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## **Estonian Defence Forces Organisation Act**

Passed 19.06.2008  
RT I 2008, 35, 213  
Entry into force 01.01.2009

Amended by the following acts

Passed	Published	Entry into force
15.06.2009	RT I 2009, 39, 262	24.07.2009
26.11.2009	RT I 2009, 62, 405	01.01.2010
27.01.2010	RT I 2010, 7, 29	01.08.2010
05.05.2010	RT I 2010, 24, 115	01.09.2010
16.12.2010	RT I, 31.12.2010, 1	01.01.2011
16.12.2010	RT I, 30.12.2010, 3	01.01.2011
15.06.2011	RT I, 08.07.2011, 8	22.07.2011
08.12.2011	RT I, 29.12.2011, 1	01.01.2012
06.06.2012	RT I, 29.06.2012, 2	09.07.2012, partially01.01.2013
13.06.2012	RT I, 10.07.2012, 2	01.04.2013, the word 'defence forces' has been replaced by the word 'Defence Forces' throughout the Act
05.12.2012	RT I, 18.12.2012, 1	01.01.2013, partially01.04.2013
28.02.2013	RT I, 20.03.2013, 1	01.04.2013
29.01.2014	RT I, 18.02.2014, 1	01.08.2014
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
10.04.2014	RT I, 23.04.2014, 1	01.10.2014, partially01.08.2014
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the official titles of ministers have been replaced on the basis of subsection 107 <sup>3</sup> (4) of the Government of the Republic Act.
03.12.2014	RT I, 16.12.2014, 9	17.12.2014
11.02.2015	RT I, 12.03.2015, 1	01.01.2016
15.06.2016	RT I, 06.07.2016, 1	16.07.2016

## **Chapter 1 GENERAL PROVISIONS**

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

(1) This Act provides for the legal status and functions of the Estonian Defence Forces (hereinafter Defence Forces), the organisation of the Defence Forces, the bases for commanding the Defence Forces and the bases for the use of force by the Defence Forces.

(2) 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. Legal status of application of Act**

(1) The Defence Forces are a militarily organised governmental authority within the area of government of the Ministry of Defence.

(2) For the performance of its functions, the Defence Forces may use force on the bases of and pursuant to the procedure provided by law.

## **§ 3. Functions of Defence Forces**

(1) The functions of the Defence Forces are the following:

- 1) military defence of the state and participation in collective self-defence;
- 2) preparation for the military defence of the state and participation in collective self-defence;
- 3) participation in international military co-operation pursuant to the procedure provided for in the National Defence Act;

[ RT I, 12.03.2015, 1 - entry into force 01.01.2016]

- 4) [Repealed - RT I, 12.03.2015, 1 - entry into force 01.01.2016]

4<sup>1</sup>) disposal of ordnance in the internal waters or territorial sea and in the exclusive economic zone;  
[RT I 2010, 24, 115 - entry into force 01.09.2010]

4<sup>2</sup>) demining activities in the territory of the Defence Forces and the Defence League and in the training areas;  
[RT I 2010, 24, 115 - entry into force 01.09.2010]

4<sup>3</sup>) operating an excise warehouse of the Defence Forces;  
[RT I, 30.12.2010, 3 - entry into force 01.01.2011]

4<sup>4</sup>) protection of persons on the bases and in the procedure provided for in this Act;  
[RT I, 18.12.2012, 1 - entry into force 01.01.2013]

- 5) performance of other functions imposed on the Defence Forces by law.

(11) The Defence Forces shall be involved, where necessary, with the right to apply direct coercion prescribed for the police in Chapter 5 of the Law Enforcement Act:

1) in prevention and obstruction of an attack against national defence objects, of an illegal crossing of the state border or a temporary control line and of criminal offences pursuant to the procedure provided for in the Law Enforcement Act;

2) in the solution of emergency situation pursuant to the procedure provided for in the State of Emergency Act;

3) in the regulation of traffic and ensuring of safety in an emergency situation area pursuant to the procedure provided for in the Emergency Act.  
[ RT I, 12.03.2015, 1 - entry into force 01.01.2016]

(1<sup>2</sup>) The Defence Forces shall be involved, where necessary, without the right to apply direct coercion:

1) in the performance of emergency situation work pursuant to the procedure provided for in the Emergency Act;

2) in the solution of a rescue event pursuant to the procedure provided for in the Rescue Act;

3) in the performance of police duties provided for in clauses 3 (1) 1), 4)-6) and 8) of the Police and Border Guard Act.  
[ RT I, 12.03.2015, 1 - entry into force 01.01.2016]

(2) The Defence Forces may be involved in the performance of the functions specified in subsections (1<sup>1</sup>) and (1<sup>2</sup>) of this section only if the relevant authority cannot perform this function in a timely manner or at all and there are no other means for performing the function..  
[ RT I, 12.03.2015, 1 - entry into force 01.01.2016]

(3) The procedure for the involvement of the Defence Forces in the performance of the functions of the police shall be established by a regulation of the Government of the Republic.  
[ RT I, 12.03.2015, 1 - entry into force 01.01.2016]

## **§ 4. Military operation**

A military operation means the activities of the Defence Forces in order to defend the state by military means or upon participation in an international military operation.

## **§ 5. Symbols of Defence Forces**

(1) The Defence Forces have symbols which are approved pursuant to the procedure established by the Government of the Republic Act and the description of and the procedure for the use of which is established by a regulation of the minister responsible for the area.

(2) A structural unit and a subunit of the Defence Forces may have its own symbol the description of and procedure for the use of which is established by the Commander of the Defence Forces with the approval of the State Chancellery.  
[ RT I, 08.07.2011, 8 - entry into force 22.07.2011]

## **§ 6. Decorations of Defence Forces**

(1) The Defence Forces may have decorations which are approved pursuant to the procedure established by the Government of the Republic Act and the description of and procedure for the bestowal of which is established by a regulation of the minister responsible for the area.

(2) A structural unit and subunit of the Defence Forces may have decorations the description of and procedure for use of which is established by the Commander of the Defence Forces with the approval of the State Chancellery.

## **§ 7. Supervisory control**

(1) The minister responsible for the area shall exercise supervisory control over the Defence Forces.

(2) The Commander of the Defence Forces shall exercise supervisory control over the activities of the structural units and officials of the Defence Forces.

## **§ 8. Service in Defence Forces**

Service in the Defence Forces shall be organised on the bases and pursuant to the procedure provided for in the Defence Forces Service Act and the Civil Service Act.

## **§ 9. Number of servants of Defence Forces**

(1) The maximum number of positions of military rank in the composition of the Defence Forces shall be determined by an order of the Government of the Republic. The maximum number shall be determined separately for the regular structural units and reserve units of the Defence Forces.

(2) On the basis of the statutes of the Defence Forces and the maximum number of posts of military rank, the minister responsible for the area shall, on the proposal of the Commander of the Defence Forces, establish the total number of posts of military rank and other places of service for each structural unit specified in subsection 12 (2) of this Act separately.

[RT I, 18.12.2012, 1 - entry into force 01.01.2013]

(3) [Repealed - RT I 2010, 7, 29 - entry into force 01.08.2010]

## **§ 10. Composition of Defence Forces**

(1) The classification of places of service into posts and places of employment, and the names of places of service and the number thereof by each structural unit separately shall be determined in the composition of the Defence Forces.

[RT I, 18.12.2012, 1 - entry into force 01.04.2013]

(2) The composition of the Defence Forces shall be approved by the Commander of the Defence Forces.

# **Chapter 2 ORGANISATION OF DEFENCE FORCES**

## **§ 11. Armed services and branches**

(1) The Defence Forces may be divided into armed services according to the area of activity.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(2) The armed services of the Defence Forces are the Army, the Navy and the Air Force.

(3) The Defence Forces include branches, distinguished on the basis of their purpose, which are characterised by special armament and battle equipment.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

## **§ 12. Organisation of Defence Forces**

(1) The organisation of the Defence Forces, the principal functions and location of the structural units and the rights and obligations of the chiefs of services and commanders of structural units shall be determined in the statutes of the Defence Forces established by the Government of the Republic.

