.–§ 104<sup>6</sup>. [Repealed - RT I, 05.07.2013, 2 - entry into force 15.07.2013]

## **Chapter 6**

### **ORGANISING ENFORCEMENT**

#### **Division 1**

#### **Prison**

##### **§ 105. Prison**

(1) A prison is a government agency in the area of government of the Ministry of Justice whose function is the execution of imprisonment and custody pending trial pursuant to the procedure provided for in this Act.  
[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

(1<sup>1</sup>) The minister responsible for the area shall determine the division of the functions between the Ministry of Justice and prisons. If a position in a prison is subject to the management of the Ministry of Justice, the minister responsible for the area may prescribe by a regulation that the Ministry of Justice assigns an officer to and releases him or her from such position. The division of functions and the procedure of transfer of the functions between the prisons and the Ministry of Justice shall be established by a regulation of the minister responsible for the area.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) A prison shall be founded and the statutes, composition of staff and internal rules of the prison shall be established by a regulation of the minister responsible for the area.  
[RT I 2006, 63, 466 - entry into force 01.02.2007]

(2<sup>1</sup>) The rules of procedure of a prison shall provide the following concerning a prisoner or person in custody:  
[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

- 1) reception and placement in the prison;
  - 2) schedule;
  - 3) organisation of working and studying;
  - 4) possibilities for leisure activities;
  - 5) doing the shopping;
  - 6) visits and use of telephone;
  - 7) prison leave and prison leave under supervision;
  - 8) satisfaction of religious needs;
  - 9) medical surveillance;
  - 10) reception of officials;
  - 11) organisation of correspondence;
  - 12) conduct of disciplinary proceedings and execution of disciplinary penalties;
  - 13) transfer and release from prison;
  - 14) other circumstances which need to be regulated.
- [RT I 2006, 63, 466 - entry into force 01.02.2007]

(2<sup>2</sup>) The rules of procedure of a prison shall be communicated against a signature to prisoners or persons in custody who are received into prison.  
[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

(3) Directors of prisons shall approve the rules of procedure of prisons.  
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(4) The Ministry of Justice shall exercise supervisory control over prisons.  
[RT I, 16.04.2014, 1 - entry into force 26.04.2014]

(5) For the purpose of exercising supervisory control, inter alia a supervisory inspection may be arranged which means the inspection of a prison for the purpose of detecting and correcting and thereafter preventing mistakes in the work and work organisation of the prison. Officials and employees in the prison service and other experts may be involved in the supervisory inspection.

[RT I, 16.04.2014, 1 - entry into force 26.04.2014]

(6) The procedure for supervisory inspections shall be established by a regulation of the minister responsible for the area.

[RT I, 16.04.2014, 1 - entry into force 26.04.2014]

### **§ 105<sup>1</sup>. Prison service**

(1) The function of the prison service is the execution of imprisonment and custody pending trial and the organisation of probation supervision and supervision of conduct after service of the sentence.

[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

(2) The prison service shall consist of:

- 1) positions in the staff of the Ministry of Justice intended for the performance of the functions of the prison service;
- 2) prisons.

(3) The positions specified in clause (2) 1) of this section shall be determined by a regulation of the minister responsible for the area.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(4) The provisions regulating the background checks, on-call time and medical examinations of prison officers apply to the background checks, on-call time and medical examinations of officers to be employed or employed in the positions specified in clause (2) 1) of this section.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

### **§ 106. Directors of prisons**

A director of a prison shall direct the work of the prison and perform other functions assigned to him or her.

### **§ 107. Professional supervision**

(1) The ministers responsible for the areas shall exercise supervision over the performance of duties in the areas of education, social welfare and health care in prisons.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

(2) [Repealed - RT I 2009, 49, 331 - entry into force 01.01.2010]

(3) State supervision over compliance with the health protection requirements and the requirements provided for health care providers in prisons prescribed by the Public Health Act and legislation established on the basis thereof shall be exercised by the Health Board.

[RT I 2009, 49, 331 - entry into force 01.01.2010]

### **§ 108. Prison committee**

(1) The public exercises supervision over prisons through prison committees operating at the given prisons. Prison officers shall not be included in the membership of prison committees.

(2) The function of a prison committee is to assist the prison in the organisation of prison work, including assistance in resolving issues related to the lodging, study, work and alimentation of prisoners, provision of medical services to prisoners and persons in detention after service of a sentence, supervision of prisoners and persons in detention after service of a sentence and other issues related to the execution of penalties.

[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

(3) The specific duties, membership and operating procedure of prison committees, and the procedure for the remuneration of the members of prison committees shall be provided by the statutes of prison committees which shall be approved by the minister responsible for the area.

(4) A prison committee has the right to pass resolutions, receive proposals and protests for the performance of the functions provided for in subsections (1) and (2) of this section.

(5) A prison committee shall submit a report concerning its work during the preceding year to the Ministry of Justice by 1 February each year. The report shall be submitted through the chairman of a prison committee.

(6) The members of prison committees shall not disclose any sensitive personal data concerning prisoners which become known to them in the performance of their duties.

(7) The members of prison committees shall be appointed by the minister responsible for the area.

## **§ 108<sup>1</sup>. Requirements for members of prison committee**

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

The following persons may be appointed as members of a prison committee:

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

1) who is a citizen with active legal capacity of the Republic of Estonia or a member state of the European Union and at least 21 years of age;

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

2) who has not been convicted of intentionally committed criminal offences or who has not been declared a suspect or accused in a criminal proceeding;

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

3) who have at least secondary education;

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

4) whose level of Estonian language proficiency is C1 provided for in the Language Act or a corresponding level;

[RT I 2009, 4, 26 - entry into force 26.01.2009]

5) who has sufficient understanding of the objectives of imprisonment and execution of imprisonment;

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

6) who are prepared to assist to return of a prisoner to society;

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

7) who do not have personal relationships with prisoners or persons in custody which may hinder the performance of the functions of the member of the committee.

