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## Citizen of the European Union Act<sup>1</sup>

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Amended by the following acts

Passed	Published	Entry into force
26.11.2009	RT I 2009, 62, 405	01.01.2010
09.12.2009	RT I 2010, 3, 4	05.04.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011 enters into force on the day determined by the decision of the Council of the European Union concerning repeal of the derogation established in respect of the Republic of Estonia on the basis of Article 140 (2) of the Treaty on the Functioning of the European Union, Decision No. 2010/416/EU of the Council of the European Union (OJ L 196, 28.07.2010, pp. 24–26).
10.06.2010	RT I 2010, 41, 241	01.08.2010
25.11.2010	RT I, 09.12.2010, 1	01.01.2011
08.12.2011	RT I, 29.12.2011, 1	01.01.2012
12.02.2014	RT I, 26.02.2014, 2	01.10.2014
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, official titles of ministers replaced in accordance with section 107 <sup>3</sup> (4) of the Government of the Republic Act
19.11.2014	RT I, 13.12.2014, 1	01.01.2016, amended date of entry into force 01.07.2016 [RT I, 17.12.2015, 1]
11.02.2015	RT I, 12.03.2015, 1	01.01.2016
18.02.2015	RT I, 23.03.2015, 1	02.04.2015, partially 01.08.2015 ja 01.01.2016
18.02.2015	RT I, 23.03.2015, 5	01.07.2015
25.11.2015	RT I, 17.12.2015, 1	20.12.2015
26.11.2015	RT I, 17.12.2015, 3	27.12.2015
14.12.2016	RT I, 03.01.2017, 1	18.01.2017, partially 01.10.2017
13.04.2017	RT I, 26.04.2017, 6	06.05.2017
25.10.2017	RT I, 17.11.2017, 1	01.01.2019

## Chapter 1

# GENERAL PROVISIONS

## § 1. Scope of regulation and application of Act

(1) This Act governs the principal aspects of entry to and residence in Estonia of citizens of the European Union and their family members and provides the grounds for imposing the obligation to leave Estonia and the prohibition of entry to Estonia on citizens of the European Union and their family members.  
[RT I, 26.02.2014, 2 – entry into force 01.10.2014]

(1<sup>1</sup>) The provisions of the Obligation to Leave and Prohibition of Entry Act concerning imposition of the obligation to leave and the prohibition of entry on aliens apply to citizens of the European Union and their family members without prejudice to the special rules established in this Act or an international agreement.  
[RT I, 26.02.2014, 2 – entry into force 01.10.2014]

(2) In the absence of contrary provision herein, this Act applies to citizens of the member states of the European Union and of the European Economic Area who are not Estonian citizens and to citizens of the Swiss Confederation (hereinafter, ‘citizens of the European Union’) and their family members.  
[RT I, 26.04.2017, 6 – entry into force 06.05.2017]

(3) This Act does not apply to citizens of the European Union whose stay in Estonia is based on the National Defence Act, or to their family members.  
[RT I, 12.03.2015, 1 – entry into force 01.01.2016]

(4) The administrative procedures provided in this Act are subject to the provisions of the Administrative Procedure Act without prejudice to the special rules established in this Act.

(4<sup>1</sup>) Unless this Act provides otherwise, a minor of at least 15 years of age may independently perform any proceeding provided for in this Act, or independently participate in any proceedings.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(5) When applying Divisions 1 and 2 of Chapter 2 of the Aliens Act to family members of citizens of the European Union without prejudice to the special rules provided in this Act.  
[RT I, 23.03.2015, 1 – entry into force 01.01.2016]

(6) The provisions of the Aliens Act concerning the sponsors of aliens in Estonia apply to citizens of the European Union.  
[RT I, 23.03.2015, 1 – entry into force 01.01.2016]

## § 2. Legal basis for entry, residence and employment in Estonia

(1) The right of entry is the legal basis for entry to and stay in Estonia of citizens of the European Union and their family members.

(2) The right of residence is the legal basis for residence in Estonia of citizens of the European Union and their family members.

(3) A family member is prohibited from residing in Estonia if he or she does not enjoy a right of residence in Estonia.

(4) A family member must have a right of residence in order to be employed or operate as a sole proprietor in Estonia.

(5) The identity of the citizen of the European Union or the family member is ascertained or verified on the basis of an identity document or, in the absence of such a document, of other documentary evidence.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(6) When this is requested by another member state of the European Union, Estonia readmits any person who holds its citizenship even if a dispute is pending concerning the citizenship of that person.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

## § 3. Family member of a citizen of the European Union

(1) For the purposes of this Act, ‘family member of a citizen of the European Union’ (hereinafter, family member’) means a person who is not a citizen of the European Union or a citizen of Estonia and who is:

- 1) the spouse of a citizen of the European Union (hereinafter, ‘the spouse’),
- 2) a child under 21 years of age or a dependent adult child of a citizen of the European Union or of his or her spouse (hereinafter, ‘dependent child’),
- 3) a dependent parent of a citizen of the European Union or of his or her spouse, or
- 4) a person not covered by clauses 1–3 of this subsection who, in the country of origin of the citizen of the European Union, is a dependent of the citizen of the European Union or is a member of his or her household,

or who is permanently unable to cope independently due to health reasons, and with respect to whom it is necessary that the citizen of the European Union personally care for him or her.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(2) For the purposes of this Act, ‘dependent’ means a person who resides together with the citizen of the European Union in a shared household and has no personal income.

(3) For the purposes of this Act, ‘member of the household’ means:  
1) a person specified in subsection 4 of section 24 of the Official Statistics Act who resides with the citizen of the European Union in a shared household and has an independent income;  
2) a person who has a proven permanent and factual registered partnership with a citizen of the European Union.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

#### **§ 4. Newborn child**

[Repealed – RT I, 03.01.2017, 1 – entry into force 01.10.2017]

#### **§ 5. Permanent residence in Estonia**

(1) For the purposes of this Act, ‘permanent residence in Estonia of a citizen of the European Union or his or her family member’ means a stay in Estonia on the basis of the right of residence.  
[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(2) [Repealed – RT I, 03.01.2017, 1 – entry into force 18.01.2017]

#### **§ 6. Employment and employer**

(1) For the purposes of this Act, ‘employment’ means the provision of services on the basis of a contract of employment or a contract for services for which remuneration is received.

(2) For the purposes of this Act, ‘employer’ means a person or agency who has concluded the contract of employment or contract for services, or who has a service relationship with the person.

## **Chapter 2 RIGHT OF STAY IN ESTONIA**

### **Division 1 Right of stay in Estonia of the citizen of the European Union**

#### **§ 7. Right of stay in Estonia of the citizen of the European Union**

(1) The citizen of the European Union has the right to stay in Estonia on the basis of a valid travel document or identity document.

(2) Not later than three months after his or her date of entry into Estonia, the citizen of the European Union must register his or her residence following the procedure provided in the Population Register Act.

#### **§ 8. Limitations on the right of stay of the citizen of the European Union**

(1) Limitations may be imposed on the right of stay in Estonia of the citizen of the European Union if there are justified grounds to believe that he or she poses a threat to public policy or national security or public health.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(2) [Repealed – RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(3) The decision concerning the imposition of limitations on the right of stay is made by the Police and Border Guard Board or by the Estonian Internal Security Service.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

#### **§ 9. Issue of enforcement order to leave Estonia upon limitation of the right of stay of the citizen of the European Union**

[Repealed – RT I, 17.12.2015, 3 – entry into force 27.12.2015]

## **Division 2**

### **Right of stay of family members**

#### **§ 10. Right of stay of a family member**

(1) A family member has the right to stay in Estonia together with the citizen of the European Union if the family member has a valid travel document and a visa.

[RT I 2010, 3, 4 – entry into force 05.04.2010]

(2) The family member who has another lawful basis for his or her stay in Estonia in accordance with the Aliens Act is not required to have a visa.

[RT I 2010, 3, 4 – entry into force 05.04.2010]

(2<sup>1</sup>) The family member may be issued a visa provided:

1) he or she has a valid travel document,  
2) it is proved that he or she travels with a citizen of the European Union or will join the citizen of the European Union and

3) his or her status as a family member of the citizen of the European Union is proved.

[RT I 2010, 3, 4 – entry into force 05.04.2010]

(2<sup>2</sup>) The family member is not required to have a medical expense insurance policy.

