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## Family Benefits Act

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RT I, 08.07.2016, 1  
Entry into force 01.01.2017

Amended by the following acts

Passed	Published	Entry into force
15.06.2016	RT I, 08.07.2016, 1	01.01.2017, partially 01.07.2017, 01.01.2018 and 01.01.2019
19.12.2016	RT I, 24.12.2016, 1	01.01.2017
15.11.2017	RT I, 28.11.2017, 2	01.01.2018
06.12.2017	RT I, 28.12.2017, 7	01.07.2020, partially 01.03.2018 and 01.09.2019
17.10.2018	RT I, 26.10.2018, 1	01.04.2022, partially 05.11.2018 and 01.09.2019
30.10.2019	RT I, 31.10.2019, 6	30.10.2019 - Judgment of Constitutional Review Chamber of Supreme Court declares the second sentence of subsection 37 (3) of the Family Benefits Act (in the wording in force from 1 January 2017 to 31 August 2019) to be in conflict with the Constitution to the extent this prescribed that upon calculation of parental benefit the individually registered social tax did not include the social tax calculated on the benefit upon insolvency of the employer provided for in the Unemployment Insurance Act under circumstances where the person worked during the calendar year on the basis of which parental benefit was calculated and the Estonian Unemployment Insurance Fund paid the benefit upon insolvency of the employer for that calendar year and calculated social tax on the benefit which was received during or after the calendar year on the basis of which parental benefit was calculated.

### Chapter 1 General Provisions

#### § 1. Scope of application of Act

(1) This Act provides the classification, purposes and extent of family benefits and the conditions and procedure for the grant and payment thereof.

(2) The provisions of the General Part of the Social Code Act apply to the social protection prescribed in this Act, taking account of the specifications provided for in this Act.

(3) If a family member is living or working in a Contracting Party to the EEA Agreement or the Swiss Confederation, Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems (OJ L 166, 30.04.2004, p. 72–116) applies upon grant of family benefits.

## **§ 2. Purpose of Act**

The purpose of this Act is to support families with children and raising of children.

## **§ 3. Family benefits**

(1) Family benefits are benefits in cash financed from the state budget through the Ministry of Social Affairs which are paid to ensure the well-being of families with children.

(2) The classes of family benefits are state family allowances (hereinafter *family allowances*), parental benefit and maintenance allowance.

## **§ 4. Persons entitled to receive family benefits**

(1) Family benefits are granted and paid under the conditions provided for in this Act to a person specified in subsection 3 (1) of the General Part of the Social Code Act.

(2) Family members residing in Estonia and children who do not live in the family due to studying abroad of persons specified in subsection (1) of this section are entitled to receive family benefits.

(3) Permanent residents of Estonia whose residence is in several states are entitled to receive family benefits if they are residents for the purposes of subsection 6 (1) of the Income Tax Act.

(4) Residents of Estonia do not have the right to receive family benefits if they receive benefits of the same kind from another state.

## **§ 5. Notification of persons of creation of right to receive family allowances and parental benefit**

(1) The Social Insurance Board shall verify on the basis of the data entered in the social protection information system the compliance of persons with the requirements for receiving family allowances or parental benefit and notify the persons of the creation of the right to receive benefit. The Social Insurance Board shall communicate the notice concerning the creation of the right to receive benefit to the e-mail addresses of the persons or in the manner specified in clauses 27 (1) 2) and 3) of the General Part of the Social Code Act.

(2) Compliance with the requirements for receiving the benefits specified in subsection (1) of this section shall be verified on the basis of the following data:

1) general data of a person – personal identification code, given names and surname, data on residence and contact details, data on marital status, death, declaration of death, data on the person being missing or a fugitive or data on establishment of guardianship or appointment as a foster parent within the meaning of the Social Welfare Act (hereinafter *foster parent*), data on deprivation of the right of custody over person, data on residence permit or right of residence and citizenship;

[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

2) data on the periods of compulsory military service or alternative service.

## **§ 6. Application for family benefits**

(1) In order to apply for family benefits, a person specified in subsection 3 (1) of the General Part of the Social Code Act (hereinafter *applicant*) shall submit an application to the Social Insurance Board. If parents wish to exercise the right to receive the benefit in turn, the new applicant for the benefit shall submit an application which includes the consent of the person who received the benefit previously.

(2) The date on which an application is received is deemed to be the date of application for family benefits. If the application is sent by post, the date on the date stamp of the place from which the application is sent is deemed to be the date of application. If the application is submitted electronically, the date of submission of the application is deemed to be the date of application.

