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## Persons Repressed by Occupying Powers Act

Passed 17.12.2003

RT I 2003, 88, 589

Entry into force 01.01.2004, partially 01.01.2005

Amended by the following acts

Passed	Published	Entry into force
14.04.2005	RT I 2005, 24, 184	20.05.2005
08.03.2006	RT I 2006, 14, 110	06.04.2006, with respect to § 13 applied retroactively as of 01.01.2004
20.12.2007	RT I 2008, 1, 9	14.01.2008
22.10.2008	RT I 2008, 48, 264	01.02.2009
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, p. 24–26).
06.06.2012	RT I, 02.07.2012, 2	01.01.2013
14.11.2012	RT I, 06.12.2012, 1	01.01.2013

## Chapter 1 GENERAL PROVISIONS

### § 1. Purpose and scope of application of Act

(1) The purpose of this Act is to alleviate the injustices committed against persons who were unlawfully repressed by the states that occupied Estonia between 16 June 1940 and 20 August 1991.

(2) This Act provides the definition of unlawfully repressed person, the privileges and benefits, and pension rights granted to unlawfully repressed persons. Unlawful expropriation of property or the alleviation of consequences thereof do not fall within the scope of application of this Act. Unlawfully repressed person is defined in this Act on the basis of international law together with all the consequences arising therefrom.

(3) The provisions of the Administrative Procedure Act apply to the administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

### § 2. Unlawfully repressed person

(1) For the purposes of this Act, an unlawfully repressed person (hereinafter *repressed person*) is a person who, at the time of repression, was a citizen of the Republic of Estonia or who was not a citizen of the Republic of Estonia but a permanent resident legally residing in Estonia as at 16 June 1940, except persons who were brought or who came to Estonia on the basis of the agreement entered into by the Republic of Estonia and the Soviet Union on 28 September 1939 (so-called bases agreement) or acts arising therefrom, and:

- 1) who is a victim of genocide, as defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide;
- 2) who was sentenced to imprisonment or exilement or who was committed to a psychiatric institution for his or her beliefs, political or other opinions, religion, racial or ethnic origin, nationality, birth, social origin or property;
- 3) who was sentenced to imprisonment or exilement for failure to comply with a special obligation established for the citizens of the occupying state (military service, allegiance, mandatory worldview, prohibition on leaving a territory, etc.);
- 4) who was sentenced to imprisonment or exilement for an act committed prior to the occupation or during a temporary cessation of occupation, unless such act would also have been punishable under the law of the Republic of Estonia;
- 5) who was sentenced to imprisonment or exilement because of his or her origin or general personal characteristics without ascertaining his or her guilt;
- 6) who was sentenced to imprisonment or exilement for participating in an anti-occupation protest or an act of national self-determination or for exercising or attempting to exercise his or her internationally recognised human rights or fundamental freedoms regardless of the type of criminal offence with which the occupying state formally charged the person;
- 7) who was unlawfully deported or displaced from his or her permanent place of residence in the occupied territory to the territory of the occupying state or another state, whether occupied or not, or who was subject to forced exile outside of the territory of Estonia after having served his or her sentence;
- 8) who was taken from Estonia to the Soviet Union in 1941 and subjected to forced labour with restriction of liberty in a labour battalion or a labour or construction unit or who was forcibly sent to work outside of the territory of Estonia during occupation by Greater Germany;
- 9) who, after having been taken as a prisoner of war or as a person to be repatriated, was subjected to forced labour with restriction of liberty in a labour battalion or a labour or construction unit of the Soviet Union;
- 10) who, having concealed himself or herself from unlawful repression, was sentenced to imprisonment or exilement for an act or acts which the person committed as self-defence or out of necessity without exceeding the limits established by the law of the Republic of Estonia, unless such act would also have been punishable under the law of the Republic of Estonia;
- 11) who was prohibited from residing in Estonia;
- 12) who was subjected to radiation as a test subject in connection with the explosion of a nuclear device;
- 13) who was forcibly sent to an area of nuclear disaster for the elimination of the effects of the disaster.