(2) The structural units of the Defence Forces are the Headquarters of the Defence Forces, the Air Force Staff, military units, the Military Police of the Estonian Defence Forces, the Estonian National Defence College, the Estonian Contingency of the NATO Cooperative Cyber Defence Centre of Excellence, the Military Intelligence Centre, the Support Command and the Special Operations Task Unit of the Defence Forces.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(3) The statutes of regular structural units shall be established by the Commander of the Defence Forces.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

### **§ 13. Military unit**

(1) A military unit is a brigade, group, battalion, division, fleet and base.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(2) [Repealed - RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(2<sup>1</sup>) A regular military unit is specified as a flag unit.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(3) The standard sizes and structure of military units, the names of their subunits and their categorisation according to armed services and branches shall be determined in the statutes of the Defence Forces.

(4) The division of military units into high readiness units, rapid reaction units and reaction units shall be determined by the Government of the Republic in the statutes of the Defence Forces.

(5) The requirements for the reaction speed, level of training and equipment of military units shall be established by the minister responsible for the area.

### **§ 14. Peacetime units**

(1) Peacetime units and their subunits are divided into regular, task and reserve units.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(2) A regular unit is a military unit with a permanent location, which is completely or partially manned with active servicemen and conscripts.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(3) [Repealed - RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(4) A reserve unit is a unit in the reserve which has been trained on the basis of regular units and has exercised together and which is called up during reservist training, additional reservist training or mobilisation.  
[RT I, 12.03.2015, 1 - entry into force 01.01.2016]

(5) With the approval of the minister responsible for the area, the Commander of the Defence Forces may form task units for a specified term for the fulfilment of a specific objective.

### **§ 15. Wartime units**

(1) Wartime units and the subunits thereof shall be formed after declaration of a state of war.  
[RT I, 12.03.2015, 1 - entry into force 01.01.2016]

(2) The composition of wartime units shall be established by the order of the Government of the Republic,  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(3) Task units may be formed for the performance of specific objectives pursuant to the procedure established by the Commander of the Defence Forces.  
[RT I, 12.03.2015, 1 - entry into force 01.01.2016]

### **§ 16. Regional command**

[Repealed - RT I, 18.02.2014, 1 - entry into force 01.08.2014]

### **§ 17. Separate headquarters and other structural units of Defence Forces**

[Repealed - RT I, 18.02.2014, 1 - entry into force 01.08.2014]

### **§ 18. Headquarters of Defence Forces**

[RT I, 10.07.2012, 2 – entry into force 1.04.2013]

(1) The Headquarters of the Defence Forces is a structural unit of the Defence Forces with the following functions:

[RT I, 10.07.2012, 2 – entry into force 1.04.2013]

1) provision of advice to the Commander of the Defence Forces and the Deputy Commander of the Defence Forces and supporting their activities;

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

- 2) planning the activities of the Defence Forces and preparation of the draft budget of the Defence Forces;
- 3) organisation of training of the Defence Forces;
- 4) planning and co-ordination of military operations of the Defence Forces;
- 5) preparation and carrying out the mobilisation of the armed forces;
- 6) organisation of internal control and internal audit in the Defence Forces;
- 7) other functions arising from law and the statutes.

(2) The Headquarters of the Defence Forces is headed by the Chief of the Headquarters of the Defence Forces. The Commander of the Defence Forces shall directly direct the performance of functions specified in clauses (1) and 6) of this section.

[RT I, 10.07.2012, 2 - entry into force 01.04.2013]

### **§ 19. Headquarters of armed services**

[Repealed - RT I, 18.02.2014, 1 - entry into force 01.08.2014]

### **§ 20. Logistics Centre of Estonian Defence Forces**

[Repealed - RT I, 18.02.2014, 1 - entry into force 01.08.2014]

### **§ 20<sup>1</sup>. Support Command**

The Support Command is a structural unit of the Defence Forces the function of which is the provision of logistical support and support service to the Defence Forces, the performance of the staging function and the compliance with other functions arising from the legislation.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

### **§ 21. Military Police of Estonian Defence Forces**

(1) The Military Police of the Estonian Defence Forces is a structural unit of the Defence Forces whose functions are the exercise of supervision over discipline in the Defence Forces, the conduct of proceedings regarding offences within the limits of its competence and, on the basis of the assessment of hazards, the protection of foreign defence ministers, the managerial staff of foreign troops, the managerial staff of civilian and military headquarters of the North-Atlantic Treaty Organisations, the minister responsible for the area and the Commander of the Defence Forces and other persons designated on the basis of subsection (1<sup>1</sup>) of this section and the performance of other functions arising from the law or the statutes.

[RT I, 18.12.2012, 1 - entry into force 01.01.2013]

(1<sup>1</sup>) The protected persons not specified in subsection (1) of this section shall be designated, where necessary, by a directive of the minister responsible for the area.

[RT I, 18.12.2012, 1 - entry into force 01.01.2013]

(1<sup>2</sup>) The bases of organisation and ways of execution of the protection of protected persons by the Military Police of the Estonian Defence Forces shall be established by the minister responsible for the area.

[RT I, 18.12.2012, 1 - entry into force 01.01.2013]

(2) The rights and obligations of the Military Police of the Estonian Defence Forces upon performance of its functions shall be provided by law.

### **§ 22. Estonian National Defence College**

(1) The Estonian National Defence College is a structural unit of the Defence Forces, the function of which is to provide military education.

(2) The Estonian National Defence College is a national defence applied higher education institution within the meaning of *the* Applied Higher Education Institution Act.

[RT I 2010, 7, 29 - entry into force 01.08.2010]

### **§ 22<sup>1</sup>. Estonian Contingency of NATO Cooperative Cyber Defence Centre of Excellence**

(1) The Estonian Contingency of the NATO Cooperative Cyber Defence Centre of Excellence is a structural unit of the Defence Forces, whose function is to participate in the research, development, analysis and training

activities of the NATO Cooperative Cyber Defence Centre of Excellence and the participation in the drawing up and application of doctrines.

(2) A staff member of the Estonian Contingency of the NATO Cooperative Cyber Defence Centre of Excellence who is not in active service shall be employed on the basis of the employment contract.  
[RT I, 18.12.2012, 1 - entry into force 01.01.2013]

### **§ 22<sup>2</sup>. Special Operations Command**

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(1) The Special Operations Command of the Defence Forces is a structural unit of the Defence Forces whose function is the planning, preparation and execution of special operations and the performance of other functions arising from the legislation.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(2) A special operation is part of the activities of the Defence Forces which is executed by a unit which is formed, supplied and trained for that purpose in support of other units or separately, using tactics and methods which are different from that of other units.

[RT I, 18.12.2012, 1 - entry into force 01.01.2013]

### **§ 22<sup>3</sup>. Military Intelligence Centre**

(1) The Military Intelligence Centre is a structural unit of the Defence forces, whose task is to execute military intelligence and coordinate the intelligence and security operations of other structural units, provide the minister responsible for the area, the Commander of the Defence Forces and the Deputy Commander of the Defence Forces with intelligence and security information and perform other functions arising from the legislation.

(2) The Military Intelligence Centre organises intelligence and security training and participates in international and national intelligence cooperation to the extent determined by the Commander of the Defence Forces.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

## **Chapter 3 COMMANDING OF DEFENCE FORCES**

### **§ 23. Bases for commanding Defence Forces**

(1) During peacetime, the Defence Forces are commanded on the principle of single command by the Commander of the Defence Forces who is subordinate to the minister responsible for the area. The minister responsible for the area does not have command authority in respect of the Commander of the Defence Forces within the meaning of § 27 of this Act.