(3) The Social Insurance Board shall communicate the notice concerning the grant of family benefits to the e-mail address of such parent or notifies such person who did not submit the application for family benefits in the manner specified in clauses 27 (1) 2) and 3) of the General Part of the Social Code Act.

(4) The list of information included in an application for family benefits shall be established by a regulation of the minister responsible for the area.

## **§ 7. Bases for calculation of family benefits**

(1) The amounts of family allowances shall be established as specific amounts. In the month in which the payment of the family allowances begins, the amount of the allowance shall be calculated in proportion to the number of days for which the person has the right to receive benefit.

(2) Calculation of parental benefit shall be based on the amount of individually registered social tax. In the month in which the payment of the parental benefit begins and in the month in which the payment of the parental benefit ends, the amount of the benefit shall be calculated in proportion to the number of days for which the person has the right to receive benefit.

(3) The amount of maintenance allowance shall be established as a specific amount. In the month in which the payment of the maintenance allowance during the time of court proceedings begins and in the month in which it ends, the amount of the maintenance allowance shall be calculated in proportion to the number of days for which the person has the right to receive maintenance allowance.

## **§ 8. Grant and payment of family benefits**

(1) The grant of or refusal to grant family benefits shall be decided by the Social Insurance Board.

(2) If a person is entitled to receive several classes of family benefits, the benefits shall be granted and paid at the same time, unless otherwise provided for in this Act.

(3) The Social Insurance Board has the right to take into account, in addition to the information provided for in the Population Register Act, other information on the basis of which payment, suspension or termination of family benefits is decided.

(4) Family benefits shall be paid pursuant to the procedure provided for in § 28 of the General Part of the Social Code Act.

(5) If other social insurance benefits are paid to the recipient of family benefits through the Social Insurance Board as home delivery by post, the same method of payment shall be applied to the payment of family benefits.

(6) Upon calculation, grant, payment and set-off of family benefits, the amount shall be rounded to the accuracy of one cent.

## **§ 9. Notification obligation of applicant**

An applicant is required to immediately notify the Social Insurance Board of the following circumstances which affect the grant or amount of family benefits:

- 1) settlement or commencement of studies in another state or interruption or completion of studies in another state by the applicant or child;
- 2) commencement of work in a Contracting Party to the EEA Agreement or the Swiss Confederation by a family member – parent, guardian, foster parent, parent's spouse or another person entitled to receive benefit; [RT I, 28.11.2017, 2 - entry into force 01.01.2018]
- 3) receipt of family benefits from a foreign state.

## **§ 10. Notification obligation of rural municipality or city government**

A rural municipality or city government shall immediately notify the Social Insurance Board of circumstances which affect the suspension, continuation or termination of the payment of family benefits. A rural municipality or city government shall also notify of separation of a child from family and the person actually raising the child, placement of a child in a safe house or in alternative care and the failure to establish the residence of a child in the territory of the rural municipality or city, or settlement of a family in a foreign state.

[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

## **§ 11. Notification obligation of Police and Border Guard Board**

The Police and Border Guard Board shall notify the Social Insurance Board of search proceedings or termination of the proceedings for establishing the whereabouts of a missing person within ten working days.

## **§ 12. Suspension and continuation of payment of family benefits**

(1) The Social Insurance Board shall suspend the payment of family benefits if the child is separated from the family or proceedings for establishing guardianship have been initiated concerning the child.  
[RT I, 26.10.2018, 1 - entry into force 05.11.2018]

(2) [Repealed - RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(3) The Social Insurance Board shall continue the payment of family benefits to the parent if the reason specified in subsection (1) of this section ceases to exist.  
[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(4) The Social Insurance Board shall suspend the payment of family benefits if the recipient of family benefits is in a custodial institution as a prisoner, person in detention or custody, except in the case provided for in subsection 30 (6) of this Act. Family benefits shall be continued to be paid to another applicant on the conditions provided for in this Act.

(5) The Social Insurance Board shall suspend the payment of family benefits if the benefits paid as home delivery by post are not collected for at least two months. After submission of an application, the benefits shall be paid to the applicant.

(6) The Social Insurance Board shall suspend the payment of family benefits to a person receiving family benefits if proceedings for establishing the whereabouts of a missing person have been initiated concerning the person or if search proceedings have been initiated concerning the person because the person evades service of imprisonment. The payment of family benefits shall continue after the reason for suspension ceases to exist.