[RT I 2010, 3, 4 – entry into force 05.04.2010]

(2<sup>3</sup>) The family member has the right to stay in Estonia during the 90 days following the day on which his or her right of residence in Estonia expired, provided his or her right of residence expired on account of the lapsing of the corresponding time-limit.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(3) The family member may not stay in Estonia if he or she does not possess a right of stay or another legal basis for staying in Estonia.

(4) The family member who is staying in Estonia on the basis of the right of stay must, within a period of three months after the date of entry into Estonia, apply for a temporary right of residence, or leave Estonia before the expiration of this period if he or she has not submitted the application for a temporary right of residence.

(5) The stay in Estonia of a family member who has applied for a temporary right of residence is legal until the processing of his or her application has been concluded.

(6) The family member who is staying in Estonia on the basis of the right of stay may not be employed or operate as a sole proprietor in Estonia.

#### **§ 10<sup>1</sup>. Refusal to issue a visa to a family member**

(1) A family member may be refused a short-entry visa or an airport transit visa on the grounds specified in the Visa Code.

(2) The family member is refused a long-entry visa if at least one of the following grounds applies:

1) the individual lacks a valid travel document;  
2) the travel document of the individual is forged or contains falsified entries;  
3) the Republic of Estonia has issued a Prohibition of Entry to Estonia in respect of the individual, and  
4) the individual may pose a threat to public policy or national security or public health or to international relations.

(3) Reasons are provided for any refusal to issue a visa to a family member and these reasons and the related facts are communicated to the family member to the extent that this is not contrary to the needs of maintaining public policy or ensuring national security of any member state of the European Union.

[RT I 2010, 3, 4 – entry into force 05.04.2010]

#### **§ 11. Limitation of the right of stay of a family member**

(1) Limitations may be imposed on a family member's right of stay in Estonia if there are justified grounds to believe that the family member poses a threat to public policy or national security or public health.

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(2) [Repealed – RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(3) The decision concerning limitations of the right to stay in Estonia is made by the Police and Border Guard Board or the Estonian Internal Security Service.

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

## **§ 11<sup>1</sup>. Annulment and revocation of visas issued to family members**

(1) A short-entry visa or airport transit visa issued to a family member is annulled or revoked on the grounds specified in the Visa Code.

(2) A long-entry visa issued to a family member is annulled or revoked if at least one of the following grounds applies:

- 1) the individual lacks a valid travel document;
- 2) the travel document of the individual is forged or contains falsified entries;
- 3) the Republic of Estonia has issued a Prohibition of Entry to Estonia with respect of the individual, and
- 4) the individual may pose a threat to public policy, national security or public health or to international relations.

(3) Reasons are given for the annulment or revocation of any visa issued to a family member and these reasons and the related facts are communicated to the family member to the extent that this is not contrary to the needs of maintaining public policy or ensuring national security of any member state of the European Union.

(4) The family member may, following the procedure specified in the Administrative Procedure Act and within 30 days from the day of notification of the decision, apply to administrative court to set aside the annulment or revocation of his or her visa.

[RT I 2010, 3, 4 – entry into force 05.04.2010]

## **§ 12. Issue of enforcement order to leave Estonia upon limitation of the family member's right of stay or in the case of the family member's stay in Estonia without a lawful basis**

[Repealed – RT I, 17.12.2015, 3 – entry into force 27.12.2015]

# **Chapter 3 TEMPORARY RIGHT OF RESIDENCE**

## **Division 1**

### **Temporary right of residence of a citizen of the European Union**

#### **§ 13. Temporary right of residence of a citizen of the European Union**

(1) A citizen of the European Union acquires a temporary right of residence in Estonia for five years when he or she registers his or her residence following the procedure provided in the Population Register Act.

(1<sup>1</sup>) The citizen of the European Union's minor child who is born in Estonia or takes up residence in Estonia acquires a temporary right of residence if the child's parent enjoys a temporary right of residence, regardless of whether or not the child is a citizen of the European Union.

[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

(2) After five years, the term of temporary right of residence is extended for another five years if the residence of the citizen of the European Union continues to be registered in Estonia and the right of residence of the citizen of the European Union has not expired or has not been terminated.

(2<sup>1</sup>) The temporary right of residence of the citizen of the European Union's minor child is extended when the temporary right of residence of the citizen of the European Union is extended.

[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

(3) At the time of registration of the residence, a corresponding certificate is issued to the citizen of the European Union if he or she so desires.

#### **§ 14. Application for an Estonian identity card**

(1) The citizen of the European Union who has acquired a temporary right of residence in Estonia must apply for an Estonian identity card within one month after registration of his or her residence in Estonia following the procedure provided in the Identity Documents Act.

(2) The Estonian identity card constitutes evidence of the temporary right of residence of the citizen of the European Union.

## **§ 15. Expiration of the temporary right of residence of the citizen of the European Union**

(1) The temporary right of residence of the citizen of the European Union expires:

- 1) when he or she has no registered residence in Estonia;
- 2) when he or she acquires a permanent right of residence;
- 3) when he or she is granted Estonian citizenship or when Estonian citizenship is restored to him or her;
- 4) when he or she loses his or her European Union citizenship, or
- 5) when he or she dies or is declared dead in absentia.

(2) When the temporary right of residence of the citizen of the European Union expires, the Police and Border Guard Board revokes the Estonian identity card issued to him or her.

## **§ 16. Termination of the temporary right of residence of the citizen of the European Union**

(1) The temporary right of residence of the citizen of the European Union is terminated if there are justified grounds to believe that he or she poses a threat to public policy or national security or public health.

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(2) The temporary right of residence of the citizen of the European Union in Estonia is terminated by decision of the Police and Border Guard Board.

(3) When the temporary right of residence of the citizen of the European Union is terminated, the Police and Border Guard Board revokes the Estonian identity card issued to him or her.

(4) When the temporary right of residence of the citizen of the European Union is terminated, the citizen ceases to be a data subject of the population register of Estonia.

[RT I, 17.11.2017, 1 - entry into force 01.01.2019]

## **§ 17. Issue of enforcement order to leave Estonia upon termination of the temporary right of residence of a citizen of the European Union**

[Repealed – RT I, 17.12.2015, 3 – entry into force 27.12.2015]

# **Division 2**

## **Family members' temporary right of residence**

### **§ 18. Family members' temporary right of residence**

(1) A family member is granted a temporary right of residence in Estonia if he or she meets the preconditions established for the grant of a temporary right of residence.

(2) The family member is granted a temporary right of residence by determination of the Police and Border Guard Board.

(3) The term of the family member's temporary right of residence is extended if the family member continues to meet the preconditions for the grant of a temporary right of residence.

### **§ 19. Term of a temporary right of residence**

(1) The family member is granted a temporary right of residence for up to five years but not for longer than the period during which the citizen of the European Union resides in Estonia.

(2) The temporary right of residence of a family member is extended for the period during which the citizen of the European Union resides in Estonia but not for longer than for five consecutive years at a time.

### **§ 20. Conditions for the grant of a temporary right of residence**

(1) The Police and Border Guard Board grants a temporary right of residence to the family member provided that:

- 1) the citizen of the European Union with whom the family member wishes to take up residence is employed or operates as a sole proprietor in Estonia;
- 2) the citizen of the European Union with whom the family member wishes to take up residence has sufficient financial means to provide for himself or herself and for his or her family members, and he or she is a person insured following the procedure provided in the Health Insurance Act, or
- 3) the citizen of the European Union with whom the family member wishes to take up residence is studying in Estonia and has sufficient financial means to provide for himself or herself and for his or her family members, and he or she is a person insured following the procedure provided in the Health Insurance Act.

(2) The citizen of the European Union's minor child who is born in Estonia or takes up residence in Estonia acquires a temporary right of residence if the child's parent has a temporary right of residence.

[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

(3) ‘Studying in Estonia’ means studying at a basic school, upper secondary school, vocational school, institution of vocational higher education or university, participating in preparatory or continuing education courses organized at any of the abovementioned educational institutions, doing research at an Estonian university or institution of vocational higher education, or holding a traineeship arranged in Estonia by an international student organisation.