[RT I, 08.07.2011, 8 - entry into force 22.07.2011]

(2) The Deputy Commander of the Defence Forces, the Chief of Staff of the Defence Forces, the commander of service, the commander of command, the Commander of the Military Police of the Estonian Defence Forces, the Commandant of the Estonian National Defence College, the Commander of the Military Intelligence Centre, the Inspector General of the Defence Forces, the Comptroller General of the Defence Forces and the Commander of the Estonian Contingency of the NATO Cooperative Cyber Defence Centre of Excellence and the commander of a military unit assigned in the statutes of the Defence Forces on the basis of subsection 12 (1) of this Act are in the immediate subordination of the Commander of the Defence Forces.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(3) [Repealed - RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(4) [Repealed - RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(5) [Repealed - RT I, 18.02.2014, 1 - entry into force 01.08.2014]

### **§ 24. Duties of Commander of Defence Forces**

The Commander of the Defence Forces shall:

1) direct the activities of the Defence Forces and organise the performance of functions within the competence of the Defence Forces;

2) represent the Defence Forces and issue authorisations to represent the Defence Forces;

[RT I 2010, 7, 29 - entry into force 01.08.2010]

3) enter into and terminate active service contracts and appoint members of the Defence forces to and release them from positions within the limits of his or her competence pursuant to the procedure provided for in the Defence Forces Service Act;

[RT I, 10.07.2012, 2 - entry into force 01.04.2013]

4) appoint officials of the Defence Forces to and release them from office and enter into, amend and terminate contracts of employment with the support staff of the agency or authorise the chief of service or the commander of a structural unit to perform the specified functions;

[RT I, 10.07.2012, 2 - entry into force 01.04.2013]

5) submit the draft budget of the Defence Forces to the minister responsible for the area;

6) organise the accounting of the Defence Forces or grant authorisations for the organisation of accounting pursuant to the procedure provided for in the statutes of the Defence Forces;

7) dispose of the budgetary funds of the Defence Forces or grant authorisations for the disposal of the budgetary funds pursuant to the procedure provided for in the statutes of the Defence Forces;

8) manage the use of state assets granted into the possession of the Defence Forces in accordance with the State Assets Act;

9) organise the protection of state secrets in the Defence Forces in compliance with legislation;

10) be responsible for the accurate and purposeful implementation of legislation governing the activities of the Defence Forces and the purposeful use of budgetary funds and report to the minister responsible for the area;

11) inspect and exercise supervisory control over the activities of the structural units and officials of the Defence Forces;

11<sup>1</sup>) establish the rules and procedures governing the activities of the Defence League, including the rules of procedure;

[RT I, 10.07.2012, 2 - entry into force 01.04.2013]

12) perform other duties arising from legislation.

## **§ 25. Commander of service**

[Repealed - RT I, 18.02.2014, 1 - entry into force 01.08.2014]

## **§ 26. Commanders**

(1) A commander is a military serviceman who directs the activities of members of the Defence Forces serving in his or her subordination.

(2) A commander has the command and disciplinary authority in respect of a serviceman subordinate to him or her.

[RT I, 10.07.2012, 2 - entry into force 01.04.2013]

(3) An immediate commander is a commander who is closest to a military serviceman and in whose immediate subordination a military serviceman serves.

(4) The direct commanders are an immediate commander and the commanders of a higher level than the immediate commander, in whose subordination a military serviceman serves.

(5) The highest commander of the Defence Forces is the Commander of the Defence Forces.

[RT I, 08.07.2011, 8 - entry into force 22.07.2011]

(6) A commander shall be liable for the lawful and expedient performance of the tasks assigned to him or her or a military serviceman subordinate to him or her and other persons.

(7) A military serviceman is a superior within the meaning of the Civil Service Act in respect of the officials and support staff subordinate to him or her. If a structural unit of the Defence Forces or a part of a unit is directed by an official, he or she is a superior within the meaning of the Civil Service Act in respect of his or her subordinates and his or her official title is "head".

## **§ 27. Command authority**

Command authority is the right and obligation, arising from the position of a commander or delegated by a senior commander, to issue orders within the limits of the commander's competence.

## **§ 28. Transfer and receipt of command authority**

[RT I, 12.03.2015, 1 – entry into force 01.01.2016]

(1) A commander may, by an order, temporarily delegate command authority of a commander of a military unit or subunit who is subordinate to him or her to another military serviceman who is subordinate to him or her.

(2) An order regarding delegation of command authority shall set out a specific task for the performance of which command authority is delegated and the period for which command authority is delegated.

(3) Upon delegation of command authority, disciplinary authority cannot be delegated. Delegation of command authority shall not change the permanent structure or composition of a military unit.

(4) Task units and subunits may be formed by delegation of command authority.

(5) The procedure for transfer and receipt of command authority, data to be reflected upon transfer of command authority and the extent of the transfer of command authority shall be established by a regulation of the minister responsible for the organisation of national defence.  
[RT I, 12.03.2015, 1- entry into force 01.01.2016]

(6) For participation of the Defence Forces in international military cooperation the Commander of the Defence Forces may transfer part of command authority to a commander of another state or an international organisation and he may receive part of command authority of a commander of another state or an international organisation.  
[RT I, 12.03.2015, 1- entry into force 01.01.2016]

(7) If command authority is transferred to a commander of another state or an international organisation, such commander may transfer command authority transferred thereto partly or fully to a commander who is subordinate thereto, including the commander of the armed forces of another state or an international organisation.  
[RT I, 12.03.2015, 1- entry into force 01.01.2016]

(8) Upon receipt of command authority a commander of the Defence Forces holding command authority may transfer command authority transferred thereto partly or fully to a commander who is subordinate thereto, including the commander of the armed forces of another state or an international organisation.  
[RT I, 12.03.2015, 1- entry into force 01.01.2016]

### **§ 29. Order**

(1) An order is a communication, written, oral, or by signal, which conveys instructions of a commander.

(2) An order shall comply with Acts and legislation established on the basis thereof.

(3) An order shall not exceed the extent of command authority of the issuer of the order.

(4) An order issued orally or in writing shall set out the purpose of the required activity, the specific task and the term for compliance with the order.

(5) If the recipient of an order does not understand the order, he or she is required to ask explanations from the issuer of the order.

(6) An order may be issued for the performance of service duties. In the cases provided for in § 30 of this Act, an order related to special conditions may be issued.

(7) The recipient of an order is required to comply with the received orders without argument. The recipient of an order is also required to comply with all duty related orders even if the obligation to comply with the order does not arise from his or her position.

### **§ 30. Order related to special conditions**

(1) A military serviceman is required to comply with an order related to special conditions if compliance with such order is necessary for the expeditious elimination of the consequences of an accident or, in the event of an accident, in order to save lives or protect the health of persons, or to prevent destruction of or damage to property.

(2) In the cases provided for in subsection (1) of this section, an order shall be issued by a commander or a military serviceman of a higher rank.

### **§ 31. Special order**

(1) A military serviceman who has been appointed to a position or given a duty assuming special authority shall issue orders arising from his or her position or duties to all members of the Defence Forces regardless of their position or rank.

(2) The following have special authority:

1) a military serviceman in guard service;

2) a serviceman performing the functions of the Military Police of the Estonian Defence Forces;

[RT I, 10.07.2012, 2 - entry into force 01.04.2013]

3) a military serviceman belonging to the crew of a ship or an aircraft in order to ensure safety on board the ship or aircraft.

### **§ 32. Compliance with order**

(1) An order shall be issued by an immediate commander. An order received from a commander higher than the immediate commander shall be complied with and a military serviceman is required to report the receipt of such order to his or her immediate commander at the earliest opportunity.

(2) The recipient of an order shall select the manner of compliance with the order which, in accordance with legislation, allows performance of the task assigned by the order in the most expedient manner within the required term.

(3) If a military serviceman receives two or more orders which are in conflict with each other, he or she shall report the previous orders which are not complied with to the issuer of each subsequent order. If the issuer of the last order demands immediate compliance with his or her order, the recipient of the order shall comply with the order and the issuer of the last order shall be responsible for failure to perform the orders issued before.

### **§ 33. Void order**

(1) An order is void if:

- 1) the order requires commission of an offence;
- 2) the purpose of the order is to degrade the human dignity of the recipient of the order or a third person;
- 3) the order is not issued for purposes related to duty, except in the cases provided for in § 30 of this Act;
- 4) the issuer of the order is not indicated in the order.

(2) A void order shall not be issued.

(3) A void order need not be complied with.

(4) The recipient of a void order shall promptly report the receipt of the order to the immediate commander. If the void order is issued by the immediate commander, the recipient of the order shall promptly report the receipt of the order to the commander of the immediate commander. If the void order is issued by the immediate commander who is the Commander of the Defence Forces, the recipient of the order shall promptly report the receipt of the order to the minister responsible for the area.