### **§ 13. Termination of payment of family benefits**

The Social Insurance Board shall terminate the payment of family benefits to a parent if the parent has been deprived of the right of custody on the basis of § 135 of the Family Law Act or if a guardian has been appointed to his or her minor child or the child is referred to alternative care on the basis of subsection 45<sup>9</sup>(1) of the Social Welfare Act.  
[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

### **§ 14. Recovery and set-off of family benefits**

(1) The provisions of the General Part of the Social Code Act apply upon recovery and set-off of family benefits, taking account of the specifications provided for in this Act.

(2) The Social Insurance Board may set off family benefits paid to a person without basis against the family benefits paid on the basis of this Act. The set-off amount shall not exceed 20 per cent of the amount of family allowances and maintenance allowance granted to the person. At least 50 per cent of the rate of parental benefit provided for in subsection 39 (1) of this Act shall be retained for the recipient of the parental benefit.

(3) The allowance granted on the basis of § 19 of this Act shall be recovered or set off to the extent that overlaps with the survivor's pension or national pension upon the loss of a provider paid for the same parent or parent's spouse.

(4) If the Social Insurance Board issues a precept to a person concerning the commencement of compulsory enforcement upon failure to perform the obligation to comply with the recovery but there is no information concerning the address of the person or the person does not live at the address known and the actual location of the person is unknown and the precept cannot be delivered in any other manner provided for in the General Part of the Social Code Act, the conclusion of the precept shall be published in the official publication *Ametlikud Teadaanded*.

## **Chapter 2 Family Allowances**

### **Division 1 Purpose and Classes of Family Allowances**

#### **§ 15. Purpose of family allowances**

The purpose of family allowances is to ensure for families with children the partial reimbursement of expenses relating to the care, raising and education of children.

#### **§ 16. Classification of family allowances**

(1) Monthly family allowances are:  
1) child allowance;  
2) child care allowance;  
3) single parent's child allowance;  
4) guardianship allowance;  
[RT I, 28.11.2017, 2 - entry into force 01.01.2018]  
5) allowance for families with many children;  
[RT I, 08.07.2016, 1 - entry into force 01.07.2017]

6) allowance for multiple birth of three or more children.  
[RT I, 28.12.2017, 7 - entry into force 01.03.2018]

- (2) Single family allowances are:
- 1) childbirth allowance;
  - 2) adoption allowance.
  - 3) [repealed - RT I, 28.11.2017, 2 - entry into force 01.01.2018]

## **Division 2**

### **Monthly Family Allowances**

#### **§ 17. Child allowance**

(1) Every child has the right to receive child allowance from the birth until he or she attains 16 years of age.

(2) A child who is enrolled in a basic school or upper secondary school, or a child without secondary education enrolled in formal vocational education has the right to receive child allowance until he or she attains 19 years of age. When the child attains 19 years of age, payment of the allowance shall continue until the end of the current academic year or until the student is excluded from the list of the school.

(3) The amount of child allowance for the first and second child of a family shall be 60 euros. The amount of child allowance for the third and each subsequent child shall be 100 euros.  
[RT I, 08.07.2016, 1 - entry into force 01.01.2019]

#### **§ 18. Child care allowance**

(1) One of the parents has the right to receive child care allowance:

- 1) 38.36 euros for each child of up to 3 years of age if the parent raises a child of up to 3 years of age;
- 2) 19.18 euros for each child between 3 and 8 years of age if the parent raises also a child between 3 and 8 years of age in addition to a child of up to 3 years of age;
- 3) 19.18 euros for each child between 3 and 8 years of age if the parent raises three or more children who receive child allowance in a family with three or more children.

(2) The right to receive child care allowance arises from the birth of the child and terminates on the day the child attains 3 years of age or 8 years of age.

(3) If a child specified in clauses (1) 2) or 3) of this section starts year one at school and attains 8 years of age during the current academic year, child care allowance for the child shall be paid until the end of the academic year within the meaning of the Basic Schools and Upper Secondary Schools Act.

(4) An allowance shall not be paid for the same child pursuant to both clauses (1) 2) and 3) of this section at the same time.

(5) If one of the parents is on parental leave, that parent has the right to receive child care allowance.

(6) If a person other than a parent uses parental leave, that person has the right to receive child care allowance in the amount of 38.36 euros for each child in his or her care, but not more than 115.08 euros per month. For such period, child care allowance shall not be paid to the parent for the same child.

(7) A guardian or foster parent has the right to receive child care allowance under the conditions provided for in this section.