(2) A child of a person specified in subsection (1) of this section who was born while the parent was in forced exile or in a custodial institution or after the parent's release until the time when the parent was granted permission and had an actual opportunity to return to Estonia is also deemed to be a repressed person.

(3) A person described in subsection (1) or (2) of this section who has worked as a staff member of an agency which carried out the acts of repression specified in subsection (1), except as a member of the lower level service personnel or support staff, or a person who joined the Communist (Bolshevik) Party of the Soviet Union before 1 January 1954, or a person who was sentenced for a criminal offence which would also have been punishable under the law of the Republic of Estonia is not deemed to be a repressed person.

### § 3. Occupying state

For the purposes of this Act, occupying states are the states which occupied the Republic of Estonia from 16 June 1940 until 20 August 1991.

### § 4. Person treated as repressed person

(1) A citizen of the Republic of Estonia who does not receive and has not received any compensation from a foreign state for activities specified in clauses 1) and 2) of this subsection shall be treated as a repressed person (hereinafter *person treated as a repressed person*) provided that:

- 1) the person participated in the armed fight for the restoration of the independence of the Estonian state after 16 June 1940;
- 2) the person became an invalid while mobilised or as a conscript in the armed forces of the Soviet Union and did not participate in the commission of acts of repression in the territory of Estonia.

(2) A person who was mobilised into the Red Army as a member or candidate member of the Communist (Bolshevik) Party of the Soviet Union, the Leninist Communist Youth League of the Soviet Union (ÜLKNÜ) or the Leninist Communist Youth League of Estonia (ELKNÜ), or who belonged to a destruction battalion or defence battalion or workers' regiment of the People's Commissariat for Internal Affairs (NKVD) or the Ministry of Internal Affairs (MVD), or who was mobilised into the German army as a member or candidate member of the National Socialist German Workers' Party (NSDAP) and who meets the conditions set out in subsection 2 (3) of this Act shall not be treated as a repressed person.

### § 5. Obligations of Government of Republic

The Government of the Republic shall:

- 1) form, involving repressed persons and persons treated as repressed persons, a government committee as a co-operation forum and the committee shall make proposals for the preparation of the necessary legislation

and organise co-operation with government and local government structures, non-profit organisations and associations;

2) organise the preservation of the memory of repressed persons and persons treated as repressed persons and the study of the repressive policies of the occupying states;

3) organise the establishment of a foundation assisting repressed persons.

[RT I 2006, 14, 110 - entry into force 06.04.2006]

## **Chapter 2**

### **BENEFITS AND PRIVILEGES**

#### **§ 6. Benefit for restoration of health**

(1) A benefit for restoration of health shall be paid to a repressed person and person treated as a repressed person on the basis of an application submitted by such person.

(2) The rate of the benefit specified in the previous subsection shall be 160 euros and the benefit shall be paid once a year.

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

(3) The format of the application and the procedure for submission thereof shall be established by a regulation of the Minister of Social Affairs.

(4) The benefit shall be financed from the funds prescribed for such purpose in the state budget through the Ministry of Foreign Affairs.

, the implementing provisions of which are:

#### **«§ 2. Implementing provisions**

(1) The rate of the benefit for restoration of health for repressed persons and persons treated as repressed persons in the amount of 2500 kroons shall be implemented as of 1 January 2009.

(2) The rate of the benefit for restoration of health for repressed persons and persons treated as repressed persons shall be 1000 kroons in the year 2008. In addition to the above, repressed persons and persons treated as repressed persons shall be paid compensation for restoration of health up to 1500 kroons on the basis of expense receipts in the year 2008. The procedure for submission of expense receipts and payment of compensation shall be established by a regulation of the Minister of Social Affairs.»