### **§ 34. Prohibited order**

(1) It is prohibited to issue an order:

- 1) which is in conflict with law;
- 2) which exceeds the extent of command authority of the issuer of the order;
- 3) which requires acts which the recipient of the order does not have the right to perform;
- 4) the compliance with which is unduly dangerous to the life, health or property of the recipient of the order or other persons.

(2) A prohibited order shall be complied with.

(3) The recipient of a prohibited order shall, after compliance with the order, report the receipt of the order to the immediate commander. If the prohibited order is issued by the immediate commander, the recipient of the order shall report the receipt of the prohibited order to the commander of the immediate commander. If the prohibited order is issued by the immediate commander who is the Commander of the Defence Forces, the recipient of the order shall promptly report the receipt of the order to the minister responsible for the area.

### **§ 35. Liability for consequences of compliance with order**

(1) The issuer of an order shall be liable for the consequences of compliance with the order.

(2) In the case specified in clause 33 (1) 1) of this Act, the issuer of an order and the person who complies with the order shall be liable for the consequences of compliance with the order.

(3) In the case specified in clause 33 (1) 4) of this Act, the person who complies with an order shall be liable for the consequences of compliance with the order.

(4) Disciplinary proceedings shall be commenced or criminal charges shall be brought against a commander who issues a prohibited or void order for the issue of such order.

## **Chapter 3<sup>1</sup>** **PROVISION OF HEALTH SERVICES IN DEFENCE FORCES**

[RT I, 10.07.2012, 2 - entry into force 01.04.2013]

### **§ 35<sup>1</sup>. Provision of health services in Defence Forces**

(1) A health service is provided by a health care professional pursuant to the provisions of Health Care Services Organisation Act governing the provision of general and special medical care.

(2) Upon provision of health service the requirements for the legal form set out in subsection 21 (1) of the Health Care Services Organisation Act shall not be applied in the Defence Forces.  
[RT I, 10.07.2012, 2 - entry into force 01.04.2013]

### **§ 35<sup>2</sup>. Medical centre of Defence Forces**

A structural unit of the Defence Forces may include a medical centre where at least one of the following medical services is provided:

- 1) general medical care;
- 2) emergency medical care of the Defence Forces;
- 3) specialised out-patient care.

[RT I, 10.07.2012, 2 - entry into force 01.04.2013]

### **§ 35<sup>3</sup>. Emergency medical care of Defence Forces**

(1) Emergency medical care of the Defence Forces is out-patient health care service provided by the Defence Forces for the initial diagnosis and treatment of life-threatening diseases, injuries and intoxication and, if necessary, for the transportation of the person requiring care to a hospital.

(2) Emergency medical care of the Defence Forces is provided on the basis of the activity licence issued in the procedure established on the basis of the Health Care Services Organisation Act.

(3) The Defence Forces shall submit the documents and data specified in § 41 of the Health Care Services Organisation Act in order to apply for the issue of the licence needed for the provision of the emergency medical care of the Defence Forces.

(4) The requirements established on the basis of clause 17 (3) 4) of the Health Care Services Organisation Act shall be applied to the staff and equipment of the emergency medical care of the Defence Forces.

(5) The work instruction of the ambulance crew of the Defence Forces shall be established by a regulation of the Ministry of Defence.

[RT I, 10.07.2012, 2 - entry into force 01.04.2013]

## **Chapter 4 MILITARY INTELLIGENCE**

### **§ 36. Military intelligence**

(1) Military intelligence is collecting and processing information by the Defence Forces:

- 1) for military defence of the state;
- 2) for preparation and conduct of international military operation;
- 3) for the prevention of and combating intelligence activities directed against the state in the cases and pursuant to the procedure prescribed in the State Secrets and Classified Information of Foreign States Act;
- 4) for the defence of a military unit of the Defence Forces participating in an operation in the area of an international military operation pursuant to the procedure prescribed in this Act;
- 5) for the conduct of background check.

[RT I, 23.04.2014, 1 - entry into force 01.08.2014]

(2) Upon collecting and processing of information for the purpose specified in clause (1) 4) of this Act, information is not collected or processed with regard to an Estonian citizen, except a person who is running as candidate to the Defence Forces, a person who is serving or is being employed in the Defence Forces or a person who is applying for the right of access to the restricted military area of the Defence Forces.

[RT I, 23.04.2014, 1 - entry into force 01.08.2014]

### **§ 37. Authority of Defence Forces upon conduct of military intelligence**

(1) In order to conduct military intelligence, the Defence Forces have the right to collect and process:

- 1) signals transmitted or travelling outside the publicly available electronic communications networks located in the territory of the Republic of Estonia;
- 2) pictures or images of the earth or sea and of objects in the use of a foreign state which are located outside of the territory of the Republic of Estonia or have entered the territory of the Republic of Estonia;

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

3) unrestricted information obtained from other holders of information or restricted information obtained on the bases provided for in the Public Information Act or the State Secrets and Classified Information of Foreign States Act.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

- 4) information obtained in the manner specified in § 39 of this Act or
- 5) information obtained from public sources in any other manner.

(1<sup>1</sup>) A natural person and legal person governed by private law shall have the right to refuse to give information to the Defence Forces.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(2) In order to conduct military intelligence, in addition to the provisions of subsection (1) of this section, the Defence Forces shall have the right:

1) in the area of an international military operation to interview persons and conduct covert intelligence, involve a person in secret cooperation and simulate a legal person governed by private law, a structural unit or body or branch thereof and use an undercover agent;

2) in order to act outside of the territory of the Republic of Estonia to interview persons, involve a person in secret cooperation and simulate a legal person governed by private law, a structural unit or body or branch thereof and use an undercover agent;

3) to conduct covert intelligence outside of the territory of the Republic of Estonia.

[RT I, 06.07.2016, 1 - entry into force 16.07.2016]

(2<sup>1</sup>) Upon processing information in the case specified in clause (2) 2) of this section information is not collected or processed with regard to an Estonian citizen, except with the consent of the person given in a format enabling reproduction in a written form.

[RT I, 06.07.2016, 1 - entry into force 16.07.2016]

(3) Only the structural units of the Defence Forces designated in the statutes of the Defence Forces may collect information in the manner specified in clauses (1) 1) and 2) and clause (2) 2) of this section.

[RT I, 06.07.2016, 1 - entry into force 16.07.2016]

### **§ 37<sup>1</sup>. Involvement in secret cooperation**

(1) The Defence Forces may involve a person in secret cooperation:

1) for preparation of a military operation in the area of international military operation;

2) for conduct of a military operation in the area of international military operation;

3) for protection of a military unit of the Defence Forces participating in military operation;

4) for collection of information in order to act outside of the territory of the Republic of Estonia.

[RT I, 06.07.2016, 1 - entry into force 16.07.2016]

(2) A person involved in secret cooperation is, for the purposes of this Act, a person whose cooperation with the Defence Forces is not known to third persons.

[RT I, 18.02.2014, 1 – entry into force 01.08.2014]

(3) The authorization for involvement of a person shall be granted by the commander of the structural unit assigned in the statutes of the Defence Forces.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(4) A person of at least 18 years of age may be involved in secret cooperation with his or her consent.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(5) Supervision over the activities of the person involved in secret cooperation shall be conducted by the Commander of the Defence Forces or an official authorized by him.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(6) The procedure for documenting the involvement of a person shall be established by the minister responsible for the area.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(7) If a person is killed or gets injured upon the performance of tasks relating to secret cooperation in the area of international military operation, the compensation shall be paid pursuant to the procedure for proceedings of claims for compensation for damage established on the basis of subsection § 32 of the National Defence Act.

[RT I, 06.07.2016, 1 - entry into force 16.07.2016]

### **§ 37<sup>2</sup>. Simulation**

(1) The Defence Forces may simulate a legal person governed by private law, a structural unit or body thereof or a branch of a company:

1) for preparation of a military operation in the area of international military operation;

2) for conduct of a military operation in the area of international military operation;

3) for protection of a military unit of the Defence Forces participating in military operation;

4) for collection of information in order to act outside of the territory of the Republic of Estonia.

[RT I, 06.07.2016, 1 - entry into force 16.07.2016]

(2) The simulated person or branch of a company shall be founded or acquired by the Defence Forces with the consent of the Ministry of Defence. The minister responsible for the area shall be notified of the termination of simulation of a person or branch of a company.