[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(8) Child care allowance shall not be paid:

- 1) for a child in connection with whose birth maternity benefit is paid pursuant to the Health Insurance Act;
- 2) for a child in connection with whose adoption adoption benefit is paid pursuant to the Health Insurance Act;
- 3) if one of the parents is paid parental benefit on the basis of this Act.

#### **§ 19. Single parent's child allowance**

(1) A child whose birth registration or vital statistics data entered in the population register contain no entry concerning the father or whose parent has been declared to be a fugitive pursuant to the procedure established by law and who meets the requirements provided for in subsection 17(1) or (2) of this Act has the right to receive single parent's child allowance.

(2) The right to receive single parent's child allowance arises from the birth of the child or the date of declaring the parent a fugitive.

(3) The amount of single parent's child allowance shall be 19.18 euros.

(4) Payment of single parent's child allowance shall be terminated in the following cases:

- 1) establishment of paternal filiation;
- 2) acknowledgement of paternity;
- 3) termination of the search of a parent or the grant of survivor's pension or national pension upon loss of a provider for the same parent;
- 4) grant of survivor's pension upon the loss of a parent's spouse or foster parent or national pension upon loss of a provider.

## **§ 20. Guardianship allowance**

[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(1) A child whose parents fail to perform the obligation to raise the child and to care for the child arising from the Family Law Act and for whom guardianship has been established has the right to receive guardianship allowance.

(2) The right to receive foster care allowance arises on the date of publication of the court ruling on guardianship and payment of the allowance shall be terminated as of the month following the termination of guardianship.

[RT I, 26.10.2018, 1 - entry into force 05.11.2018]

(3) Upon termination of guardianship when a child attains 18 years of age, payment of the allowance specified in subsection (1) of this section shall continue until the end of the current academic year within the meaning of the Basic Schools and Upper Secondary Schools Act when the child attains 19 years of age or until the student is excluded from the list of the school if he or she complies with the requirements provided for in subsection 17 (2) of this Act.

(4) The amount of guardianship allowance shall be 240 euros for each child under guardianship.

[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

## **§ 21. Allowance for families with many children**

[RT I, 08.07.2016, 1 - entry into force 01.07.2017]

(1) One of the parents, a guardian or foster parent or a person specified in clause 25 (1) 2) or 3) of this Act, raising three or more children in a family, who comply with the requirements provided for in subsection 17 (1) or (2) of this Act has the right to receive the allowance for families with many children.

[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(2) The allowance for families with many children for families raising three to six children is 300 euros.

[RT I, 24.12.2016, 1 - entry into force 01.07.2017]

(3) The allowance for families with many children for families raising seven or more children is 400 euros.

[RT I, 24.12.2016, 1 - entry into force 01.07.2017]

## **§ 21<sup>1</sup>. Allowance for multiple birth of three or more children**

(1) One of the parents, a foster parent or a guardian raising three or more children of multiple birth pregnancies shall have the right to receive the allowance for multiple birth of three or more children. The right to receive the allowance shall be valid until they day the children reach 18 months of age.

(2) The amount of allowance for multiple birth of three or more children is 1000 euros.

[RT I, 28.12.2017, 7 - entry into force 01.03.2018]

# **Division 3 Single Family Allowances**

## **§ 22. Childbirth allowance**

(1) One of the parents has the right to receive childbirth allowance in case of birth of a child.

(2) The right to receive childbirth allowance arises on the date of birth of the child.

(3) An adoptive parent, guardian or foster parent has the right to receive childbirth allowance, if childbirth allowance has not been paid for the same child earlier.

[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(4) The amount of childbirth allowance shall be 320 euros for each child born.

(5) In the case of a multiple birth of three or more children, the amount of childbirth allowance shall be 1000 euros for each child.

(6) Childbirth allowance shall not be paid for a stillborn child.

### **§ 23. Adoption allowance**

(1) An adoptive parent from whom an adopted child does not descend and who is not the spouse of a parent of the child has the right to receive adoption allowance, if childbirth allowance has not been paid to the family for the same child earlier.

(2) The right to receive adoption allowance arises on the date of entry into force of the court ruling on adoption.

(3) Adoption allowance shall be paid in the amount of 320 euros for each child adopted.