[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

## **§ 109. Prison escort guards, armed units and professional assistance**

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(1) Armed escort guards who shall be provided with special training have been formed to escort prisoners, persons in detention or custody outside the territory of the prison and the house of detention.

[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

(2) The functions and operating procedure of prison escort guards shall be established by a regulation of the minister responsible for the area.

(3) Armed units for the performance of special duties may be formed at a prison. The functions and operating procedure of armed units shall be established by a regulation of the minister responsible for the area.

(4) Armed units or prison service officers may be used in professional assistance, as necessary, pursuant to the Administrative Co-operation Act for ensuring public order. Upon use of armed units or prison service officers for ensuring public order, the armed units or prison service officers shall also comply with the requirements of the legislation regulating the activities of the police.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(5) Police officers shall be involved in the escort of prisoners, detained persons and persons in custody, if necessary.

[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

# **Division 2 Service as Prison Officer**

[RT I 2009, 39, 261 - entry into force 24.07.2009]

## **Subdivision 1 Prison officer**

### **§ 110. [Repealed - RT I 2009, 39, 261 - entry into force 24.07.2009]**

### **§ 111. Prison officer**

(1) Prison officers are officers in prison service with the function to imprison and supervise prisoners and persons in custody, to ensure security in prisons and conduct pre-trial procedures or extra-judicial proceedings of offences committed in prisons, and to direct the activities in the specified areas.

[RT I, 05.07.2013, 2 - entry into force 15.07.2013]

(1<sup>1</sup>) Service in the office of an executive officer of a sub-unit of an institution of applied higher education for public defence which provides education in the area of correction or other agencies carrying out preparatory service for prison officers and in the office a teacher of correctional training programmes, and participation as an expert in international civil missions is also deemed to be service as a prison officer.  
[RT I, 04.03.2011, 1 - entry into force 01.04.2011]

(2) An official of the Ministry of Justice may perform the functions of a prison officer or other prison employees.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2<sup>1</sup>) An official of the Ministry of Justice may issue orders to prison officers or other prison employees.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(3) The procedure of performing the functions and issuing the orders specified in subsections (2) and (2<sup>1</sup>) of this section shall be established by a regulation of the minister responsible for the area.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

(4) If an official of the Ministry of Justice performs functions in a prison, the rights and obligations of prison officers or other prison employees shall expand to him or her, except the rights of prison officers provided for in Division 2 of Chapter 6 of this Act.  
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

### **§ 112. Official ranks of prison officers**

(1) Prison officers are divided according to the complexity of the duties, the directing function and scope thereof related to positions which correspond to the given official ranks into the following official ranks specified in the following descending order:

- 1) chief inspector of prison;
- 2) class I prison inspector;
- 3) class II prison inspector;
- 4) class I guard;
- 5) class II guard.

(2) The minister responsible for the area shall establish the positions corresponding to each official rank of prison officers.

## **Subdivision 2 Employment of Prison Officers in Service**

[RT I 2009, 39, 261 - entry into force 24.07.2009]

### **§ 113. Appointment to office of prison officers**

(1) A citizen of the Republic of Estonia who has at least secondary education, full active legal capacity and who is proficient in Estonian to the extent established by law or on the basis of an Act may be appointed to a position of a prison officer.

(2) A vacant position of a prison officer may be filled without organising a competition.

(3) Upon appointment of a prison officer to office, the obligation of completing the preparatory service for prison officers corresponding to the official rank may be imposed on the officer.

(4) The obligation of completing of preparatory service for prison officers may not be imposed on a person who has a research degree or Master's degree or who has corresponding qualifications or a person who has worked as a judge, prosecutor, higher police officer, border guard official or official of the rescue service or as prison officer, or in a position of an official of the Prison Service of the Ministry of Justice for at least two years.

(5) The director of a prison shall be appointed to office for a term of five years.

(6) For the time of undergoing practical training, positions of apprentices may be provided for in the composition of the staff of a prison.

(7) A prison shall take care of instructing prison officers without previous experience of prison service in order to ensure their preparedness for the performance of their duties.  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]



### **§ 113<sup>1</sup>. Requirements for prison officers**

(1) A prison officer shall comply with the education, work experience and physical condition requirements established for performance of the duties of a prison officer and the requirements established for the person's knowledge, skills and personal characteristics.

(2) The requirements specified in subsection (1) of this section by official ranks and the procedure for assessment of compliance therewith shall be established by the minister responsible for the area.

(3) The minister responsible for the area shall establish by a regulation the requirements for the position of the director of a prison and the procedure for his or her recruitment and choice, development and assessment.  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

### **§ 114. Persons who shall not be employed in prison service**

(1) The following persons shall not be employed in the prison service in addition to the persons specified in § 15 of the Public Service Act:

- 1) who have been convicted of intentionally committed criminal offences, regardless of deletion of data concerning punishment;
- 2) who have served imprisonment sentences, regardless of deletion of data concerning punishment; or
- 3) who is a suspect or an accused in a criminal proceeding.

(2) The bases provided for in subsection (1) of this section shall also apply to persons who wish to commence studies in the area of specialization of a prison officer.

[RT I, 20.12.2012, 3 - entry into force 01.04.2013]

### **§ 114<sup>1</sup>. Background check**

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(1) A person who wishes to commence service or work in a prison or commence studies in the area of specialization of a prison officer (hereinafter *work in prison*) shall submit a form concerning personal data to the Department of Prisons of the Ministry of Justice or a prison.

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

(2) The form concerning personal data requests data which allow assessing the person's suitability for the position. In addition to this, the given name and surname, personal identification code, date and place of birth in the absence of the personal identification code and other contact details of the person's parent, sister, brother, child, spouse, former spouse and cohabitee may be requested.