(3) The minister responsible for the area shall grant a written consent for simulation of a person or branch of a company on the proposal of the Commander of the Defence Forces setting out:

- 1) a need to simulate a person;
- 2) a type of a person to be simulated;
- 3) costs of the simulation of a person;
- 4) the duration of the simulation of a person if it is possible to determine.

(4) Simulation of a structural unit or body shall be decided by the minister responsible for the area on the basis of the circumstances specified in subsection (3) of this section.

(5) A transaction made on behalf of a person, structural unit, body or company to be simulated shall be deemed a transaction made by the Defence Forces.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

### **§ 37<sup>3</sup>. Use of undercover agent**

(1) The Defence Forces may use an undercover agent:

- 1) for preparation of a military operation in the area of international military operation;
- 2) for conduct of a military operation in the area of international military operation;
- 3) for protection of a military unit of the Defence Forces participating in military operation;
- 4) for collection of information in order to act outside of the territory of the Republic of Estonia.

(2) For the purposes of this Act an undercover agent is an active serviceman who, by means of concealment of service relationship or covert or false identity, shall help ensure concealment of simulation.

(3) The commander of a structural unit of the Defence Forces assigned in the statutes of the Defence forces shall grant a written permission for the use of an undercover agent.

(4) An undercover agent shall have all the rights and obligations of an active serviceman insofar as it does not bring along the disclosure of the covert or false identity.

[RT I, 06.07.2016, 1 - entry into force 16.07.2016]

### **§ 38. Methods and means of collection of information**

The list of methods and means used by the Defence Forces use upon collection of information pursuant to clauses 37 (1) 1) and 2) and subsection (2) of this Act shall be established by a regulation of the minister responsible for the area.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

### **§ 39. Professional assistance for conduct of military intelligence**

(1) The Commander of the Defence Forces may request, on the bases and pursuant to the procedure for the provision of professional assistance prescribed in the Administrative Co-operation Act, that the Information Board collect the information necessary for the military defence of the state by exercise of the authority provided for in §§ 23, 25 and 26 of the Security Authorities Act.

(2) Assistance shall be provided if the collection of information in another lawful manner is impossible or would involve difficulties on a disproportionate scale and the collected information is essential for the military defence of the state.

(3) The Information Board shall submit a written overview of the authority exercised at the request of the Commander of the Defence Forces and of the information received upon exercise of the authority to the Ministry of Defence once every four months.

### **§ 40. Notifying persons of means used**

The Defence Forces shall notify a person whose fundamental rights are restricted according to the provisions of clause 37 (1) 1) or § 39 of this Act of the measures used in and the circumstances relating to the restriction of fundamental rights immediately if this does not endanger the aim of the restriction, or after such danger has been eliminated.

### **§ 41. Participation in activities of security authorities**

(1) The security authorities shall cooperate with the Defence Forces upon performance of intelligence and counter-intelligence tasks which concern the Defence Forces to the extent provided by law.

(2) The structural units of the Defence Forces and their servants have the right to participate in intelligence and counter-intelligence operations relating to the Defence Forces provided that they are involved by the security authorities.

#### **§ 41<sup>1</sup>. Making enquiry to communications undertaking**

(1) The Military Police of the Estonian Defence Forces may make an enquiry to telecommunications undertaking on the basis specified in clauses 126<sup>2</sup>(1) 1) and 2) of the Code of Criminal Procedure and in respect of the persons specified in clauses 1262 (3) 1) and 2) of the Code of Criminal Procedure to get the following data:

- 1) the information needed to establish the end-user who is connected to the user identifier used in the electronic communication network, except the data relating to the fact of forwarding a message;
- 2) to the electronic communications undertaking, the information specified in subsections 1111 (2) and (3) of the Electronic Communications Act which is not mentioned in clause 1) of this subsection.

(2) The authorisation for making the enquiry specified in clause (1) 2) of this section shall be granted by the prosecutor's office. The authorisation for making an enquiry shall set out the interval for which the request for information is allowed with an accuracy of date.

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

#### **§ 41<sup>2</sup>. Enabling access to surveillance information**

(1) The Military Police of the Estonian Defence Forces may collect personal information concerning a person who is in military service or wishes to enter the military service by means of surveillance activities specified in subsection 1263 (1) of the Code of Criminal Procedure and by means of an enquiry to the communications undertaking about the information specified in subsections 111<sup>1</sup>(2) and (3) of the Electronic Communications Act if this is needed for making a decision regarding the access of a person to surveillance information or for employment of a person on a post of military rank in the Military police of the Estonian Defence Forces.

[RT I, 10.07.2012, 2 - entry into force 01.04.2013]

(2) A prior written consent of a person is required for the collecting of data provided for in subsection (1) of this section or making an enquiry.

(3) A person shall be notified of the performance of an act specified in subsection (1) of this section with regard to him and the data collected by means of the act shall be introduced at his request.

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

#### **§ 41<sup>3</sup>. Background check**

(1) Upon the evaluation of the eligibility of a person applying for service or employment in the Defence Forces and of the active serviceman, official or employee and upon the authorisation of persons relating to the provision of service to the Defence Forces for entry into the restricted military area of the Defence Forces a structural unit assigned in the statutes of the Defence Forces shall verify whether:

- 1) the activities of a person are or have been directed against the Republic of Estonia or the security of the units of the Defence Forces;
- 2) a person is or has been involved in cooperation with an intelligence or security service of a foreign state;
- 3) a person is involved with an organisation or movement which ignores public order with its activities or which is aimed at the violent changing of the sovereignty and independence of the Republic of Estonia, violent breach of territorial integrity, violent seizure of power, or violent changing of the constitutional order of Estonia;
- 4) a person is legally incapacitated;
- 5) a person has a criminal record for an intentionally committed criminal offence;
- 6) a person has deliberately withheld information, submitted false data or falsified information in the personal profile or the documents appended thereto;
- 7) a person is dependent on narcotic or psychotropic substance, alcohol or gambling;
- 8) a person suffers from mental disturbances that limit his or her ability to understand or control behaviour;
- 9) a person has stayed in a foreign state for a longer period under the circumstances that cannot be identified.

The circumstances specified in subsection (1) of this section, with the exception of the circumstance specified in clause 5), shall form a basis for refusal to accept a person into or release from active service in the Defence Forces, where the circumstances might lead to a loss of confidence in a person and it can be assumed that the person shall be unable to continue the performance of service duties in future. The circumstance specified in clause (1) 5) of this section shall be verified on the basis of the Military Service Act and if it becomes evident guidance shall be taken from the Military Service Act.

(6) Circumstances specified in subsection (1) of this section, with the exception of circumstances specified in clauses 4), 5) and 8), and the state of health of a person may form a basis for refusal to accept into and release from office of a person as an official in the service of the Defence Forces, based on where they might lead to a loss of confidence in a person and it can be assumed that the person shall be unable to ensure the performance

of duties also in future. Upon the occurrence of the circumstances specified in clauses (1) 4), 5) and 8) guidance shall be taken from the Civil Service Act.

(7) Circumstances specified in subsection (1) of this section may form a basis for refusal to enter into and terminate a contract of employment with a person and refusal to grant the right to a person related to the provision of service to the Defence Forces for the unaccompanied stay in the restricted military area.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

#### **§ 41<sup>4</sup>. Personal profile**

(1) During application for the service or employment in the Defence Forces and the period of service or employment relationship a person is required to fill in the personal profile every five years, where the data which enable the assessment of the suitability of the person to be controlled for the service or employment in the Defence Forces. Upon application for the service or employment in the Defence Forces the person shall be notified of the regularity of the background check.