#### **§ 21. Special requirements regarding grants of temporary right of residence**

The citizen of the European Union who enjoys a temporary right of residence in Estonia is deemed continuously employed in Estonia or continuously operating in Estonia as a sole proprietor:

- 1) during the citizen’s temporary incapacity for work, when he or she is temporarily unable to work due to an illness or accident;
- 2) during the time the citizen is registered as unemployed, provided he or she has been registered as unemployed following the procedure provided in the Labour Market Services and Support Act after having been employed in Estonia for more than one year;
- 3) within six months after the citizen’s registration as unemployed provided he or she has been registered as unemployed following the procedure provided in the Labour Market Services and Support Act after having completed a contract of employment with a term of less than one year or having lost employment during the first twelve months, or
- 4) during periods of continuing education if the citizen is not unemployed and the course relates to his or her previous employment or activity.

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

#### **§ 22. Conditions for the grant of a temporary right of residence**

(1) The Police and Border Guard Board grants a temporary right of residence to a family member provided all of the following conditions are fulfilled:

- 1) the citizen of the European Union with whom the person wishes to reside meets the conditions provided in points 1, 2 or 3 of subsection 20(1) of this Act;
- 2) the citizen of the European Union with whom the person wishes to reside enjoys the right of residence in Estonia;
- 3) the applicant for temporary right of residence fulfils the definition of family member as provided in section 3 of this Act;
- 4) none of the grounds for refusing to grant a temporary right of residence applies to the family member.

(2) In the case specified in clause 3 of subsection 20(1) of this Act, a temporary right of residence is granted only to the spouse and dependent children.

(3) The family member’s minor child who is born in Estonia or takes up residence in Estonia acquires a temporary right of residence for the term of the temporary right of residence of the parent.

[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

#### **§ 23. Obligation to register residence**

The family member who has been granted a temporary right of residence by the Police and Border Guard Board must register his or her residence in Estonia following the procedure provided in the Population Register Act within one month following the date of the grant of temporary right of residence.

#### **§ 24. Application for a temporary right of residence**

(1) In order to acquire a temporary right of residence, the family member must submit the corresponding application to the Police and Border Guard Board or a foreign mission of the Republic of Estonia who transmits the application for processing to the Police and Border Guard Board.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(1<sup>1</sup>) In the case mentioned in subsection 3 of section 22 of this Act, no application is required in order to acquire a temporary right of residence.

[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

(2) In order to submit the application for a temporary right of residence, the family member is required to appear before a foreign mission of the Republic of Estonia or before the Police and Border Guard Board.

(3) The family member who has entered Estonia must submit the application for a temporary right of residence to the Police and Border Guard Board within three months following the date of his or her entry into Estonia.

(4) For the time of processing of the application for a temporary right of residence, the Police and Border Guard Board issues a certificate to the family member who has entered Estonia which states that the family member's application for temporary right of residence is being processed by the Police and Border Guard Board.

#### **§ 25. Document constituting evidence of the family member's temporary right of residence**

(1) The Police and Border Guard Board issues a residence permit card to the family member who has been granted a temporary right of residence in Estonia; the residence permit card constitutes evidence of the family member's temporary right of residence.

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

(2) [Repealed – RT I, 09.12.2010, 1 – entry into force 01.01.2011]

#### **§ 26. Refusal to grant a temporary right of residence**

(1) The Police and Border Guard Board refuses to grant a temporary right of residence to the family member if:

- 1) the citizen of the European Union with whom the family member wishes to reside does not fulfil the conditions provided in section 20 of this Act;

- 2) the citizen of the European Union with whom the family member wishes to reside has no right of residence in Estonia;

- 3) the individual who has applied for a temporary right of residence does not meet the definition of family member provided in section 3 of this Act;

- 4) there are justified grounds to believe that the family member poses a threat to public policy or national security or public health, or

[RT I, 17.12.2015 – entry into force 27.12.2015]

- 5) the family member or the citizen of the European Union with whom the family member wishes to reside has abused the rights established in this Act or has resorted to deceit in order to make it possible for the family member to obtain a temporary right of residence in Estonia.

(2) The Police and Border Guard Board refuses to grant a temporary right of residence to a newborn child of the family member if the child is not a citizen of the European Union and does not fulfil the definition of family member provided in section 3 of this Act, unless the parent enjoys a temporary right of residence in Estonia.

(3) Among others, the following are considered as deceit or abuse of rights as mentioned in clause 5 of subsection 1 of this section:

- 1) contracting a fictitious marriage;

- 2) for a citizen of the European Union, claiming a temporary right of residence in Estonia for the purpose of obtaining a temporary right of residence in Estonia for a family member;

- 3) submitting forged documents or

- 4) submitting false information.

#### **§ 27. Issue of enforcement order to leave Estonia upon refusal to grant temporary right of residence**

[Repealed – RT I, 17.12.2015, 3 – entry into force 27.12.2015]

#### **§ 28. Conditions for extension of the temporary right of residence**

(1) The Police and Border Guard Board extends the temporary right of residence of the family member provided all of the following conditions are fulfilled:

- 1) the citizen of the European Union named in the decision granting the temporary right of residence as the individual with whom the family member is to reside meets the conditions provided in section 20 of this Act;

- 2) the citizen of the European Union named in the decision granting the temporary right of residence as the individual with whom the family member is to reside continues to enjoy the right of residence in Estonia;

- 3) the family member continues to enjoy a temporary right of residence in Estonia;

- 4) the individual applying for extension of the temporary right of residence fulfils the definition of family member provided in section 3 of this Act;

- 5) the residence of the family member in Estonia has been registered following the procedure provided in the Population Register Act;

- 6) none of the grounds for refusing to extend the temporary right of residence applies to the family member.

(2) The temporary right of residence of the family member's minor child is extended by the term of the parent's temporary right of residence when the Police and Border Guard Board extends the parent's temporary right of residence.

[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

#### **§ 29. Application for extension of the temporary right of residence**

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

(1) The family member must submit the application for extension of his or her right of residence to the Police and Border Guard Board not later than one month prior to expiration of the temporary right of residence, or leave Estonia within two months from the date of expiration of the temporary right of residence.



[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(1<sup>1</sup>) In the case mentioned in subsection 2 of section 28 of this Act, no application is required in order for the temporary right of residence to be extended.

[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

(2) The time-limit for submission of the application for extension of the temporary right of residence provided in subsection 1 of this section will not be reinstated if the temporary right of residence has expired.

(2<sup>1</sup>) In order to submit the application for extension of his or her temporary right of residence, the family member is required to appear before the Police and Border Guard Board, except in the cases specified in section 277 of the Aliens Act and when less than two years have elapsed from the last fingerprinting performed as part of the procedure of issuing a residence permit, work permit, right of residence, extension of a right of residence or an identity card, and the fingerprints taken allow the person to be identified and conform to the requirements established under subsection 6 of section 15 of the Identity Documents Act or under clauses 4 and 5 of subsection 1 of section 224, or clauses 7 and 8 of subsection 2 of section 250 of the Aliens Act.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(3) When extending the temporary right of residence, the Police and Border Guard Board issues to the family member a residence permit card which constitutes evidence of the family member's temporary right of residence.

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

### **§ 30. Issue of enforcement order to leave Estonia when a temporary right of residence is not extended**

[Repealed – RT I, 17.12.2015, 3 – entry into force 27.12.2015]

### **§ 31. Refusal to extend the temporary right of residence**

(1) The Police and Border Guard Board refuses to extend the temporary right of residence of the family member if:

1) the citizen of the European Union named in the decision granting the temporary right of residence as the individual with whom the family member is to reside does not enjoy a right of residence in Estonia;

2) there are justified grounds to believe that the family member poses a threat to public policy or national security or public health, or

[RT I, 17.12.2015 – entry into force 27.12.2015]

3) the family member, or the citizen of the European Union named in the decision granting the temporary right of residence as the individual with whom the family member is to reside, has abused the rights provided in this Act or has resorted to deceit in order to make it possible for the family member to obtain a temporary right of residence in Estonia.

(2) The Police and Border Guard Board may refuse to extend the temporary right of residence of the family member if:

1) the citizen of the European Union named in the decision granting temporary right of residence as the individual with whom the family member is to reside does not meet the conditions provided in section 20 of this Act;

2) the individual applying for an extension of the temporary right of residence no longer fulfils the definition of family member provided in section 3 of this Act,

3) the family member does not reside in Estonia.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(3) The Police and Border Guard Board refuses to extend the temporary right of residence of the family member's newborn child who is not a citizen of the European Union and who does not fulfil the definition of family member provided in section 3 of this Act if the parent's temporary right of residence is not extended or if the parent does not enjoy a temporary right of residence in Estonia.