### **§ 24. Start in independent life allowance**

[Repealed - RT I, 28.11.2017, 2 - entry into force 01.01.2018]

## **Division 4**

### **Application for, Calculation and Grant of Family Allowances**

### **§ 25. Applicant for family allowances**

(1) The parent, guardian or foster parent who is raising a child or one of the following persons may apply for family allowances:

[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

- 1) a person, other than a parent, who uses parental leave;
- 2) a parent's spouse raising the child;
- 3) a person raising the child who is also raising a common child with the parent of the child;
- 4) a person entitled to receive family allowances who is over 18 years of age and who begins to live independently;
- 5) [repealed - RT I, 28.11.2017, 2 - entry into force 01.01.2018]
- 6) if the child is separated from the family, the person raising the child;
- 7) upon initiating proceedings for establishing guardianship, the person for whose benefit the proceedings for establishing guardianship have been initiated and who performs the obligation to raise the child and care for the child.

[RT I, 26.10.2018, 1 - entry into force 05.11.2018]

(2) In the case specified in subsection 26 (3) of this Act, the applicant for family allowances shall be the parent whose family member the child is deemed to be.

### **§ 26. Bases for calculation of family allowances**

(1) In order to determine the amount of family allowances, all children raised together in a family who have the right to receive child allowance shall be taken into account.

(2) Upon determination of the amount of family allowances, a child who is living apart from the family is not deemed to be a member of the family of a parent applying for family allowances.

(3) If a child is equally raised by both parents living apart, the child shall be deemed to be a member of the family of one of the parents according to the agreement between the parents.

(4) A child who temporarily does not live in the family due to studying is deemed to be a member of the family upon determination of the amount of family allowances.

### **§ 27. Calculation of family allowances**

(1) The amount of a monthly family allowance shall be calculated on the basis of the amount of the allowance in force on the date on which the right to receive the allowance arises. Upon amendment of the amount of allowance, the allowance shall be recalculated as of the date of establishment of the new amount of allowance.

(2) Childbirth allowance and adoption allowance shall be paid in the amount of the allowance in force on the date on which the right to receive the allowance arises.  
[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

## **§ 28. Grant of family allowances**

(1) A monthly family allowance shall be granted from the date on which the right to receive the allowance provided for in this Act arises if the documents necessary for application for the allowance are submitted within six months from the date on which the right to receive the allowance arises.

(1<sup>1</sup>) In the case provided for in subsection 12 (1) of this Act, only child allowance shall be granted from the date of initiating the proceedings for establishing guardianship until the court decision is made public if the documents necessary for application for the child allowance are submitted within six months of the date of initiating the proceedings for establishing guardianship. Child allowance shall be paid in the amount of the child allowance for the first and second child of the family.  
[RT I, 26.10.2018, 1 - entry into force 05.11.2018]

(2) Upon a later application for a monthly family allowance, the allowance shall be granted retroactively, but for not more than the six calendar months preceding the month of submission of the application.

(3) A single allowance shall be granted if the allowance has been applied for within six months from the date on which the right to receive the allowance arises.

(4) Upon payment of childbirth allowance to a guardian or foster parent, the six-month term shall commence as of entry into force of the court ruling or entry into the contract with a foster parent.  
[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(5) Granted monthly family allowances shall be paid for the current month.

## **Division 5 Specifications of Payment of Family Allowances**

### **§ 29. Payment of monthly family allowances to children over 16 years of age**

(1) Payment of family allowances shall continue when a child attains 16 years of age after the receipt of information concerning continuation of studies from the Estonian Education Information System until the receipt of information concerning completion of studies or exclusion from the list of the school from the Estonian Education Information System.

(2) If a child who is not less than 16 years of age or a child who attains 16 years of age before the beginning of a new academic year graduates from a basic school, family allowances shall be paid until the day which precedes the beginning of the new academic year. Upon continuation of studies in an educational institution during the same calendar year, if studying in the educational institution grants the right to receive family allowances, allowances shall be paid retroactively after the receipt of information concerning continuation of studies from the Estonian Education Information System for the period from termination of payment of allowances.

(3) Upon studying abroad, payment of family allowances shall continue after submission of a statement from the educational institution until the day which precedes the beginning of the new academic year. Upon later submission of a statement, allowances shall be paid retroactively, but for not more than the six months preceding the submission of the statement.

### **§ 30. Specifications of payment of family allowances**

(1) If the circumstances specified in § 9 of this Act affect the amount of family allowance, the allowance shall be paid in the new amount as of the month following the month in which such circumstances arise.

(2) Family allowances shall not be paid to a child who receives alternative care at a family house, stays at a substitute home on the basis of § 45<sup>9</sup>(1) of the Social Welfare Act and to a child who is in a custodial institution as a prisoner, person in detention or custody.  
[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(3) In the case a child is taken into custody as a preventive measure, family allowances shall be paid retroactively after a court judgment enters into force if the child is acquitted or is not subject to punishment by imprisonment.