(2) A person shall submit the following data in the personal profile:

- 1) given name and surname, including the previous name if the person is not an Estonian citizen;
  - 2) number of the identification certificate or passport if it is not issued in Estonia;
  - 3) date and place of birth;
  - 4) personal identification code;
  - 5) contact data;
  - 6) citizenship, including previous or double citizenship;
  - 7) name and citizenship of the spouse or partner in a marriage-like relationship;
  - 8) marital status;
  - 9) places of residence and stay in foreign states where a person has lived or stayed more than three months from the age of 18;
  - 10) previous professional activity and engagement in business;
  - 11) education;
  - 12) further training or secondments abroad during the last five years if they have lasted longer than three months;
  - 13) time and place of the performance of the conscript service obligation;
  - 14) given name and surname, date of birth and citizenship of parents, foster parents, children and foster children;
  - 15) belonging to associations and organisations;
  - 16) service in foreign armed forces or other armed groups;
  - 17) contacts with foreign intelligence or security services;
  - 18) statement of the absence of addiction to narcotic drugs or psychotropic substances, alcohol or gambling;
  - 19) valid disciplinary penalties and offence procedures performed within last five years in which the person has been a suspect, the accused or he has been punished;
  - 20) statement to the effect that there is no diagnosed mental disorder that limits the person's ability to understand or control himself or herself;
  - 21) reason and time for the conduct of previous background or security checks.
- [RT I, 18.02.2014, 1 - entry into force 01.08.2014]

#### **§ 41<sup>5</sup>. Rights of the Defence Forces upon conduct of background check**

(1) For verification of the data submitted in the personal profile, deciding on the suitability of an active serviceman, official or employee for the Defence Forces and on granting the right for a person related to the provision of service for the Defence Forces to enter the restricted military area of the Defence Forces a structural unit assigned in the statute of the Defence Forces shall have the right to:

- 1) contact state and local government agencies and officials, as well as natural and legal persons with an inquiry about the personal data of the person to be checked;
- 2) interview the person being checked as well as representatives of the employer or educational institutions thereof and other entities in order to identify the moral character and other personal qualities of the person being checked and, where appropriate, take a written explanation from the person being interviewed with the consent thereof;
- 3) to verify whether the person being checked has been punished for a criminal offence, or has served a custodial sentence, or he is a suspect or accused in criminal proceedings;
- 4) to verify personal information in the database of the state, local government or other legal person governed by public law or private law;
- 5) obtain information from the criminal records archive.

(2) The authority or person that has received the inquiry specified in subsection (1) of this section shall comply with the inquiry promptly, but not later than ten working days after the receipt of the inquiry, except in the case where the data are forwarded pursuant to § 214 of the Criminal Procedure Code.

(3) A structural unit assigned in the statute of the Defence Forces shall have the right to make an inquiry to a medical institution or physician, who shall immediately, but not later than ten working days after the receipt of the inquiry, issue a confirmation of the presence or absence of the circumstances specified in clauses § 41<sup>4</sup>(2) 18) and 20) of this Act.

(4) [RT I, 18.02.2014, 1 - entry into force 01.08.2014]

#### **§ 41<sup>6</sup>. Person's rights**

(1) The prior written consent of a person by which the person allows the Defence Forces to collect data about himself and make inquiries within five years as of the granting of the consent is required for collecting data or making an inquiry in a manner provided for in § 41<sup>5</sup> of this Act. The Defence Forces shall have no right to collect data or make inquiries after the release of a person from the service or termination of the contract of employment or the authorisation for the stay in the restricted military area of the Defence forces.

(2) Upon requesting the consent of the person for collecting data in a manner or making an inquiry provided for in § 41<sup>5</sup> of this Act the Defence Forces shall notify the person in writing of his right to:

- 1) refuse to give consent;
- 2) refuse to provide data that could lead to his release from service or office or in lieu of notice, or criminal or disciplinary proceedings in respect of him or persons who are close to him or a domestic partner;
- 3) request termination of the data collection or query with regard to him;
- 4) submit explanations for the data collected with regard to him;
- 5) seek to protect his rights and challenge the decision made on the basis of data collected pursuant to this section with the court, Chancellor of Justice, the Data Protection Inspectorate or the labour dispute committee, or to check the compliance with his fundamental rights and freedoms and the principle of good governance.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

#### **§ 41<sup>7</sup>. Refusal of consent**

Refusal to give consent specified in subsection 41<sup>6</sup>(1) of this Act shall form a basis for refusal to accept a person in the service or employment, release from service or for termination of the contract of employment.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

#### **§ 41<sup>8</sup>. Regularity of background check**

The Defence Forces may collect personal data about a person in the manner specified in § 41<sup>5</sup> of this Act only during his application for the service or employment in the Defence Force and every five years after the acceptance of a person in the service or employment in the Defence Forces in order to assess his suitability for the Defence Forces. The Defence Forces may, in the case of a justified need, collect data at any other time if there is a reasoned suspicion that circumstances have been revealed with regard to a person during his period of service or employment which would preclude acceptance for service or employment.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

#### **§ 41<sup>9</sup>. Waiver of background check**

The acts specified in § 41<sup>5</sup> of this Act may be waived by the decision of the head of the structural unit that conducts the background check if the background check by the Defence Forces or any other authority or the security check has been conducted with regard to a person.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

#### **§ 41<sup>10</sup>. Data processing, preservation and forwarding**

(1) The Personal Data Protection Act shall apply to the personal data collected in the course of the background check.

(2) Data collected with regard to a person in the course of the background check shall be preserved during the period of his service and employment contract and three years after the release of him from the service or termination of the contract of employment in a file which is protected against illegal access.

(3) Data collected with regard to a person in the course of the background check may be forwarded to state agencies in the procedure provided for in the Public Information Act only for the purpose of background check or security check.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

#### **§ 42. Coordination and supervision of military intelligence**

[RT I, 06.07.2016, 1 - entry into force 16.07.2016]

(1) The conduct of military intelligence and the activities of security authorities shall be coordinated by a committee specified in subsection 10 (1) of the Security Authorities Act.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(2) The functions of military intelligence and the list of information to be collected, in the order of relevance, shall be provided for the Defence Forces in the plan regarding the collection and analysis of state security information specified in subsection 9 (2) of the Security Authorities Act.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(3) The Security Authorities Surveillance Committee of the Riigikogu has the rights and obligations provided for in subsections 36 (3) and (5)-(7) of the Security Authorities Act to exercise supervision over the Defence Forces in the case the Defence Forces, for the purpose of acting outside of the territory of the Republic of Estonia, interview persons and conduct covert intelligence, involve a person in secret cooperation, use an undercover agent and simulate a legal person governed by private law, a structural unit or body or branch thereof.  
[RT I, 06.07.2016, 1 - entry into force 16.07.2016]

(4) The minister responsible for the area of national defence shall be notified, pursuant to the procedure established thereby, of the use of the powers of military intelligence provided for in clause 37 (2) 2) of this Act.  
[RT I, 06.07.2016, 1 - entry into force 16.07.2016]

#### **§ 43. Preservation of information and reporting**

(1) The Defence Forces shall document the information collected according to clause 37 (1) 4) and subsection 37 (2) of this Act and § 41<sup>5</sup> in information files. The procedure for keeping, preservation and destruction of the files shall be established by a regulation of the minister responsible for the area.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(1<sup>1</sup>) Information collected according to clauses 37 (1) 1)-3) and, where necessary, in clause 37 (1) 5) of this Act shall be documented in the document register by the Defence Forces.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(2) The Defence Forces shall, every four months, submit to the Ministry of Defence a written overview of information collected by the Defence Forces upon the conduct of military intelligence and of the methods and means used for obtaining such information and every six months a report on the performance of the functions of the structural unit of the Defence Forces, which is exercising the powers specified in subsections 37 (1) and (2) of this Act.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

#### **§ 43<sup>1</sup>. Access to documents of military intelligence**

Access through public web is not allowed to the part of the document register of the Defence Forces, in which the documents that have arrived or have been compiled in the structural unit of the Defence Forces exercising the powers specified in subsections 37 (1) and 2) of the Defence Forces Organisation Act.  
[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

## **Chapter 5 USE OF FORCE BY DEFENCE FORCES**

#### **§ 44. Use of force by Defence Forces**

(1) For the purposes of this Act the use of force means the use of physical force, special equipment, weapons or battle equipment by the Defence Forces with the purpose to defend the state by military means, participate in international military cooperation or perform the functions specified in § 49 of this Act.

(2) In accordance with the provisions of this Chapter, the minister responsible for organisation of national defence may establish by an order the procedure for the use of force by the Defence Forces. The proposal for establishment of the procedure for the use of force may be made by the Commander of the Defence Forces. On the basis of the procedure for the use of force or in the cases provided therein the Commander of the Defence Forces or other authorised commander may provide more detailed instructions.