### **§ 32. Issue of enforcement order to leave Estonia upon refusal to extend the temporary right of residence**

[Repealed – RT I, 17.12.2015, 3 – entry into force 27.12.2015]

### **§ 33. Expiration of the family member's temporary right of residence**

(1) The family member's temporary right of residence expires:

1) when the term of the temporary right of residence expires;

2) when the family member acquires a permanent right of residence;

3) when the family member acquires Estonian citizenship or the citizenship of another member state of the European Union, or when such citizenship is restored to him or her;

- 4) when the citizen of the European Union named in the decision granting the temporary right of residence as the individual with whom the family member is to reside has no right of residence in Estonia;
- 5) if the individual concerned no longer fulfils the definition of family member provided in section 3 of this Act, or
- 6) when the individual concerned dies or is declared dead in absentia.

(2) When the family member's temporary right of residence expires, the Police and Border Guard Board revokes the residence permit card issued to him or her.  
[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

#### **§ 34. Termination of the family member's temporary right of residence**

(1) The family member's temporary right of residence in Estonia is terminated:

- 1) on the basis of the corresponding application by the family member;
- 2) if there are justified grounds to believe that the family member poses a threat to public policy or national security or public health, or

[RT I, 17.12.2015 – entry into force 27.12.2015]

3) the family member or the citizen of the European Union named in the decision granting the temporary right of residence as the individual with whom the family member is to reside has abused the rights provided in this Act or has resorted to deceit in order to make it possible for the family member to obtain a temporary right of residence in Estonia.

(2) The family member's temporary right of residence in Estonia may be terminated if:

- 1) the citizen of the European Union named in the decision granting the temporary right of residence as the individual with whom the family member is to reside does not meet the conditions provided in section 20 of this Act, or
- 2) the family member does not reside in Estonia.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(3) A family member's temporary right of residence in Estonia is terminated by decision of the Police and Border Guard Board.

(4) When the family member's temporary right of residence is terminated, the Police and Border Guard Board revokes the residence permit card issued to him or her.  
[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

#### **§ 35. Obligation to leave Estonia and issue of enforcement order to leave Estonia upon expiration or termination of the temporary right of residence**

[Repealed – RT I, 17.12.2015, 3 – entry into force 27.12.2015]

### **Division 3**

## **Special rules regarding expiration of the family member's temporary right of residence**

#### **§ 36. The family member's temporary right of residence in the case of death or departure from Estonia of the citizen of the European Union**

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(1) When the citizen of the European Union dies, the temporary right of residence of his or her family members expires unless the family member has resided in Estonia on the basis of a temporary right of residence for at least a year before the death of the citizen of the European Union, and:

- 1) he or she is employed or operates in Estonia as a sole proprietor;
- 2) he or she has sufficient financial means to provide for himself or herself and for his or her family members, and he or she is insured following the procedure provided in the Health Insurance Act, or
- 3) he or she is a family member of an individual described in clause 1 or 2 of this subsection.

(2) When the citizen of the European Union dies, his or her family members are entitled to obtain a permanent right of residence on the grounds specified in subsection 3 of section 45 of this Act.

(3) When the citizen of the European Union dies or leaves Estonia, any child of that citizen who resides and studies in Estonia and is enrolled in an educational institution of Estonia, and the parent raising that child, have temporary right of residence in Estonia until the conclusion of the studies.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(4) When the citizen of the European Union dies, the temporary right of residence of his or her family members may be suspended or terminated or an extension of their temporary right of residence may be refused on standard grounds without prejudice to the special rules set forth in this section.

### **§ 37. Family members' temporary right of residence in the case of termination or expiration of the temporary right of residence in Estonia of the citizen of European Union**

(1) In the case of expiration of the temporary right of residence in Estonia of the citizen of the European Union on the basis of clause 1 of subsection 15(1) of this Act, or in the case of termination of the temporary right of residence in Estonia of the citizen of the European Union on the basis of subsection 16(1) of this Act, any child of that citizen who resides in Estonia and who is enrolled in an educational institution for the purpose of studying and the parent raising that child enjoy a temporary right of residence in Estonia until the child completes his or her studies.

(2) When the temporary right of residence of the citizen of the European Union expires or is terminated, the temporary right of residence of his or her family members may be suspended or terminated or the extension of their temporary right of residence may be refused on standard grounds without prejudice to the provisions set forth in this section.

### **§ 38. The family member's temporary right of residence in the case of divorce or annulment of marriage**

(1) In the case of a divorce or annulment of marriage, the spouse's temporary right of residence in Estonia expires, except in the case where:

1) the marriage has lasted for at least three years before the initiation of divorce or marriage annulment proceedings, including one year during the period for which the temporary right of residence in Estonia was invoked;

[RT I, 17.12.2015 – entry into force 27.12.2015]

2) according to a court order or agreement between the spouses, the spouse specified above has custody of the child of the citizen of the European Union;

3) according to a court order or agreement between the spouses, the spouse specified above has the right to contacts with a minor child and the court order specifies that such contacts must take place in Estonia, or

4) special circumstances warrant allowing the person concerned to continue to enjoy a temporary right of residence, such as when the spouse specified above has been the victim of domestic violence in the course of the marriage.

(2) In addition to meeting the requirements provided in subsection (1) of this section, the spouse must:

1) be employed or operate in Estonia as a sole proprietor;

2) have sufficient financial means to provide for himself or herself and for his or her family members, and be insured following the procedure provided in the Health Insurance Act.

(3) In the case of a divorce or annulment of marriage, the temporary right of residence of a dependent child of the spouse or a dependent parent does not expire if the spouse meets the conditions provided in subsections 1 and 2 of this section.

(4) In the case of a divorce or annulment of marriage, the temporary right of residence of the family member may be suspended or terminated or the extension of his or her temporary right of residence may be refused on standard grounds without prejudice to the special rules set forth in this section.

(5) The provisions of this section also apply to cases of termination of registered partnerships.

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

### **§ 39. Conformity to conditions in the case of special requirements concerning family members' temporary right of residence**

The family member's temporary right of residence may be terminated if, during the term of the temporary right of residence, the family member does not meet the conditions provided in this division.

## **Chapter 4 PERMANENT RIGHT OF RESIDENCE**

### **Division 1 Permanent right of residence of citizens of the European Union**

#### **§ 40. Permanent right of residence of citizens of the European Union**

(1) Any citizen of the European Union who has resided in Estonia for a period of five consecutive years on the basis of a temporary right of residence is entitled to obtain a permanent right of residence.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(2) The citizen of the European Union is entitled to obtain a permanent right of residence before the expiration of the term specified in subsection 1 of this section if he or she:

1) has, by the date of termination of his or her employment or operation as a sole proprietor, attained the age of retirement or has terminated his or her work in order to assume early retirement and has been employed or has operated as a sole proprietor in Estonia for at least the last twelve months and has resided in Estonia on the basis of the temporary right of residence at least for the last three consecutive years,

[RT 03.01.2017, 1 – entry into force 18.01.2017]

2) has continuously stayed in Estonia on the basis of a temporary right of residence at least for the last two consecutive years and has ended his or her employment or operation as a sole proprietor due to having partial or no work ability,

[RT 03.01.2017, 1 – entry into force 18.01.2017]

3) resides in Estonia on the basis of a temporary right of residence and has ended his or her employment due to having partial or no work ability as a result of an occupational injury or occupational disease, or

[RT I, 13.12.2014, 1 – entry into force 01.07.2016 (amended date of entry into force – RT I, 17.12.2015, 1)]

4) resides in Estonia on the basis of a temporary right of residence and has been employed or has operated as a sole proprietor in Estonia at least for three consecutive years and has commenced employment in another member state of the European Union but resides in Estonia and returns to Estonia at least once a week.

(3) The citizen of the European Union's minor child who is born in Estonia or takes up residence in Estonia is granted a permanent right of residence provided the parent has a permanent right of residence.

[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

(3<sup>1</sup>) The citizen of the European Union's minor child acquires a permanent right of residence when the parent registers his or her permanent right of residence.

[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

(4) The citizen of the European Union who enjoys a permanent right of residence is a permanent resident of Estonia.