[RT I 2008, 1, 9 - entry into force 14.01.2008]

#### **§ 7. Privileges**

(1) Repressed persons and persons treated as repressed persons shall, upon presentation of a repressed person's certificate, be entitled to:

1) free entrance to the Nationwide Song Festival and Nationwide Dance Festival and the Students' Song and Dance Festival;

2) free entrance to state museums;

3) the right to fish for recreation free of charge under the conditions provided for in the Fishing Act.

(2) Repressed persons and persons treated as repressed persons are entitled to a travel fare concession of up to 50 per cent in public transport on domestic regular services pursuant to the procedure provided for in the Public Transport Act and on the basis thereof.

#### **§ 7<sup>1</sup>. Payment of monetary compensation**

The monetary compensation paid on the basis of this Act is paid as requested by the recipient of the compensation into the bank account of the recipient of the compensation or on the basis of a written application of the recipient of the compensation prepared at the Social Insurance Board or a notarised application into the bank account of a third party in Estonia or into the bank account of the recipient of the compensation or into the bank account of the recipient of the compensation in a foreign state, whereas in the latter case the recipient of the compensation shall pay the fees charged by its payment service provider.

[RT I, 06.12.2012, 1 - entry into force 01.01.2013]

## **Chapter 3**

# REPRESSED PERSON'S CERTIFICATE AND BADGE OF THE BROKEN CORNFLOWER

## § 8. Repressed person's certificate and procedure for issue thereof

(1) A repressed person's certificate (hereinafter *certificate*) is a document which certifies that a person meets the conditions specified in subsection 2 (1) or (2) or subsection 4 (1) of this Act.

(2) The procedure for the issue of certificates and the format of applications and certificates shall be established and the agency issuing the certificates shall be designated by a regulation of the Government of the Republic.

## § 9. Grounds for refusal to issue certificate

The issuer of certificate shall refuse to issue a certificate if:

- 1) the person does not meet the conditions provided for in subsection 2 (1) or (2) of this Act;
- 2) the person does not meet the conditions provided for in subsection 4 (1) of this Act;
- 3) the person meets the conditions provided for in subsection 2 (3) of this Act;
- 4) the person meets the conditions provided for in subsection 4 (2) of this Act.

## § 10. Badge of the Broken Cornflower

(1) Repressed persons and persons treated as repressed persons have the right to wear the Badge of the Broken Cornflower.

(2) The procedure for the issue and wearing of the Badge of the Broken Cornflower and the description of the Badge of the Broken Cornflower shall be established by the Government of the Republic.

## Chapter 4 PENSION RIGHTS

### § 11. Subject of pension rights

The pension rights provided for in this Chapter do not extend to persons treated as repressed persons, unless the person meets the conditions specified in this Chapter.

### § 12. Old-age pension under favourable conditions

The following persons have the right to receive an old-age pension under favourable conditions as defined in the State Pension Insurance Act:

- 1) repressed persons who have acquired the pension qualifying period required for the grant of an old-age pension and who have been unlawfully held in a custodial institution or in exile, and persons specified in subsection 2 (2) of this Act – one year before attaining the pensionable age for each full year they have been held in a custodial institution or in exile, but not more than five years before attaining the pensionable age;
- 2) persons who participated in the clean-up of the accident at the Chernobyl nuclear power station – five years before attaining the pensionable age.

### § 13. Periods included in pensionable service

[The introductory sentence of subsection (1) applied retroactively as of 1.01.2004]

(1) Years of pensionable service acquired in Estonia shall include:

- 1) in the case of a person who participated in the armed fight for freedom against foreign occupation in the territory of the Republic of Estonia or was in hiding from unlawful repression, the time during which the person participated in the fight for freedom or was in hiding;
- 2) the time during which a repressed person was held in custody, spent in a custodial institution or in exile, including any periods of time between escaping and subsequent arrest, multiplied by three;
- 3) the time a person spent held as a prisoner of war, or in a concentration camp or ghetto during the Second World War, or in a labour and construction battalion or labour and construction unit in 1941–1942, multiplied by three;
- 4) the time from when a repressed person was freed from custody or a custodial institution or returned from exile until he or she is granted the permission to settle in Estonia, if the right to live in Estonia was taken away from the person unlawfully, multiplied by three;
- 5) the time a parent of a person specified in subsection 2 (2) of this Act spent in a custodial institution or in exile until the person specified in subsection 2 (2) of this Act was granted permission and had an actual opportunity to return to Estonia, multiplied by three.