[RT I, 29.06.2012, 1 - entry into force 01.04.2013]

(3) The form for the data of a person wishing to commence work in a prison shall be established and the officials having the right to verify these data shall be appointed by the minister responsible for the area.

(4) For verifying the truth of the data submitted on the personal data form by the persons wishing to commence work in a prison, the officials appointed based on subsection (3) of this section shall have the right:

- 1) to address local government agencies, officials of local governments, legal persons and natural persons by inquiries concerning the personal data of a person wishing to commence work in a prison;

[RT I 2009, 39, 261 - entry into force 24.07.2009]

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

- 3) to ascertain whether the persons specified in subsection (2) of this section participate in criminal proceedings as a suspect, the accused or have been punished for an intentionally committed criminal offence, and to use the data from punishment register or archives of punishment register for verification.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(5) An agency or person who receives the inquiry specified in this section shall immediately answer the inquiry.

(6) The person wishing to commence work in a prison shall be notified of the background check conducted with respect to him or her and enabled to examine the materials gathered in the process of the checks.

(7) If a person wishing to commence work in a prison has intentionally presented false data or concealed material information, he or she shall not be appointed to the office.

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

(8) Background check of a person in the prison service is performed in order to establish:  
1) compliance with the requirements in force at the time of employment in the prison service upon employment of the person in the prison service; or  
2) circumstances which may endanger the security of or order in the prison.  
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(9) Violation of the requirements for employment in the prison service established in the course of background checks can be the basis for the release of the person only if the requirements for employment in the prison service in force at the time of his or her employment in the prison service were violated upon his or her employment in the prison service and the circumstances hindering the employment in the prison service have not ceased to exist.  
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

#### **§ 115. Preparatory service for prison officers**

(1) Preparatory service for prison officers consists of practical and theoretical professional training.

(2) The prison officer candidates shall undergo preparatory service in agencies where the prison officer candidates participate in practical training and in an institution of applied higher education for public defence.  
[RT I 2008, 17, 118 - entry into force 01.06.2008]

(3) The official title of a person undergoing preparatory service for prison officers shall be "prison officer candidate", except in the case when he or she is appointed to office as prison officer.  
[RT I 2006, 63, 466 - entry into force 01.02.2007]

#### **§ 116. Legal regulation of preparatory service**

(1) The Public Service Act does not apply to the theoretical part of the preparatory service for prison officers and participation therein is not deemed to be public service with the following exceptions:  
1) the time of participation in preparatory service shall be included in the length of service if the person entered into the service as a prison officer within three months as of the completion of preparatory service;  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]  
2) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(2) Sections 134 and 147 of this Act extend to the theoretical part of the preparatory service for prison officers.

(3) A prison officer candidate may be appointed to office with the permission of the head of the corresponding educational institution and upon the existence of a vacant position in the prison. If there is no vacant position, the prison officer candidate shall be appointed to the position specified in subsection 113 (6) of this Act.  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(4) The Public Service Act shall not apply to the service in the position of an apprentice specified in subsection (3) of this section, except the provisions in §§ 44, 50, 51, 53-57 and 60.  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(5) The duties of employment prescribed in subdivision 4 and the social guarantees prescribed in subdivision 5 of this Act, except § 136 of this Act, apply to the service specified in subsection (3) of this section.  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(6) Preparatory service for prison officers shall be concluded by passing the examination of prison officer or the defence of a final paper.  
[RT I 2006, 63, 466 - entry into force 01.02.2007]

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

#### **§ 117. Grants and other social guarantees of prison officer candidates**

(1) A grant is paid to prison officer candidates, except in the case when a candidate is appointed to office as prison servant on the basis of subsection 116 (3) of this Act. The amount of the grant and the conditions of and procedure for payment thereof shall be established by the Government of the Republic or a Minister authorised by the Government of the Republic.  
[RT I 2006, 63, 466 - entry into force 01.02.2007]

(2) Section 147 of this Act applies to prison officer candidates.

(3) In addition to days off, prison officer candidates shall be allowed during the theoretical training at least 35 calendar days free from study annually to the extent and at the time determined by the study timetable.

#### **§ 118. Compensation for expenses of preparatory service**

(1) A person is required to compensate for the expenses incurred by the state on preparatory service if he or she:  
1) discontinues preparatory service without good reason;

2) is expelled from preparatory service for non-satisfactory performance;  
3) is expelled from preparatory service due to the commission of a disciplinary offence;  
4) fails to commence prison service or service in the Ministry of Justice within three months as of the completion of preparatory service, except in the case the person was not offered a position which corresponds to his or her qualifications;

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

5) is released from service as a prison officer or service at the Ministry of Justice on his or her own initiative without good reason;

[RT I 2009, 39, 261 - entry into force 24.07.2009]

6) is released from service as a prison officer or service at the Ministry of Justice upon entry into force of a judgement of conviction;

[RT I 2009, 39, 261 - entry into force 24.07.2009]

7) is released from service as a prison officer or service at the Ministry of Justice upon commission of a disciplinary offence.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) The expenses of preparatory service shall not be compensated by prison officers who:

1) have been in service as prison officers or service at the Ministry of Justice for at least three years after preparatory service or

[RT I 2009, 39, 261 - entry into force 24.07.2009]

2) is released from the service as a prison officer or service at the Ministry of justice due to his or her established partial or no work ability or on his or her own initiative in connection with a need to care for a family member with partial or no work ability.

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

(3) The procedure for the calculation of and compensation for the expenses of preparatory service shall be established by a regulation of the minister responsible for the area with the approval of the ministers responsible for the areas.

[RT I, 29.06.2014, 109 - entry into force 01.07.2014, on the basis of subsection 107<sup>3</sup> (4) of the Government of the Republic Act, the words "the Minister of Internal Affairs and the Minister of Education and Research" at the end of the sentence shall be replaced by the words "the ministers responsible for the areas".]