(5) The period of employment referred to in subsection 2 of this section includes the time during which the citizen of the European Union has been registered as unemployed with the Estonian Unemployment Insurance Fund due to reasons beyond his or her control, as well as the time during which he or she was not working or absent from work due to being sick or having suffered an accident, and the time following the termination of his or her employment contract due to the sickness or accident.

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(6) The requirement for the period of residence and employment provided in clause 1 of subsection 2 of this section and the requirement for the period of residence provided in clause 2 of subsection 2 of this section do not apply if the citizen of the European Union is married to an Estonian citizen.

(7) In the case referred to in clause 4 of subsection 2 of this section, the period of work in another member state of the European Union is counted as time stayed in Estonia as regards acquisition of the right referred to in clause 1 or 2 of subsection 2.

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

#### **§ 41. Registration of permanent right of residence of the citizen of the European Union and the document proving his or her permanent right of residence**

(1) The citizen of the European Union registers his or her permanent right of residence with the Police and Border Guard Board.

(2) The citizen of the European Union submits the application for registration of his or her permanent right of residence to the Police and Border Guard Board.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(2<sup>1</sup>) In the case mentioned in subsections 3 and 3<sup>1</sup> of section 40 of this Act, no application is required in order to obtain a permanent right of residence for the minor child.

[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

(3) The Police and Border Guard Board verifies the presence of a permanent right of residence of the citizen of the European Union and if such a right is present, issues to the citizen of the European Union an Estonian identity card which is the document proving his or her permanent right of residence.

#### **§ 42. Expiration of the permanent right of residence of the citizen of the European Union**

(1) The permanent right of residence of the citizen of the European Union expires:

- 1) when Estonian citizenship is granted to the citizen or when Estonian citizenship is restored to him or her;
- 2) when the citizen loses his or her European Union citizenship, or
- 3) when the citizen dies or is declared dead in absentia.

(2) When the permanent right of residence of the citizen of the European Union expires, the Police and Border Guard Board revokes the Estonian identity card issued to him or her.

### **§ 43. Termination of the permanent right of residence of a citizen of the European Union**

(1) The permanent right of residence in Estonia of a citizen of the European Union is terminated:

- 1) on the basis of the corresponding application of the citizen of the European Union;
- 2) when the citizen has been away from Estonia for at least two consecutive years, or
- 3) if there is good reason to believe that a substantial threat to public policy or national security or public health is present.

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(2) The permanent right of residence in Estonia of the citizen of the European Union is terminated by decision of the Police and Border Guard Board.

(3) When terminating the permanent right of residence of the citizen of the European Union, the Police and Border Guard Board revokes the Estonian identity card issued to him or her.

### **§ 44. Issue of enforcement order to leave Estonia upon termination of the temporary right of residence of a citizen of the European Union**

[Repealed – RT I, 17.12.2015, 3 – entry into force 27.12.2015]

## **Division 2**

### **Family member's permanent right of residence**

#### **§ 45. Family member's permanent right of residence**

(1) The family member who has resided in Estonia for a period of five consecutive years on the basis of a temporary right of residence is entitled to a permanent right of residence.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(2) The family member who enjoys a temporary right of residence in Estonia is entitled to a permanent right of residence simultaneously with the citizen of the European Union if the permanent right of residence of the citizen of the European Union arises on the basis of subsection 40(2) of this Act.

(3) The family member who enjoys a temporary right of residence in Estonia is entitled to a permanent right of residence in the case of the death of the citizen of the European Union having a right of residence in Estonia, if:

1) the citizen of the European Union was employed or operated as a sole proprietor in Estonia, and at the time of his or her death had resided in Estonia on the basis of the right of residence at least for two years, or

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

2) the citizen of the European Union was employed or operated as a sole proprietor in Estonia, and his or her death was caused by an accident at work or an occupational disease.

(4) The family member's minor child who is born in Estonia or takes up residence in Estonia is granted a permanent right of residence provided the parent enjoys a permanent right of residence.

[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

(4<sup>1</sup>) The family member's minor child acquires a permanent right of residence when the parent registers his or her permanent right of residence.

[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

(5) The family member who enjoys a permanent right of residence in Estonia is a permanent resident of Estonia.

(6) A family member is not entitled to a permanent right of residence if his or her temporary right of residence has expired or has been terminated, or if he or she has not resided in Estonia for a period of five consecutive years, except in the case provided in subsection 2 of this section.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

#### **§ 46. Registration of the family member's permanent right of residence**

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

(1) The family member registers his or her permanent right of residence with the Police and Border Guard Board.

(2) The family member submits the application for registration of his or her permanent right of residence to the Police and Border Guard Board at least one month before the expiration of the term of validity of his or her residence permit card.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(2<sup>1</sup>) In order to submit the application for the registration of a permanent right of residence, the family member is required to appear before the Police and Border Guard Board, except in the cases specified in section 277 of the Aliens Act and when less than two years have passed from the last fingerprinting performed as part of the procedure of issuing a residence permit, work permit, right of residence, extension of a right of residence or an identity card, and the fingerprints taken allow the person to be identified and conform to the requirements established under subsection 6 of section 15 of the Identity Documents Act or under clauses 4 and 5 of subsection 1 of section 224, or clauses 7 and 8 of subsection 2 of section 250 of the Aliens Act.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(3) The Police and Boarder Guard Board verifies the presence of a permanent right of residence of the family member and if such a right is present, issues to the family member a residence permit card which is the document proving his or her permanent right of residence.

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

#### **§ 47. Expiration of the family member's permanent right of residence**

(1) The family member's permanent right of residence expires:

- 1) when the family member acquires Estonian citizenship or the citizenship of another member state of the European Union, or when such citizenship is restored to him or her, or
- 2) when the family member dies or is declared dead in absentia.

(2) When the permanent right of residence expires, the Police and Border Guard Board revokes the residence permit card issued to the family member.

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

#### **§ 48. Termination of the family member's permanent right of residence**

(1) A family member's permanent right of residence in Estonia is terminated;

- 1) on the basis of the corresponding application by the family member;
- 2) when the family member has been away from Estonia for at least two consecutive years;
- 3) if there is good reason to believe that the family member poses a threat to public policy or national security or public health.

[RT I, 17.12.2015 – entry into force 27.12.2015]

- 4) [Repealed – RT I, 17.12.2015 – entry into force 27.12.2015]

(2) A family member's permanent right of residence in Estonia is terminated by determination of the Police and Border Guard Board.

(3) When the permanent right of residence is terminated, the Police and Border Guard Board revokes the residence permit issued to the family member.

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

#### **§ 49. Obligation to leave and issue of enforcement order to leave Estonia upon termination of the permanent right of residence**

[Repealed – RT I, 17.12.2015, 3 – entry into force 27.12.2015]

#### **§ 49<sup>1</sup>. Referring the citizen of the European Union or the member of his or her family to participate in an adaptation programme**

(1) The Police and Border Guard Board refers the citizen of the European Union or the member of his or her family who has acquired a right of residence under this Act or who has been granted such right or whose right of residence has been extended to participate in an adaptation programme.

(2) The adaptation programme for citizens of the European Union or members of their families who have acquired a right of residence under this Act or have been granted such right or whose right of residence has been extended is established by regulation of the minister responsible for the area.

(3) The data of acts related to the adaptation programme are processed in the register of residence and work permits established in accordance with the rules provided in the Aliens Act.

(4) To arrange for the fulfilment of a task provided in the adaptation programme, the minister responsible for the area may, in accordance with the nature of the task, enter into a civil law contract or regulatory contract following the procedure provided in the Administrative Cooperation Act.