(3) The participation in international military cooperation is based on the procedure for the use of force established by a relevant foreign state, international organisation and the minister responsible for organisation of national defence.

(4) If the rule provided for in the procedure for the use of force established by a foreign state or an international organisation is in conflict with the treaty entered into or generally recognised principles and norms of the international law or the legislation of the Republic of Estonia, the Defence Forces shall not implement such rule and shall notify thereof the Ministry of Defence and the relevant official of a foreign state or international organisation.

(5) If a rule provided for in the procedure for the use of force established by a foreign state or international organisation cannot be implemented for other reason, the Defence Forces shall notify the Ministry of Defence thereof and thereafter the relevant official of a foreign state or international organisation.  
[ RT I, 12.03.2015, 1 - entry into force 01.01.2016]

#### **§ 45. Use of force by Defence Forces for military defence of state**

The Defence Forces shall use force for the military defence of the state:

- 1) during a state of war;
- 2) in peacetime, to counter an attack against the Estonian state from outside the territory of the Estonian state;
- 3) to counter a threat imposed by civil aircraft;
- 4) upon evacuation from the crisis area of a person in distress for the purposes of the Consular Act, the property thereof and state assets.

[ RT I, 12.03.2015, 1 - entry into force 01.01.2016]

#### **§ 46. Decision to use force for military defence of state by Defence Forces**

(1) During a state of war, the Commander-in-Chief of the Defence Force shall make a decision regarding commencement of the use of force by the Defence Forces.

[ RT I, 08.07.2011, 8 - entry into force 22.07.2011]

(2) In the case of an attack against the Estonian state from outside the territory of the Estonian state in peacetime, the minister responsible for the area or a competent commander shall make a decision regarding commencement of the use of force by the Defence Forces. The circumstances under which a commander is competent to make the decision regarding commencement of the use of force shall be established by a regulation of the Government of the Republic.

(3) Use of prevention measures and force provided for in § 47 of this Act shall be decided by the minister responsible for the area or a minister authorised by the Government of the Republic, immediately notifying the President of the Republic thereof.

(4) The use of the Defence Forces for the purpose provided for in clause 45 4) of this Act shall be decided by the Government of the Republic on the proposal of the minister responsible for organisation of national defence, immediately notifying the President of the Republic and the National Defence Committee of the Riigikogu thereof.

[RT I, 12.03.2015, 1- entry into force 01.01.2016]

#### **§ 47. Use of force to counter threat imposed by civil aircraft**

(1) The Defence Forces may be used in order to counter a threat imposed by civil aircraft if there is reason to believe that the flight of the civil aircraft has been unlawfully interfered with and this may be used in order to cause damage to persons or property.

(2) In the case specified in subsection (1) of this section, the Defence Forces have the right to force the aircraft to leave the Estonian airspace, compel the aircraft to land or warn the persons who interfere with the flight of the aircraft that force will be used, firing warning shots included.

(3) If the countermeasures specified in subsection (2) of this section fail to give results or the use of the measures is impossible and:

- 1) the aircraft does not follow the current flight plan;
- 2) the aircraft fails to comply with the orders of air traffic controllers or state aircraft pilots and
- 3) visual inspection from state aircraft and other information gives reason to presume that the civil aircraft will be used to launch an attack in order to cause death to persons staying outside of the aircraft, the Defence Forces have the right to use force against the civil aircraft pursuant to the procedure established on the basis of this Act.

(4) Force may be used against civil aircraft only if the attack cannot be prevented by any other means and provided that the damage arising from the use of force is significantly smaller than the possible damage resulting from the attack. The countermeasures shall be applied in a manner which presumably causes the least damage.

(5) The armed forces of a state being a party to an agreement following the principle of collective defence entered into with the Republic of Estonia may be involved in the performance of the tasks specified in this section.

(6) The Government of the Republic shall, by a regulation, establish the procedure for determining a threat imposed by civil aircraft and for responding to such threat and the procedure for the use of force by the Defence Forces to counter a threat imposed by civil aircraft or for threatening to use force.

#### **§ 48. Use of force by Defence Forces upon participation in international military cooperation**

(1) Upon participation in the international military cooperation the Defence Forces may use force upon performance of duties in accordance with the provisions of § 44 of this Act:

- 1) to counter an attack against itself or other person;
- 2) to counter an attack against objects in the possession of the Defence Forces or the armed forces participating in international military cooperation together with the Defence Forces;
- 3) to maintain or restore peace and security in order to perform the tasks given to the Defence Forces.

(2) Upon deciding on the use of force and choosing the manner of the use thereof a serviceman is required to be guided from the situation and assess also the dangerousness of the person against whom force is used.

(3) Upon countering an attack a serviceman may not use such force which is not in apparent correspondence with the character of the attack, the person to be detained or the dangerousness of the situation.

(4) The tasks specified in clause (1) 3) of this section shall be provided for by an international organisation or on the agreement with relevant states.

(5) The use of force may derogate from the obligations undertaken by a human rights treaty if this is allowed by a treaty and is in compliance with other norms of international law.

(6) The derogation from the obligations undertaken by a treaty on the basis of subsection (5) of this section shall be decided by the minister responsible for the organisation of national defence in coordination with the minister responsible for foreign relations.

(7) This section shall not restrict the right of a serviceman to use force in a self-defence situation.  
[ RT I, 12.03.2015, 1 - entry into force 01.01.2016]

#### **§ 48<sup>1</sup>. Use of force in demining activities**

Upon performance of functions provided for in clauses 3 4<sup>1</sup>) and 42) of this Act the Defence Forces may use auxiliary means on the bases of and pursuant to the procedure prescribed in § 25 of the Rescue Act and a special state supervision measure provided for in § 44 of the Law Enforcement Act on the bases of and in the procedure provided for in the Law Enforcement Act.

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

#### **§ 49. Use of direct coercion by Defence Forces upon performance of other functions**

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

(1) The Defence Forces shall apply direct coercion:

- 1) upon ensuring military discipline;
- 2) in the cases provided for in subsection 3 (1<sup>1</sup>) of this Act;  
[ RT I, 12.03.2015, 1 - entry into force 01.01.2016]
- 3) upon countering an attack against the restricted military area of the Defence Forces or a military serviceman staying in the restricted military area or to ensure measures provided for in §§ 55 and 56 of this Act;
- 4) upon protecting persons.

(2) Upon performance of the functions provided for in this section, the Defence Forces shall use direct coercion on the bases of and pursuant to the procedure provided for in the Law Enforcement Act.

(2<sup>1</sup>) The Military Police of the Defence Forces may apply special state supervision measures provided for in §§ 30, 32, 44 and 47 of the Law Enforcement Act in the procedure provided for in the Law Enforcement Act if these are necessary for ensuring the safety of the protected person.

(2<sup>2</sup>) The Military Police of the Defence Forces may detain a person if this is unavoidable to counter an immediate threat to life or physical inviolability of the protected person. The detained person shall be promptly handed over to the police.

(2<sup>3</sup>) Upon application of the measures specified in subsections (2<sup>1</sup>) and (2<sup>2</sup>) of this section the Military Police of the Estonian Defence Forces shall comply with the following principles:

- 1) only the measure which is presumably the least detrimental to the person and the public at large shall be used out of several appropriate and necessary measures;
- 2) only such measure shall be applied which is proportionate, taking account of the objective pursued with the measure and the situation requiring fast application;
- 3) the measure shall only be applied until achieving its objective or when the objective is no longer possible to achieve.

(8) Special equipment allowed for a military serviceman includes handcuffs, a service dog, means for tying up and a restraint-jacket.

(9) Weapons which a military serviceman may use are a cut-and-thrust weapon, gas weapon and firearm.

(5) The list of self-defence equipment prescribed for a military serviceman upon performance of the functions provided for in this section and subsection 3 (2) of this Act shall be established by a regulation of the minister responsible for the area.