#### **§ 119. Preparatory service for different official ranks**

(1) The preparatory service in the course of which a person acquires the secondary vocational education provided for in a ruling of the minister responsible for the area or a qualification equal thereto corresponds to the official ranks specified in clauses 112 (1) 4) and 5) of this Act.

[RT I, 02.07.2013, 1 - entry into force 01.09.2013]

(2) The preparatory service in the course of which the person acquires professional higher education corresponds to the positions specified in clauses 112 (1) 1) to 3) of this Act.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

#### **§ 120. Authority to employ prison officers in preparatory service and appoint prison officers to office**

(1) A prison officer candidate shall be employed in preparatory service by the executive officer of the educational institution carrying out preparatory service.

(2) A prison officer shall be appointed to office by the director of a prison or an official authorised by the director.

(3) A director of a prison shall be appointed to office by the minister responsible for the area.

(4) A prison officer shall be appointed to the positions specified in subsection 110 (2) of this Act by an executive officer of the corresponding educational institution or an official appointed by the executive officer.

#### **§ 121. Probationary period**

A probationary period with the duration of up to one year shall be applied with regard to prison officers who are appointed to office for the first time.

### **Subdivision 3**

# Prison Officer Career

## § 122. Assessment of prison officers

Prison officers are assessed based on their knowledge, skills, personal characteristics, education, work experience and physical condition according to the requirements of the official ranks, and their service achievements.

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

## § 122<sup>1</sup>. Physical condition requirements for prison service officers

(1) Prison service officers shall comply with the physical condition requirements set for prison service officers.

(2) The minister responsible for the area shall established by a regulation the requirements for the physical condition, the conditions of and procedure for verification thereof.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

§ 123.–§ 125.[Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]

## § 126. Advancement of prison officers

[Repealed - RT I 2003, 26, 157 - entry into force 01.04.2003]

## § 127. Promotion of prison officer

Promotion of a prison officer means appointment of the prison officer to a position of a higher official rank.

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

## § 128. Transfer of prison officers

(1) A prison officer may be transferred to another position in the following cases:

- 1) on proposal of the prison officer or
- 2) on initiative of the person who has the authority to transfer prison officers to other positions.

(2) In the case referred to in clause (1) 2) of this section, a prison officer may be transferred to another position in the same official rank due to work-related need without the prison officer's consent.

(3) [Repealed - RT I 2006, 63, 466 - entry into force 01.02.2007]

(4) A prison officer shall not be transferred without his or her consent pursuant to subsection (2) of this section if the change of position results in the change of residence of the officer or increases the time needed to reach work to a significant extent.

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

(5) The transfer of a prison officer shall be decided by the person who has the authority to appoint the prison officer to office. If the person who has the authority to appoint a prison officer to a new position and the person who had the authority to appoint a prison officer to his or her former position are two different persons, the prison officer shall be appointed with the written consent of the person who had the authority to appoint the prison officer to his or her former position.

(5<sup>1</sup>) § 33 of the Public Service Act shall not apply to the service of prison officers.

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

## § 129. Transfer of prison officer to other positions in state agencies

(1) A prison officer may be transferred with his or her consent to other positions of state service which do not belong to prison service.

(2) A prison officer may be transferred to the positions specified in subsection (1) of this section for up to five consecutive years. With the consent of the prison officer, the term may be extended upon its expiry by up to five years.

(3) Upon the expiry of the term provided for in subsection (2) of this section, a prison officer shall be transferred to his or her previous position or another position in the same official rank. A prison officer may be appointed to a position in a lower official rank with his or her consent if there is no vacant position of the official rank of the prison officer.

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

**§ 129<sup>1</sup>. Transfer of prison officer to position of head of structural unit of institution which provides education in area of correction**

(1) A prison officer may be transferred to the position of head specified in subsection 110 (2) of this Act for up to five years, however not for more than two consecutive terms.

(2) Upon the expiry of the term provided for in subsection (1) of this section, a prison officer shall be transferred at his or her request to the same position or another position in the same official rank; if such position is not available, the officer shall be transferred to another position.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

**§ 130. Rights of prison officers in case of transfer to position in lower official rank**

(1) A person appointed to a position in a lower official rank of prison officer has the right to:

1) be transferred to a position corresponding to the prison officer's former official rank if such position becomes vacant, in case the person meets the requirements set for the position;

2) receive remuneration during three months which corresponds to his or her former official rank.

(2) In the case prescribed in clause (1) 1) of this section, no competition shall be organised to fill a vacant position by way of promotion.

(3) A prison officer who is appointed to an official rank which corresponds to a lower position after he or she is declared unsuitable to meet the requirements set for his or her official rank shall not have the right prescribed in clause (1) 2) of this section.

[RT I 2003, 26, 157 - entry into force 01.04.2003]

**§ 131. Regulation concerning career of prison officers**

The Government of the Republic shall, by a regulation concerning the career of prison officers, establish the specific conditions and procedure for the appointment to office and promotion of prison officers.

[RT I 2003, 26, 157 - entry into force 01.04.2003]

## **Subdivision 4 Duties of Employment of Prison Officers**

[RT I 2009, 39, 261 - entry into force 24.07.2009]

**§ 132. Duty to maintain professional secrecy**

A prison officer shall not disclose any facts which become known to him or her in connection with the performance of his or her duties, including facts pertaining to the personal relationships of prisoners. The duty to maintain professional secrecy has unspecified term.

**§ 132<sup>1</sup>. Issue and compliance with orders**

(1) A prison service officer has the right to issue oral and written orders for performance of duties within his or her competence.

(2) An order shall be in accordance with laws and legislation established on the basis thereof.

(3) If the recipient of an order does not understand the order, he or she shall request explanations from the issuer of the order.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

**§ 132<sup>2</sup>. Liability for compliance with orders**

(1) The issuer of an order shall be liable for the consequences of compliance with the order.

(2) If the recipient of an order complies with an order which leaves the issuer of the order unclear, the person executing the order shall be liable for the consequences thereof.