[RT I, 23.03.2015, 1 – entry into force 01.08.2015]

## **Chapter 5**

# **PROCEDURE FOR GRANTING RIGHTS OF RESIDENCE**

### **§ 50. Form of application for a temporary right of residence**

[Repealed – RT I, 03.01.2017, 1 – entry into force 18.01.2017]

### **§ 51. Form of application for registration of a permanent right of residence**

[Repealed – RT I, 03.01.2017, 1 – entry into force 18.01.2017]

### **§ 52. Procedure for granting a right of residence**

(1) The minister responsible for the area makes regulations to establish the procedure for applying for, granting and extending temporary rights of residence of family members of citizens of the European Union, and the procedure for applying for registration of permanent rights of residence and termination of rights of residence of citizens of the European Union and their family members, and the list of certificates and documents to be submitted when applying for registration of temporary and permanent rights of residence.  
[RT I, 23.03.2015, 1 – entry into force 01.01.2016]

(2) Information concerning acts performed and administrative decisions taken in the course of registration and extension of temporary rights of residence of family members of citizens of the European Union and the registration of permanent rights of residence of citizens of the European Union and their family members and in relation to other procedures concerning the rights of residence are processed in the register of residence and work permits established on the basis of the Aliens Act.  
[RT I 2010, 3, 4 – entry into force 05.04.2010]

### **§ 52<sup>1</sup>. Documents constituting evidence of the family member's right of residence**

(1) The determination of the period of validity of a residence permit card issued to the family member is based on the provisions of the Identity Documents Act.

(2) The family member's right of residence is formalized by recording, on the residence permit card, the information contained in the decision granting or extending a temporary right of residence or in the decision granting a permanent right of residence.

(3) The family member who applies for a temporary right of residence, an extension of his or her temporary right of residence or a permanent right of residence is not required to submit the application for the issue of a residence permit card, and he or she is fingerprinted in the course of the procedure for granting a temporary right of residence, extending the temporary right of residence or granting a permanent right of residence.

(4) The terms and procedure for fingerprinting set out in the Aliens Act and in the regulations enacted on its basis apply to the fingerprinting of family members who apply for a temporary right of residence, for an extension of their temporary right of residence or for a permanent right of residence.  
[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

### **§ 52<sup>2</sup>. State fee**

(1) The payment of a state fee is required, in the amount specified in the State Fees Act, for the processing of applications for a temporary right of residence, for an extension of the temporary right of residence and for a permanent right of residence.

(2) If the application is ruled unprocessable, the state fee is not refunded.  
[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

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

# **LIMITATIONS ON THE RIGHT OF FREE MOVEMENT OF CITIZENS OF THE EUROPEAN UNION AND THEIR FAMILY MEMBERS**

### **§ 52<sup>3</sup>. Refusal of admission to the national territory**

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(1) On the external border, the citizen of the European Union or a member his or her family may be refused entry to the national territory if:

- 1) he or she does not possess a document required under section 11<sup>1</sup> of the State Borders Act for the crossing of the national border;
- 2) he or she is the subject of a prohibition of entry;
- 3) he or she poses a threat to public policy, national security or public health.

(2) Refusals of admission are decided by the Police and Border Guard Board.

(3) In the case referred to in clause 1 of subsection 1 of this section, before the making of the decision to refuse admission, the person concerned is given an opportunity to obtain the necessary documents or to provide evidence of his or her right of free movement by other means.

(4) When making the decision on the refusal of admission, the provisions of sections 52<sup>5</sup>–52<sup>7</sup> of this Act are taken into account.

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

### **§ 52<sup>4</sup>. Obligation to leave**

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(1) The citizen of the European Union or his or her family member is obligated to leave Estonia if he or she poses a threat to public policy, national security or public health.

(2) The family member of the citizen of the European Union is obligated to leave Estonia if:

- 1) he or she has been refused a temporary right of residence or the extension of such right;
- 2) his or her temporary right of residence has expired and he or she has not applied for an extension of that right, and the legally allowed period of staying in Estonia provided in subsection 23 of section 10 of this Act has elapsed;

[RT I, 03.01.2017, 1 – entry into force 18.01.2017].

- 3) his or her temporary or permanent right of residence has been terminated;
- 4) he or she has stayed in Estonia for a period exceeding three months starting from the day of entry to Estonia, he or she has not applied for a temporary right of residence and has no other lawful basis for staying in Estonia.

(3) In the cases referred to in subsection 1 and clauses 2 and 3 of subsection 2 of this section, the decision to limit the right of free movement of the citizen of the European Union or the member of his or her family includes an enforcement order to leave Estonia (below, ‘enforcement order to leave’) and, if necessary, imposes a prohibition of entry into Estonia for up to ten years.

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

### **§ 52<sup>5</sup>. Limitation of the right of stay and of the right of residence**

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(1) Unless otherwise provided in this Act, limitations may only be imposed on the right of stay or the right of residence enjoyed by citizens of the European Union or their family members if there are justified grounds to believe that they pose a threat to public policy, national security or public health.

(2) Limitations are not imposed on the right of stay or the right of residence for the mere reason of invalidity of the identity document of the citizen of the European Union or of the family member, of the certificate of registration of his or her place of residence, or of the identity card or residence permit card issued to him or her under the Identity Documents Act. Limitations are not imposed on the right of stay or the right of residence for reasons that are merely economic.

(3) When imposing limitations on the right of stay or the right of residence of the citizen of the European Union or the family member, consideration is given to the duration of the individual’s lawful stay in Estonia, the individual’s age, the condition of his or her health, the individual’s family and financial situation, his or her social and cultural ties with the Estonian society and the ties with his or her country of origin.

(4) If the citizen of the European Union or the family member is a minor and his or her expulsion or the refusal to admit him or her to the national territory is not justified from the point of view of the interests of the minor, limitations may be imposed on his or her right of stay or of residence only if there is a threat to national security.



(5) Assessment of the threat referred to in subsection 1 of this section is based on the individual's behaviour and may not be based solely on a prior convicting judgment. Limitations on the right of stay or of residence are not imposed out of considerations of general deterrence.

(6) In order to assess whether the individual poses a threat to public policy, national security or public health, the Police and Border Guard Board may, when deciding on his or her application for temporary right of residence, within three months starting from the day the application was submitted, demand from the individual's member state of origin or from other member states information concerning the criminal record of that individual or of any member of his or her family.

(7) The data recorded in the Criminal Record Database concerning the criminal record of the citizen of the European Union or of any member of his or her family are exchanged with member states of the European Union following the procedure provided in the Criminal Record Database Act.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

#### **§ 52<sup>6</sup>. Special rules on limitations of the right of residence**

(1) If the citizen of the European Union or member of his or her family resides in Estonia on the basis of a permanent right of residence, limitations may be imposed on his or her right of residence only if there is a significant threat to public policy or a threat to national security.

(2) If the citizen of the European Union has resided in Estonia for the last ten consecutive years, limitations may be imposed on his or her right of residence only if there is a threat to national security.  
[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

#### **§ 52<sup>7</sup>. Limitations on the right of stay and the right of residence on considerations of public health**

(1) For public health protection purposes, in the case of justified suspicion that the citizen of the European Union or member of his or her family has been infected with a communicable disease that must, under subsection 8 of section 21 of the Communicable Diseases Prevention and Control Act, be notified to the World Health Organisation as an international public health emergency, limitations may be imposed on the right of stay or of residence of such a person until the threat is ascertained, but not for more than three months starting from the day of arrival in Estonia. Any disease that manifests itself after three months have elapsed since the person's arrival in Estonia does not constitute grounds for expulsion.

(2) In order to verify that the citizen of the European Union or member of his or her family has not been infected with a communicable disease that must, under subsection 8 of section 21 of the Communicable Diseases Prevention and Control Act, be notified to the World Health Organization as an international public health emergency, the person in question may, within three months starting from the day of his or her arrival in Estonia, be required to undergo a medical examination. The medical examination is administered to the person free of charge.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

#### **§ 52<sup>8</sup>. Enforcement order to leave**

(1) The enforcement order to leave allows the citizen of the European Union or the member of his or her family a 30-day period for voluntary compliance that starts to run from the order being served on the individual concerned.

(2) In urgent cases where this is justified, the period that is allowed for voluntary compliance may be shorter than the period provided in subsection 1 of this section, or may be subject to reduction.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

#### **§ 52<sup>9</sup>. Compulsory execution of the enforcement order to leave**

(1) After the time-limit for voluntary compliance has expired, the enforcement order to leave may be executed in a compulsory manner.

(2) Compulsory execution of the enforcement order to leave that is addressed to the citizen of the European Union or the member of his or her family takes place by arresting the person in question and expelling him or her from Estonia.

(3) The arrest and expulsion of the citizen of the European Union or of the member of his or her family is subject to the provisions of the Obligation to Leave and Prohibition on Entry Act.

(4) The citizen of the European Union or the member of his or her family subject to the ancillary sentence of expulsion from Estonia entered by the court is expelled from Estonia without an enforcement order to leave being addressed to him or her.