(2) Years of pensionable service shall be calculated and certified pursuant to the procedure established by the State Pension Insurance Act and legislation issued on the basis thereof.

[RT I 2006, 14, 110 - entry into force 06.04.2006, applied retroactively as of 01.01.2004]

#### **§ 14. Right to receive pension supplements**

(1) A pension supplement of 20 per cent of the national pension rate shall be added to pensions for incapacity for work of repressed persons who have been held in a custodial institution or in exile, persons held as prisoners of war, or persons held in concentration camps or ghettos during the Second World War and persons specified in subsection 2 (2) of this Act.

(2) The right to retain a pension supplement provided for in subsection (1) of this section pursuant to subsection 19 (4) of the State Pension Insurance Act also extends to persons who are transferred from a disability pension or a pension for incapacity for work to an old-age pension as of 1 April 2000.

(3) The provisions of subsection (1) of this section do not apply to persons who, pursuant to subsection 24 (3) of the State Pension Insurance Act, have been granted another pension supplement specified in subsection 24 (1) of the State Pension Insurance Act.

[RT I, 02.07.2012, 2 - entry into force 01.01.2013]

(4) 10 per cent of the national pension rate shall be added to the pensions granted, pursuant to the State Pension Insurance Act, to persons declared permanently incapacitated for work as a result of a nuclear disaster, nuclear test, or an accident at a nuclear power station if the percentage of the loss of their capacity for work is at least 40 per cent.

(5) The pension supplement provided for in subsection 24 (1<sup>1</sup>) of the State Pension Insurance Act shall be added to pensions granted on the basis of this Act pursuant to the procedure provided for in the State Pension Insurance Act.

[RT I, 02.07.2012, 2 - entry into force 01.01.2013]

#### **§ 15. Expenditure relating to pension rights**

The expenditure arising from § 12 and clause 13 (1) 1) of this Act shall be financed pursuant to the provisions of clause 57 (1) 1) of the State Pension Insurance Act.

#### **§ 16. Application of Act to rehabilitated persons**

The provisions of clauses 12 1), 13 (1) 2) and 4), subsection 13 (2) and subsections 14 (1)–(3) of this Act extend to rehabilitated persons.

#### **§ 16<sup>1</sup>. Payment of earlier granted monetary compensation**

The monetary compensation determined before 1 February 2009 shall be paid pursuant to the procedure provided for in § 7<sup>1</sup> of this Act as of 1 February 2009.

[RT I 2008, 48, 264 - entry into force 01.02.2009]

## **Chapter 4<sup>1</sup>** **RESOLUTION OF DISPUTES**

[RT I, 06.12.2012, 1 - entry into force 01.01.2013]

#### **§ 16<sup>2</sup>. Contestation of decisions**

(1) If a person disagrees with a decision made by the Social Insurance Board pursuant to this Act, he or she has the right to file a challenge with the Social Insurance Board within 30 days after receipt of the decision.

(2) A challenge shall be resolved within 30 days after registration of the challenge by the Social Insurance Board.

[RT I, 06.12.2012, 1 - entry into force 01.01.2013]

## **Chapter 5** **IMPLEMENTATION OF ACT**

#### **§ 17. Implementing provisions**

[Omitted from this text.]

**§ 18. Entry into force of Act**

(1) This Act enters into force on 1 January 2004.

(2) Subsections 7 (2) and 17 (5) of this Act enter into force on 1 January 2005.