(3) If the consequences of executing an order result in an act with the elements of a criminal offence in the first degree, both the issuer of the order as well as the recipient of the order shall be liable for the consequences of the execution of the order.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

### **§ 133. Notification obligation**

A prison officer is required to immediately inform the director of the prison or a higher prison officer present of any important matters which arise in execution of punishment and which concern compliance with the internal rules of the prison or security in the prison, and of his or her observations concerning prisoners which may help to achieve the objectives of execution of imprisonment. A prison officer is required to immediately inform a medical officer or a nurse of illness, injury or intoxication of a prisoner or person in custody.  
[RT I 2006, 63, 466 - entry into force 01.02.2007]

### **§ 134. Obligation to wear uniform**

A prison officer shall wear a uniform while performing his or her duties of employment.

### **§ 135. Prohibition on participation in pressure activities**

Prison officers shall not participate in strikes, pickets or other service-related pressure activities.  
[RT I, 29.06.2012, 1 - entry into force 01.04.2013]

### **§ 135<sup>1</sup>. Prison Service Code of Ethics**

The minister responsible for the area shall establish a code of ethics for prison service officers and employees.  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

## **Subdivision 5 Social Guarantees of Prison Officers**

[RT I 2009, 39, 261 - entry into force 24.07.2009]

### **§ 136. Definition of wages, basic wages and wage rate of prison officers**

(1) The wages of prison officers are comprised of basic wages and additional remuneration provided by law and paid on the basis of the law.

(2) Basic wages are a sum of money arising from the wage rate determined for the officer and corresponding to the office of the prison officer.

(3) For the purpose of this Act, wage rate is a specific sum or range of sums.  
[RT I 2008, 17, 118 - entry into force 01.01.2009]

### **§ 136<sup>1</sup>. Remuneration of work of prison officers**

(1) Wage rates of prison officers and the procedure of determining basic wages and payment of additional remuneration shall be established by a regulation of the minister responsible for the area.  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(2) The region, agency, qualification requirements, duties of the prison officer, work in the evenings or night-time and other circumstances shall be taken into account upon determining the wage rates.

(3) Basic wages may be reduced by up to 30% in the absence of professional preparatory service or respective education.

(4) Additional remuneration of up to 50% of the lowest sum of the wage rate or wage rate sum of a prison officer may be paid in one month for the performance of supplementary functions or for more effective work than required.  
[RT I 2008, 17, 118 - entry into force 01.01.2009]

### **§ 136<sup>2</sup>. Longevity pay**

(1) Prison officer are paid longevity pay for the years of service as follows:

- 1) from 5 years of service – 5% of the lowest wage rate or established wage rate of the position;
  - 2) from 10 years of service – 10% of the lowest wage rate or established wage rate of the position;
  - 3) from 15 years of service – 15% of the lowest wage rate or established wage rate of the position.
- [RT I 2008, 17, 118 - entry into force 01.01.2009]

(2) In payment of longevity pay, length of service in positions specified in § 111 of this Act shall be taken into account.  
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(3) Remuneration provided for in subsection (1) of this section may remain unpaid, or the amount thereof may be decreased during the time a disciplinary penalty of the prison officer is in force.

[RT I 2003, 26, 157 - entry into force 01.04.2003]

### **§ 136<sup>3</sup>. Remuneration of work of public servants working in prisons**

The provisions governing remuneration of work of a prison officer shall apply to remuneration of work of public servants working in prisons.

[RT I 2008, 17, 118 - entry into force 01.01.2009]

### **§ 136<sup>4</sup>. Remuneration of prison officers referred to educational institutions**

The service relationship of a prison officer referred to daytime study at the Estonian Public Service Academy shall be suspended for the term of study and the wages of the prison officer shall be retained for the term of study.

[RT I 2008, 17, 118 - entry into force 01.01.2009]

### **§ 137. Working and rest time of prison officers**

(1) The working and rest time of prison officers shall be determined based on the Public Service Act, considering the differences provided for in this Act.

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

(2) If circumstances related to service do not allow adherence to the full working time of prison officers provided for in subsection (1) of this section, recording of total working time may be established by the internal rules of the prison. In such case, the duration of working time during a calendar quarter shall not exceed the number of working hours prescribed for the same period by the general standard.

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

(3) Upon the recording of total working time, the number of working hours per day or shift different from the duration prescribed by the full working time may be applied; however, the duration of a working day or shift shall not exceed 12 hours.

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

(4) The minister responsible for the area may establish a shift of up to twenty-four hours for prison officers who work in prisons on a 24-hour basis. In the case of a 24-hour shift, a prison officer shall be allowed a total of six hours for meals and rest time. The duration of rest time between shifts shall not be less than 12 hours.

(5) The duration of a night shift and a day shift shall be equal.

### **§ 138. Requiring prison officers to work on days off**

(1) A prison officer may be granted days off on other days than official days off by a shift schedule approved by the director of the prison.

(2) A prison officer who is required to work on a day off outside a shift shall be compensated for on the choice of the prison officer by giving him or her a day off during the next two weeks or by paying double wages for the time during which he or she worked during the day off. Double wages shall be paid for work during a public holiday regardless of whether the work was done according to a shift schedule or not.

(3) A prison officer may be required to work outside a shift schedule on a day off or a public holiday only with his or her consent, except in the case prescribed in subsection 139 (1) of this Act.

### **§ 139. Working overtime**

(1) A prison officer is required to comply with the orders of the executive officers of the prison to work overtime in the following cases:

1) to prevent mass disorders, natural disaster, fire, epidemic, accident or catastrophe or other emergency in a prison or to eliminate the consequences of such events;

2) to perform duties which cannot be completed within the established standard working time or to perform urgent or unforeseeable duties if the termination or suspension of work is contrary to the duties of a prison officer;

[RT I 2009, 39, 261 - entry into force 24.07.2009]

3) if a shift prison officer fails to come to work and the work cannot be discontinued; in such cases the director of the prison is required to immediately take all measures to ensure replacement for the prison officer who is working the shift.