(5) In the interests of national security, an enforcement order to leave may be executed immediately in a compulsory manner.

(6) Before proceeding to execute an expulsion, the administrative authority in charge of the expulsion assesses whether there are any facts that prevent the expulsion from Estonia of the citizen of the European Union or member of his or her family.

(7) The citizen of the European Union or member of his or her family are not expelled from Estonia if this is contrary to the provisions of section 17<sup>1</sup> of the Obligation to Leave and Prohibition on Entry Act.

(8) In the case referred to in subsection 7 of this section, the administrative authority in charge of the expulsion has a right to request the court to invalidate the expulsion.

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

#### **§ 52<sup>10</sup>. Prohibition of entry**

(1) A prohibition of entry may be imposed on the citizen of the European Union or his or her family member only if there are justified grounds to believe that he or she poses a threat to public policy, national security or public health.

(2) Only the temporary prohibition of entry, for a term of up to 10 years, may be imposed on the citizen of the European Union or a member of his or her family.

(3) The proceedings on applications to decide the imposition of the prohibition of entry, to vary the term of the prohibition, to suspend the prohibition and to invalidate the prohibition are subject to the provisions of Chapter 5 of the Obligation to Leave and Prohibition on Entry Act. The applications referred to in this subsection are considered within six months starting from the day of their submission.

(4) The submission of the applications referred to in subsection 3 of this section does not create, for the citizen of the European Union or the member of his or her family, legal grounds for entry to or stay in Estonia.

(5) When making the decision on the imposition of a prohibition of entry, the provisions of sections 52<sup>5</sup>–52<sup>7</sup> of this Act are taken into account.

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

#### **§ 52<sup>11</sup>. Special rule concerning the statement of factual grounds for administrative decisions**

Administrative decisions made under this Act do not state factual grounds insofar as this is contrary to the interests of national security.

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

#### **§ 52<sup>12</sup>. Challenges**

(1) Administrative decisions made under this Act may be challenged following the procedure provided in the Code of Administrative Court Procedure.

(2) Challenging the administrative decision does not create, for the citizen of the European Union or the member of his or her family, legal grounds for entry to or stay in Estonia.

(3) Where the individual concerned has applied to the court to suspend compulsory execution of the enforcement order to leave, compulsory execution of the order is stayed until the making of the decision concerning the order, except where the person's expulsion is the subject of a court order that has become final or where the person's expulsion is required in the interests of national security.

[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

#### **§ 52<sup>13</sup>. Bearing of the costs of leaving Estonia**

(1) The citizen of the European Union or member of his or her family is obligated to bear the costs of his or her leaving Estonia, including the costs of compulsory execution of the obligation to leave and the costs of detention in a detention centre and arrest house that are incurred on account of his or her expulsion.

(2) In order to recover the costs provided for in subsection 1 of this section, an enforcement order is addressed to the citizen of the European Union or member of his or her family, which sets a time-limit for voluntary compliance.

(3) If the enforcement order is not complied with within the time-limit, the administrative authority is authorised to seek compulsory execution of the order following the procedure provided in the Code of Enforcement Procedure.

(4) The minister responsible for the area makes regulations to establish a list of the costs of leaving Estonia, the procedure for their recovery and the cost rates.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

## **Chapter 5<sup>2</sup>** **EQUAL TREATMENT**

[RT I, 26.04.2017, 6 - entry into force 06.05.2017]

### **§ 52<sup>14</sup>. Equal treatment**

(1) Regardless of their citizenship, workers who are citizens of a member state of the European Union or of the European Economic Area must enjoy equal treatment with the citizens of the Republic of Estonia with regard to the following matters, as provided in Articles 1 to 10 of Regulation (EU) No 492/2011 of the European Parliament and of the Council on freedom of movement for workers (OJ L 141, 27.05.2011, pp. 1–12):

- 1) access to employment;
- 2) conditions of employment and work, in particular as regards remuneration, termination of employment, health and safety at work, and, when becoming unemployed, reinstatement or re-employment, and appointment to a position or dismissal;
- 3) access to social and tax advantages;
- 4) membership of trade unions and eligibility for workers' representative bodies;
- 5) access to training;
- 6) access to housing;
- 7) access to education, apprenticeship and vocational training for the children of workers;
- 8) assistance afforded by the employment offices.

(2) The provisions of subsection 1 of this section also apply to officials, without prejudice to special rules provided by law.

[RT I, 26.04.2017, 6 – entry into force 06.05.2017]

### **§ 52<sup>15</sup>. Defence of rights**

Workers or officials who are citizens of a member state of the European Union or of the European Economic Area and members of their family who consider that they have suffered or are suffering from unjustified restrictions and obstacles to their right to free movement or who consider themselves wronged by a failure to apply the principle of equal treatment to them, even if the relationship in relation to which the restriction, obstacle or discrimination is alleged to have occurred has ended, may have recourse to any legal remedy on the same grounds and to the same extent as citizens of the Republic of Estonia.

[RT I, 26.04.2017, 6 – entry into force 06.05.2017]

## **Chapter 6** **NOTIFICATION OBLIGATION** **AND EXERCISE OF SCRUTINY**

### **§ 53. Notification obligation**

(1) The citizen of the European Union who enjoys a right of residence in Estonia is required to notify the Police and Border Guard Board of any the following:

- 1) acquisition of a right of residence in another member state of the European Union;
- 2) leaving Estonia for a period longer than 183 days in a year in relation to performing compulsory military service, in connection with pregnancy, childbirth, serious illness, studies, continuing education or posting;
- 3) loss of citizenship of the European Union;
- 4) divorce or annulment of marriage if this is registered outside Estonia and the spouse of the citizen of the European Union enjoys a right of residence in Estonia;
- 5) termination of employment;
- 6) retirement;
- 7) a partial or total incapacity for work.

[RT I, 13.12.2014, 1 – entry into force 01.07.2016 (amended date of entry – RT I, 17.12.2015, 1)]

(2) The family member who enjoys a right of residence in Estonia is required to notify the Police and Border Guard Board of any the following:

- 1) acquisition of a right of residence in another member state of the European Union;
- 2) failure to fulfil the definition of family member provided in section 3 of this Act;
- 3) leaving Estonia for a period longer than 183 days in a year in relation to performing compulsory military service, in connection with pregnancy, childbirth, serious illness, studies, continuing education or posting; [RT I, 23.03.2015, 5 – entry into force 01.07.2015]
- 4) acquisition of the citizenship of the European Union;
- 5) the death of the citizen of the European Union if that death has been registered outside Estonia.

(3) In addition to the information specified in subsection 2 of this section, the spouse of the citizen of the European Union must notify the Police and Border Guard Board of divorce or annulment of marriage if this is registered outside Estonia.

(4) The citizen of the European Union and any member of his or her family must comply with the notification obligation specified in subsections 1#3 of this section within three months after the date of the relevant event.

#### **§ 54. Exercise of scrutiny**

(1) A family member must provide proof of his or her fulfilment of the conditions and requirements which serve as the basis for granting the temporary right of residence or an extension thereof.

(2) In the case of justified doubt, the Police and Border Guard Board is authorized to verify whether the citizen of the European Union and any member of his or her family duly perform the obligations and fulfil the conditions specified in this Act and whether they have abused any rights prescribed by this Act or resorted to deception. [RT I 2009, 62, 405 – entry into force 01.01.2010]

(3) The citizen of the European Union and any member of his or her family must cooperate with the Police and Border Guard Board in the clarification of any facts related to the grant of the right of residence or the use of such right, and must present any documents and other evidence in their possession that are relevant for the clarification of the facts related to the grant of the right of residence or the use of such right.

(4) The requirements of the Tourism Act apply to the accommodation of citizens of the European Union in accommodation establishments. At the request of the Police and Border Guard Board or of Estonian Internal Security Service, the accommodation establishment submits the visitor's card showing the data of the accommodated individual to the authority which demanded the information. [RT I 2009, 62, 405 – entry into force 01.01.2010]

(5) If an employer intends to provide employment to a family member of the citizen of the European Union, he or she must verify whether the individual concerned possesses a residence permit card. [RT I, 09.12.2010, 1 – entry into force 01.01.2011]

## **Chapter 6<sup>1</sup>** **STATE SUPERVISION**

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

#### **§ 54<sup>1</sup>. State supervision**

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

(1) In the case of justified doubt, the Police and Border Guard Board and the Estonian Internal Security Service may verify whether the stay or residence in Estonia of the citizen of the European Union or of any member of his or her family is in accordance with the provisions of this Act, as well as whether these persons perform the obligations and fulfil the conditions provided in this Act and whether they have abused the rights granted by this Act or resorted to deception.