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

## **Chapter 6**

# **RESTRICTED MILITARY AREA OF DEFENCE FORCES**

### **§ 50. Restricted military area of Defence Forces**

The restricted military area of the Defence Forces (hereinafter restricted military area) includes:

- 1) the military zone of the Defence Forces;
- 2) the ships, aircraft and vehicles of the Defence Forces;
- 3) the territory which is temporarily designated as a restricted military area by the Commander of the Defence Forces or a commander authorised thereby (hereinafter temporary restricted military area).

### **§ 51. Marking of restricted military area**

(1) A restricted military area shall be marked in a manner comprehensible to unauthorised persons.

(2) The procedure for the marking of a restricted military area shall be established by a regulation of the minister responsible for the area.

### **§ 52. Obligations of person in restricted military area**

(1) A person shall not stay in a restricted military area without the permission of a competent military serviceman.

(2) A person staying in a restricted military area shall comply with the orders of a military serviceman.

### **§ 53. Military zone of Defence Forces**

(1) Within the meaning of this Act, the military zone of the Defence Forces is a territory permanently in the possession of the Defence Forces.

(2) An unauthorised person shall not stay in the territory of the training area of the Defence Forces during tactical exercises, trainings, shooting and blasting and when weapons, munitions of war, battle equipment and other equipment is tested and the area is marked accordingly.

[RT I, 20.03.2013, 1 – entry into force 01.04.2013]

(3) Other objects which are not in the possession of the Defence Forces may be designated as the military zone of the Defence Forces by an order of the Government of the Republic provided that the duty to guard or protect these objects has been assigned to the Defence Forces.

### **§ 54. Temporary restricted military area**

(1) The Defence Forces may delimit a territory as a temporary restricted military area if, arising from law, other legislation or a contract, the Defence Forces have the right to stay in the area if, in connection with the performance of their functions, this is strictly necessary in order to ensure the security of the Defence Forces or the safety of third persons.

(2) A territory may be delimited as a temporary restricted military area only to the extent and as long as this is strictly necessary in order to ensure the security of the Defence Forces or the safety of third persons.

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

(3) A temporary restricted military area shall be marked at the earliest opportunity. The Defence Forces shall inform immediately the police prefecture and the local government of the location of the restricted military area of the creation of such restricted military area and, if possible, also of the term of the arrangement.

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

### **§ 55. Detention of person**

(1) A military serviceman may detain a person staying in the restricted military area if there is a justified reason to believe that he or she:

- 1) stays in the restricted military area unlawfully;
- 2) has committed an offence during entry into or stay in the restricted military area or
- 3) endangers himself or herself or other persons through his or her behaviour.

(2) A person detained on the basis provided for in clause (1) 1) of this section shall be promptly led outside of the restricted military area and released.

(3) A person detained on a basis provided for in clauses (1) 2) or 3) of this section shall be promptly handed over to the police.

#### **§ 56. Examination of person and his or her personal effects**

(1) A military serviceman may examine a detained person or an object held by him or her, including means of transport, if there is a reason to believe that the person holds objects or substances with which he or she could endanger himself or herself or others.

(2) A military serviceman has the right to deposit the objects or substances specified in subsection (1) of this section. The objects or substances deposited upon examination of a person and his or her personal effects shall be delivered to the police together with handing over the detained person. Upon release of the person, the objects or substances shall be immediately returned to him or her, unless a permit is required for the possession of such objects or substances and the person does not hold such permit.

## **Chapter 6<sup>1</sup>** **EXCISE WAREHOUSE OF DEFENCE FORCES**

[RT I, 30.12.2010, 3 - entry into force 01.01.2011]

#### **§ 56<sup>1</sup>. Excise warehouse of Defence Forces**

(1) The excise warehouse of Defence Forces is a state-owned excise warehouse for handling fuel. The Defence Forces represent the state acting as an excise warehouse keeper.

(2) The procedure provided for the transfer of assets in the State Assets Act shall not apply for the transfer of fuel in the excise warehouse of the Defence Forces within the meaning of the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act. The rules for the transfer of such assets shall be established in the rules governing the work organisation of the excise warehouse of the Defence Forces.

(4) The rules for work organisation of the excise warehouse of the Defence Forces shall be established by the Commander of the Defence Forces.

[ RT I, 30.12.2010, 3 - entry into force 01.01.2011]

## **Chapter 7** **IMPLEMENTING PROVISIONS**

#### **§ 57. Implementation of Act**

(1) The structural units of the Defence Forces shall be reorganised into one government agency by 1 January 2009.

(2) The assets in the possession of the structural units of the Defence Forces are deemed to be transferred to the Defence Forces and accepted by the Defence Forces as of 1 January 2009.

(3) If a military serviceman or a servant of a structural unit of the Defence Forces resumes service in a position or support staff position prescribed in the table of organisation of the Defence Forces or if their service or employment relationships are terminated, the provisions of clause 105 (1) 2) of the Defence Forces Service Act, subsection 115 (2) of the Civil Service Act or § 6 of the Republic of Estonia Employment Contracts Act correspondingly apply. If the teaching staff of the National Defence College with whom contracts of employment are entered into are released from service, the compensation provided for in subsection 131 (1) of the Civil Service Act shall not be paid upon their release from service.

(4) The servants of the structural units of the Defence Forces whose duties and official title do not change as a result of merger into one government agency or whose duties do not change after their official title is changed shall continue service in the Defence Forces as of 1 January 2009 and the obligation to conduct a public competition provided for in subsection 29 (1) of the Civil Service Act does not apply to them.

(5) As of 1 January 2009, the Defence Forces are deemed to be the representative of the Republic of Estonia in all legal relationships in which the structural units of the Defence Forces represented the Government of the Republic.

(6) The benefits provided for in subsections 131 (1) and (1<sup>2</sup>) of the Civil Service Act shall not be paid to a servant of the Headquarters Support and Signal Battalion at the Estonian Contingency of the NATO Cooperative Cyber Defence Centre of Excellence who resumes the post established on the staff of the Estonian Contingency of the NATO Cooperative Cyber Defence Centre of Excellence on the basis of the employment contract.

[RT I, 18.12.2012, 1 - entry into force 01.01.2013]

(7) The following rights shall be prescribed to a person specified in subsection (6) of this section in the contract of employment:

- 1) the payment of the salary shall continue at least in the amount of the previous salary;
- 2) the basic holiday of 35 calendar days shall be retained;
- 3) upon the increase of the amount of pension on the basis of the Civil Service Act the period worked under the contract of employment shall be included into the period worked in civil service during five years as of the entry into employment contract.

[RT I, 18.12.2012, 1 - entry into force 01.01.2013]

(8) The right specified in clauses (7) 2) and 3) of this section shall be retained only in the case the person has been employed uninterruptedly in the post established on the staff of the Estonian Contingency of the NATO Cooperative Cyber Defence Centre of Excellence or if the interruption of the employment relationship at the Estonian Contingency of the NATO Cooperative Cyber Defence Centre of Excellence does not exceed 90 calendar days.

[RT I, 18.12.2012, 1 - entry into force 01.01.2013]

(9) If a servant of the Headquarters Support and Signal Battalion at the Estonian Contingency of the NATO Cooperative Cyber Defence Centre of Excellence was released from office due to reduction and he or she enters into the employment contract for employment in the post established on the staff of the Estonian Contingency of the NATO Cooperative Cyber Defence Centre of Excellence after the benefit provided for in subsection 131 (1) of the Civil Service Act has been paid and before the period has passed for which he or she was paid benefit, he or she shall return the benefit received to the extent corresponding to the period by which the employment contract was entered into earlier compared to the period being the basis for payment of the benefit.

[RT I, 18.12.2012, 1 - entry into force 01.01.2013]

(10) An active serviceman, an official in the service of the Defence Forces and a person employed under a contract of employment shall give their written consent at the latest by 31 October 2014 for collecting data or making an inquiry in a manner provided for in § 41<sup>5</sup> and shall submit his personal profile.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

(11) Upon failure to give consent specified in subsection (10) of this section or submit the personal profile the person shall be released from service or the contract of employment shall be terminated without compensation pursuant to this section as of the day following the due date for submission of a written consent.

[RT I, 18.02.2014, 1 - entry into force 01.08.2014]

§ 58.–§ 80.[Omitted from this text.]

## § 81. Entry into force of Act

This Act enters into force on 1 January 2009.