(2) A prison officer is required to perform tasks which do not fall within his or her duties and which the director of a prison assigns to him or her in the case provided for in clause (1) 1) of this section.

(3) The prison service shall pay additional remuneration for working overtime which is equal to one and a half times the hourly wages rate of a prison officer or shall compensate for overtime work by granting time off.  
[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

#### **§ 140. Holidays of prison officers**

(1) A holiday of a prison officer may be interrupted and the prison officer may be asked to return to the service with his or her consent but not more than twice during one holiday. No consent is required for interruption of a holiday if a prison officer's holiday is interrupted by the director of a prison in the case specified in clause 139 (1) 1) of this Act.

(2) In justified cases, a prison officer may be granted an additional paid holiday of up to ten calendar days annually.

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

#### **§ 141. On-call time**

(1) During on-call time, prison officers shall be available in agreed locations for the performance of unforeseeable or urgent duties. Application of on-call time shall be based on § 38 of the Public Service Act with the specifications provided for in this section.

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

(2) The duration of on-call time shall not exceed 250 hours per month and these hours are not included in working time.

(3) Additional remuneration of up to 10 per cent of the minimum wages rate of an officer may be paid for on-call time.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

(4) The procedure for and cases of payment of additional remuneration shall be established by a regulation of the minister responsible for the area.

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

(5) The part of on-call time during which a prison officer performs his or her duties is considered his or her working time. In such case the requirement concerning consecutive rest periods provided for in subsections 41 (1) to (3) of the Public Service Act shall not be applied to a prison officer provided that in the case of working more than 13 hours within a period of 24 hours additional free time shall be granted to the prison officer within a reasonable period of time which equals to the number of hours worked in excess of 13 working hours.

[RT I, 20.12.2012, 3 - entry into force 01.04.2013]

#### **§ 142. Allowance upon attack against prison officer**

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

#### **§ 143. Compensation for proprietary damage**

(1) The state shall compensate a prison officer or his or her family members for proprietary damage which the prison officer suffers in the performance of his or her duties. Damages shall be claimed from the person at fault by way of recourse.

(2) The conditions and procedure for compensation for proprietary damage shall be established by a regulation of the Government of the Republic.

#### **§ 144. Guarantees upon transfer without consent**

(1) A person who has the authority to transfer a prison officer to another position without the consent of the prison officer shall notify the prison officer of the transfer in writing at least two months in advance.

(1<sup>1</sup>) If the term provided for in subsection (1) is not observed, the prison officer shall be paid his or her former wages for each working day short of the term of notice.

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

(2) A prison officer who is transferred shall continue to receive his or her former wages during three months after assumption of a new position if the wages at the new position are smaller than the former wages.

#### **§ 145. Guarantees upon transfer to position specified in subsection 129 (1) of this Act**

The time during which a prison officer works in the position specified in subsection 129 (1) of this Act shall be deemed to be equal to the time of service in a position in his or her official rank in a prison.

[RT I 2003, 26, 157 - entry into force 01.04.2003]



#### **§ 146. Medical examination of prison service officers**

(1) The objective of the medical examination of prison service officers is to detect the health disorders caused by their service, reduce and prevent health risks and establish the absence of health disorders which hinder the performance of duties imposed on prison service officers.

(2) Prison service officers' medical examinations, service-related medical check-ups and vaccinations and the medical examinations of persons who apply to the prison service or to study in the area of specialisation of a prison officer are covered from the state budget funds.

(3) The health examinations of prison service officers are organised and the issue of health certificates are issued by occupational health doctors, engaging medical specialists, if necessary.

(4) The health requirements for prison service officers and the procedure for medical examinations and the substantive and formal requirements for health certificates shall be established by a regulation of the Government of the Republic.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

#### **§ 146<sup>1</sup>. Guarantees of social welfare officers**

The guarantees provided for in §§ 142, 143 and 146 of this Act shall extend to social welfare officers of prisons.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

#### **§ 147. Uniform of prison service officers**

(1) Prison service officers shall be provided with uniforms free of charge.

(2) The list of the offices in the prison service with the obligation to wear a uniform, the description of and procedure for the wearing of uniforms and the description of distinguishing marks and procedure for wearing thereof shall be established by a regulation of the minister responsible for the area.

[RT I, 16.04.2014, 1 - entry into force 26.04.2014]

## **Subdivision 6 Discipline in Prison Service**

#### **§ 148. Disciplinary authority**

An official authorised to appoint a prison officer to office has the authority to impose a disciplinary penalty on the prison officer. The minister responsible for the area or an official appointed by him or her has the authority to impose a disciplinary penalty on prison officers.

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

#### **§ 149. Disciplinary liability**

The disciplinary liability regulations provided for in Chapter 8 of the Public Service Act shall apply to prison officers with the specifications provided for in this Act.

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

#### **§ 150. Disciplinary penalties**

(1) Disciplinary penalties imposed on prison officers for the commission disciplinary offences are:

- 1) reprimand;
- 2) reduction of basic wages by up to 30% for up to six months;
- 3) transfer to a lower official rank by one rank or to a position of a lower rank for the term of one year on the basis of clause 128 (1) 2) of this Act;
- 4) release from service pursuant to § 94 of the Public Service Act.

(2) § 144 of this Act shall not be applied upon imposition of the disciplinary penalty specified in clause (1) 3) of this section and one year after this the prison officer has the right to get back the former official rank or position upon the existence of a vacant position.

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

#### **§ 150<sup>1</sup>. Disciplinary proceedings of public servants working in prisons**

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

## **§ 151. Incentives**

(1) Incentives may be awarded to prison officers or other persons for outstanding performance of employment duties or civil duty or for long-time excellent service. An official authorised to appoint a prison officer to office and the minister responsible for the area have the authority to award an incentive. A prison officer's cross of merit is awarded and presented by the minister responsible for the area.