(2) In accordance with the provision of subsection 1 of this section and in the course of performing the tasks assigned to it by the Security Authorities Act, the Estonian Internal Security Service exercises state supervision over the circumstances of the stay or residence in Estonia of the citizen of the European Union and of any member of his or her family in order to prevent the commission of a criminal offence. [RT I, 13.03.2014, 4 – entry into force 01.07.2014]

#### **§ 54<sup>2</sup>. Special measures of state supervision**

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

(1) When exercising supervision in relation to any facts connected to the stay or residence in Estonia of the citizen of the European Union or of any member of his or her family, the Police and Border Guard Board and

the Estonian Internal Security Service may apply the measures provided in sections 30–33 and 45–53 of the Law Enforcement Act without prejudice to the special rules established by this Act.

(2) The special measures of state supervision provided in sections 50 and 51 of the Law Enforcement Act may only be applied if there are justified grounds to believe that without applying these measures it is impossible to effectively prevent the presumably illegal stay in Estonia of the citizen of the European Union or any member of his or her family and provided that other measures have been exhausted.

(3) The measure provided in section 45 of the Law Enforcement Act may only be applied by a police official.

(4) When exercising state supervision, the Estonian Internal Security Service may resort to direct coercion on the grounds and following the procedure provided in the Law Enforcement Act.  
[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

## **Chapter 7 LIABILITY**

### **§ 55. Stay and residence in Estonia without a lawful basis of a family member of a citizen of the European Union**

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

### **§ 55<sup>1</sup>. Stay in Estonia of a citizen of the European Union or a member of his or her family during the period of validity of the prohibition of entry**

The stay in Estonia of a citizen of the European Union or a member of his or her family, while the citizen of the European Union or the member of his or her family is the subject of a valid prohibition of entry, is punishable by a fine of up to 300 fine units, or by detention.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

### **§ 56. Employment of a family member of the citizen of the European Union in Estonia without a lawful basis**

Any employment of a family member of a citizen of European Union in Estonia without a lawful basis is punishable by a fine of up to 100 fine units or by detention.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

### **§ 57. Making it possible for a family member of a citizen of the European Union to be employed in Estonia without a lawful basis**

(1) Making it possible for a family member of a citizen of the European Union to be employed in Estonia without a lawful basis is punishable by a fine of up to 100 fine units.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(2) The same act, when committed by a legal person, is punishable by a fine of up to 1100 euros.  
[RT I, 17.12.2015, 3 – entry into force 27.12.2015]

### **§ 58. Procedure**

Extra-judicial proceedings in respect of the misdemeanours created by this Chapter are conducted by the Police and Border Guard Board.  
[RT I, 12.07.2014, 1 – entry into force 01.01.2015]

## **Chapter 8 IMPLEMENTING PROVISIONS**

### **§ 59. Transitional provisions**

(1) When this Act enters into force, any citizen of the European Union who holds a temporary residence permit is deemed to have acquired a temporary right of residence. The term of the right of residence is the residence permit's period of validity. The validity of the said temporary right of residence is not affected by the existence of a registered residence in Estonia.

(2) When this Act enters into force, the citizen of the European Union who holds a long-term residence permit is deemed to have acquired a permanent right of residence.

(3) When this Act enters into force, the family member who holds a temporary residence permit is deemed to have acquired a temporary right of residence. The term of the right of residence is the residence permit's period of validity.

(4) Any application for a residence permit submitted before entry into force of this Act is processed under the conditions and in accordance with the provisions in force at the time of submission of the application.

(5) The provisions of subsection 1 of this section apply to the issue of residence permit to the citizen of the European Union in the case specified in subsection 4 of this section, and the data related to the individual's right of residence are recorded on the identity card.

(6) The provisions of subsection 3 of this section apply to the issue of a residence permit to the family member in the case specified in subsection 4 of this section, and the data related to the individual's right of residence are recorded on the identity card.

(7) The period before the entry into force of this Act during which the citizen of the European Union or a member of his or her family resided in Estonia is deemed part of the eligibility period required for acquiring a permanent right of residence.

### **§ 59<sup>1</sup>. Transitional provisions related to issuing residence permit cards**

(1) The family member's application for a temporary right of residence, for extension of the temporary right of residence or for registration of a permanent right of residence submitted before 1 January 2011 are processed under the conditions and in accordance with the provisions in force at the time of submission of the application.

(2) If the family member's application for a temporary right of residence, for extension of the temporary right of residence or for the registration of a permanent right of residence has been submitted before 1 January 2011, and the decision regarding the family member's application for a temporary right of residence, for extension of the temporary right of residence or for the registration of a permanent right of residence is made after that date, the information pertaining to the decision to grant or extend a temporary right of residence, or to register a permanent right of residence is indicated on the residence permit card.

(3) If the family member submits an application for a temporary right of residence, for extension of the temporary right of residence or for registration of a permanent right of residence before 1 January 2011, and the decision regarding the grant of a temporary right of residence, the extension of the temporary right of residence or the registration of a permanent right of residence is made after that date, the residence permit card issued to the family member on the basis of that application is not required to show the fingerprints of the card's holder, provided it is issued before 20 May 2012.  
[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

### **§ 59<sup>2</sup>. Persons who are permanently incapacitated for work**

(1) Persons who have been declared permanently incapacitated for work under the National Pension Insurance Act are deemed to meet the requirement of partial or total incapacity for work provided in section 40 of this Act.

(2) Citizens of the European Union who hold a right of residence in Estonia and who have been declared permanently incapacitated for work under the National Pension Insurance Act must notify this to the Police and Border Guard Board following section 53 of this Act.  
[RT I, 13.12.2014, 1 – entry into force 01.07.2016 (amended date of entry into force, RT I, 17.12.2015, 1)]

### **§ 59<sup>3</sup>. Granting a temporary right of residence to a minor child**

(1) The citizen of the European Union's minor child who is born in Estonia or takes up or has taken up residence in Estonia but whose place of residence the parent has not registered before 1 October 2017 following the procedure provided in the Population Register Act acquires a temporary right of residence provided the parent enjoys a temporary right of residence, regardless of whether or not the child is a citizen of the European Union.

(2) To renounce the right of residence acquired under subsection 1 of this section, parents who have joint custody have the right jointly to make the corresponding application within one year of the acquisition of the right of residence.

(3) The family member's minor child who is born in Estonia or takes up or has taken up residence in Estonia but whose place of residence the parent has not registered before 1 October 2017 following the procedure provided in the Population Register Act acquires a temporary right of residence provided the parent enjoys a temporary right of residence.  
[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

#### **§ 59<sup>4</sup>. Granting a permanent right of residence to a minor child**

(1) The citizen of the European Union's minor child who is born in Estonia or takes up or has taken up residence in Estonia but for whom the parent has not applied for a permanent right of residence before 1 October 2017 acquires a permanent right of residence provided the parent enjoys or is granted a permanent right of residence.

(2) The family member's minor child who is born in Estonia or takes up or has taken up residence in Estonia but for whom the parent has not applied for a permanent right of residence before 1 October 2017 is granted a permanent right of residence provided the parent enjoys or is granted a permanent right of residence.  
[RT I, 03.01.2017, 1 – entry into force 01.10.2017]

**§ 60.–§ 86.**[Omitted from this version.]

#### **§ 87. Entry into force of this Act**

(1) This Act enters into force on 1 August 2006.

(2) Clause 2 of subsection 10(2) and clause 1 of section 73 of this Act enter into force upon Estonia's full accession to the common visa area of the European Union.[RT I, 26.04.2017, 6 – entry into force 06.05.2017]

<sup>1</sup>Directive 2004/38/EC of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJ L 158, 30.04.04, pp. 777–123). In this version of the translation, the words 'Citizenship and Migration Board' have been replaced with 'Police and Border Guard Board'; Directive 2014/54/EU of the European Parliament and of the Council on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers (OJ L 128, 30.04.2014, pp. 8–14). [RT I, 26.04.2017, 6 – entry into force 06.05.2017]