(2) The following incentives may be awarded to persons specified in subsection (1) of this section:

- 1) expression of thanks;
- 2) grant of additional paid holiday in the annual amount of up to 10 calendar days;
- 3) grant of a monetary award;
- 4) a valuable gift;
- 5) award of a certificate of honour;
- 6) award of a prison officer's cross of merit;
- 7) award of a prison officer's service medal.

[RT I 2006, 63, 466 - entry into force 01.01.2007]

(3) The minister responsible for the area shall establish by a regulation the description of prison officer's crosses of merit and service medals and the procedure for the awarding and wearing thereof.

[RT I 2006, 63, 466 - entry into force 01.01.2007]

## **Subdivision 7 Release from service of prison officers**

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

### **§ 152. Release from service due to age**

(1) Prison officers who serve in the official rank specified in clause 112 (1) 1) of this Act shall be released from service as prison officers when they attain the general pensionable age. Prison officers who serve in the official ranks specified in clauses 112 (1) 2) and 3) of this Act shall be released from service as a prison officer when they attain 60 years of age. Prison officers specified in clauses 112 (1) 4) and 5) of this Act shall be released from service as a prison officer when they attain 58 years of age.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(2) A prison officer released from service due to age shall be released from prison service on the first working day of the month following the month when he or she attains the age due to which he or she is released.

(3) If a prison officer is suitable to continue to serve in prison due to his or her state of health and has granted his or her consent to continue service, the official authorised to appoint the given prison officer to office may extend the time of service of the prison officer.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

### **§ 153. Release from service due to refusal to take oath of office**

A prison officer who refuses to take the oath of office shall be released from service on the date of his or her refusal to take the oath.

### **§ 154. Release from service upon occurrence of unforeseen circumstances and unsuitability for position or official rank**

(1) Prison officers are released from service due to occurrence of unforeseen circumstances under the conditions and pursuant to the procedure provided for in § 92 of the Public Service Act.

(2) A prison officer shall be released from service due to unsuitability for position if he or she fails to complete the preparatory service which was the condition for appointment to office during the prescribed term.

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

### **§ 154<sup>1</sup>. Release of director of prison from service due to expiry of term of service**

(1) Upon expiry of the term of service, the director of a prison may be released from service, reappointed to office for a new term of office or transferred to another position in the same official rank.

(2) The director of a prison shall receive compensation in an amount equal to his or her six months' wages upon release from service.

(3) If the director of a prison does not consent to reappointment to office, he or she shall be released from service.

[RT I 2009, 39, 261 - entry into force 24.07.2009]

(4) If the director of a prison does not consent to transfer, he or she shall be released from service. If the director of a prison does not consent to transfer to a position in another locality, he or she shall be released from service and shall receive compensation in an amount equal to his or her six months' wages.  
[RT I 2009, 39, 261 - entry into force 24.07.2009]

#### **§ 154<sup>2</sup>. Release of prison officers from service due to lay-off**

(1) A prison officer is released from service due to lay-off pursuant to the procedure provided for in the Public Service Act taking into consideration the specifications provided in this Act.

(2) A prison officer shall be given a notice in writing at least 30 calendar days before the release date of his or her release from service due to lay-off.

(3) In the case of release from service due to lay-off, a prison officer shall be paid compensation according to his or her length of service as follows:

- 1) less than three years – two months' basic wages;
- 2) three to five years – three months' basic wages;
- 3) five to ten years – five months' basic wages;
- 4) more than ten years – ten months' basic wages.

(4) If an officer released from the prison service due to lay-off is appointed to office to the prison service before the period of time passes for which he or she is paid compensation pursuant to subsection (3) of this section, he or she shall refund the received compensation to the extent corresponding to the period of time by which he or she is re-appointed to a position of the prison service officer earlier as compared to the period of time which was the basis for payment of the compensation.

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

#### **§ 155. Prison officers in reserve**

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

## **Chapter 7 DETENTION IN HOUSES OF DETENTION**

#### **§ 156. Detention in houses of detention**

(1) Detention houses are custodial institutions which are staff units of the Police and Border Guard Board and which organise the imposition of custody pending trial and detention.  
[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

(2) In detention houses, persons in custody and detained persons are lodged in locked cells on a twenty-four-hour basis; the cells shall enable constant visual or electronic surveillance of the persons in custody and the detained persons.

(3) The provisions of this Act concerning the imposition of custody pending trial and detention shall apply to detention of persons in houses of detention.

(4) In the imposition of custody pending trial and detention, the executive officer of a house of detention, the police officer responsible for proper detention conditions and the staff of a house of detention have the corresponding rights and obligations of the director of a prison and prison officer provided for in chapters 1–5 of this Act.

(5) The minister responsible for the area shall approve the internal rules for detention houses.

(6) The escort and supervision of persons in custody and detained persons in a house of detention shall be provided by the Police and Border Guard Board.  
[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

## **Chapter 8**

# AMENDMENTS TO OTHER ACTS

§ 157.–§ 164.[Omitted from this text.]

## Chapter 9 IMPLEMENTING PROVISIONS

### § 165. Application of prison service on officials upon entry into force of Act

(1) Officials who serve in prisons at the time of the entry into force of this Act and persons who work at other state agencies whose position is in compliance with the conditions provided for in subsections 110 (1) and (2) are deemed to be prison officers.

(2) The provisions of subsection (1) of this section also apply to officials whose service relationship in the positions specified in subsection 110 (1) of this Act is suspended at the time of the entry into force of this Act.

(3) The first-time evaluation of prison officers specified in subsections (1) and (2) of this section shall be organised pursuant to the evaluation requirements which correspond to the official ranks approved on the basis of this Act during the period from 1 October 2002 to 31 December 2003.

### § 166. Application of official ranks in prison service upon entry into force of Act

Prison officers specified in section 165 of this Act shall be appointed to official ranks pursuant to a regulation issued by the minister responsible for the area based on subsection 112 (2).

### § 167. [Repealed - RT I 2003, 26, 157 - entry into force 01.04.2003]

### § 167<sup>1</sup>. Repeal of grades of prison service

(1) The grades of prison service established for prison officers are repealed.

(2) If wages calculated on the basis of § 136<sup>1</sup> this Act are lower than the former wages of a prison officer, he or she shall retain the former wages.

[RT I 2003, 26, 157 - entry into force 01.04.2003]

### § 168. Application of Act to persons undergoing correctional training programme at time of entry into force of Act

(1) The requirements on preparatory service for prison officers provided by this Act apply to persons who are admitted to preparatory service after the entry into force of this Act. Persons who at the time of entry into force of this Act study at the correctional staff college of an institution of applied higher education for public defence are deemed to be equal to persons who comply with the requirements provided for in subsection 119 (2) of this Act. Persons who at the time of entry into force of this Act study at other educational institutions which provide education in the area of correction are deemed to be equal to the persons who comply with the requirements provided for in subsection 119 (1) of this Act.

(2) Persons who have graduated from the educational institutions specified in subsection (1) of this section prior to the entry into force of this Act and who at the time of the entry into force of this Act are not included in the list of officials specified in subsection 165 (1) or (2) of this Act, may be deemed to be equal to the persons who comply with the requirements provided for in subsections 119 (1) or (2) of this Act on the conditions and pursuant to the procedure established by the Government of the Republic.

[RT I 2003, 20, 116 - entry into force 10.03.2003]

### § 169. Non-application of restrictions on appointment to office and promotion

(1) [Repealed - RT I 2006, 63, 466 - entry into force 01.02.2007]

(2) Persons who have acquired at least basic education may be appointed to positions which correspond to the official rank specified in clause 112 (1) 5) of this Act before 1 July 2002.

(3) The provisions of subsection 113 (2) of this Act do not apply in the appointment to office and promotion of prison officers before 1 July 2007.

[RT I 2003, 26, 157 - entry into force 01.04.2003]

### § 169<sup>1</sup>. Appointment of directors of prisons to office

Directors of prisons who were appointed to office before 1 February 2007 shall be appointed to office for a specified term as of 1 February 2007 with their consent.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

#### **§ 170. Specifications for application of § 107 of this Act**

The provisions of 107 of this Act concerning the supervision over the performance of duties in the area of social welfare do not apply before 1 January 2003.

#### **§ 170<sup>1</sup>. Acquisition of activity licence necessary for provision of specialised medical care**

For provision of specialised medical care, prisons are required to acquire an activity licence conforming to the provisions of subsection 21 (1) and subsection 22 (2) of the Health Care Services Organisation Act not later than by 1 July 2007.

[RT I 2006, 63, 466 - entry into force 01.01.2007]

#### **§ 171. Specifications for appointing of social workers to office**

Persons with higher education other than in social work or social pedagogy may be also appointed to office as social workers before 1 January 2003.

#### **§ 172. Detention conditions for prisoners serving imprisonment in medium-security prisons at time of entry into force of Act**

A person who was imposed a punishment of imprisonment in a medium-security prison shall continue to serve his or her sentence in a closed prison after the entry into force of this Act.

#### **§ 172<sup>1</sup>. Specifications for application of § 44 of this Act**

A prisoner for whom an amount exceeding the amount equal to three times the minimum wages established by the Government of the Republic has been deposited as a savings fund may use the money deposited in excess of the established amount inside the prison in accordance with the limit prescribed, use it for the satisfaction of monetary/financial claims, send it to his or her family members or dependants or transfer it to his or her bank account.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

#### **§ 172<sup>2</sup>. Specifications for application of subsection 113 (3) of this Act**

The obligation of completing of preparatory service shall also not be imposed on a person who has worked as a senior police officer, border guard official or official of the rescue service or as prison officer for at least two years and who has been appointed to office before 1 February 2007.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

#### **§ 172<sup>3</sup>. Specifications for application of § 119 of this Act**

Subsection 119 (1) of this Act also applies to persons who have completed the basic training of junior prison officers in 1998–2000.

[RT I 2006, 63, 466 - entry into force 01.02.2007]

#### **§ 172<sup>4</sup>. Specifications for application of §§ 136<sup>1</sup> and 136<sup>3</sup> of this Act**

As of 1 March 2009 until 31 December 2010, the Government of the Republic may reduce the wage rate and differentiation applicable to prison officers and public servants working in prisons approved by a regulation of the Government of the Republic. The Government of the Republic need not increase the wage rate and the differentiation to the former level thereof after 31 December 2010.

[RT I 2009, 15, 93 - entry into force 01.03.2009]

#### **§ 172<sup>5</sup>. Specifications for application of subsection 105<sup>1</sup>(4), subsection 114 (2) and subsection 114<sup>1</sup>(8) of this Act**

The persons specified in subsection 105<sup>1</sup>(4), subsection 114 (2) and subsection 114<sup>1</sup>(8) of this Act who are in the prison service, work in a prison or in preparatory service for prison officers and have not filled in the form concerning their personal data shall submit the form concerning their personal data at the latest by 1 April 2013 to the Prison Department of the Ministry of Justice or a prison.

[RT I, 20.12.2012, 3 - entry into force 01.01.2013]

#### **§ 172<sup>6</sup>. Person with permanent incapacity for work**

The condition of partial incapacity for work provided for in clause 118 (2) 2) of this Act shall be considered met in case of a prison officer who has been established to have partial incapacity for work on the basis of the State Pension Insurance Act. The condition of no work ability provided for in clause 118 (2) 2) of this Act shall be considered met in case of a prison officer who has been established to have total incapacity for work on the basis of the State Pension Insurance Act.

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

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

This Act enters into force on 1 December 2000.