(4) If a guardian has been appointed to a child, family allowances shall be transferred to the bank account of the child on the basis of the court ruling, whereas the allowances specified in §§ 17 and 21 of this Act shall be divided equally between children.



(5) If a guardian who is a legal person has been appointed to a child, family allowances may be paid to the bank account of the legal person.

(6) Family allowances shall be paid to a mother raising a child who is not more than 3 years of age in a custodial institution if the child is staying in the custodial institution together with the mother.

### **§ 31. Termination of payment of family allowances**

Payment of a monthly allowance shall be terminated as of the month following the termination of the right to receive the family allowance.

## **Chapter 3 Parental Benefit**

### **Division 1 Purpose of Parental Benefit and Right to Receive Parental Benefit**

#### **§ 32. Purpose of parental benefit**

(1) The purpose of parental benefit is to ensure income for persons raising a child under 3 years of age and to support the reconciliation of work and family life.

[RT I, 28.12.2017, 7 - entry into force 01.03.2018]

(2) Persons who have not received income shall be ensured with income to the extent of the rate of parental benefit.

#### **§ 33. Persons entitled to receive parental benefit**

(1) A parent, adoptive parent, parent's spouse, guardian or foster parent has the right to receive parental benefit, taking account of the conditions provided for in § 4 of this Act.

[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(2) Before the child attains 70 days of age, the mother of the child who is raising the child has the right to receive parental benefit except if the mother of the child is dead or fails to perform the obligation to raise the child and care for the child arising from the Family Law Act or if the adoptive parent, guardian or foster parent has the right to receive the benefit.

[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

(3) If one of the parents is on parental leave after the child attains 70 days of age, that parent has the right to receive parental benefit.

(4) In the case of a multiple birth, one of the parents has the right to receive parental benefit, taking account of the specifications provided for in subsections (1)–(3) of this section.

(5) Parental benefit shall be paid for one child at the choice of the person to whom parental benefit is paid and for whom the right to receive parental benefit arises at the same time due to the raising of another child or other children.

#### **§ 34. Creation and termination of right to receive parental benefit**

(1) The right to receive parental benefit arises as of the date following the final date of the certificate for maternity leave or certificate for adoption leave which grants the right to receive maternity benefit or adoption benefit provided for in the Health Insurance Act. If the mother of a child does not have the right to receive maternity benefit, the right to receive parental benefit shall arise as of the birth of the child.

(2) Parental benefit shall be granted for the period of 435 days as of the date on which the right to receive parental benefit arises. If the mother of the child does not have the right to receive maternity benefit or if the adoptive parent, guardian or foster parent is the applicant for parental benefit, the benefit shall be granted until the day the child attains 18 months of age.

[RT I, 28.11.2017, 2 - entry into force 01.01.2018]

## **Division 2**

# Notification obligation

## § 35. Notification obligation of person

(1) If a recipient of parental benefit receives income subject to social tax, except the income from self-employment, which is higher than half of the maximum amount of the benefit during the calendar month of payment of the benefit, the recipient of the benefit is required to immediately notify the Social Insurance Board thereof in writing.

(2) If a recipient of parental benefit receives income subject to social tax which is higher than half of the maximum amount of the benefit in the cases specified in subsections 42 (2) and (3) of this Act, the recipient of the benefit shall submit the certificate of the payer of social tax concerning receipt of income, a court judgment or court ruling which has entered into force, the decision of a labour dispute committee or other relevant documents to the Social Insurance Board.

[RT I, 28.12.2017, 7 - entry into force 01.03.2018]

## § 36. Notification obligation of payers of social tax

(1) The payer of social tax is required to issue, at the request of the recipient of parental benefit, a certificate concerning payment of income subject to social tax to the recipient of the benefit or send it to the Social Insurance Board:

- 1) during the first calendar month of payment of the benefit, with regard to income received for the calendar months prior to the date on which the right to receive the benefit arises;
- 2) with regard to income received after termination of the right to receive the benefit if, during the calendar month of payment of the benefit, income is received for the period which follows the termination of the right to receive the benefit.

(2) The list of information included in the certificate of the payer of social tax specified in subsection (1) of this section to be sent to the Social Insurance Board shall be established by a regulation of the minister responsible for the area.

## Division 3 Calculation of Amount of Parental Benefit, Rate of Parental Benefit and Specifications of Calculation thereof

### § 37. Calculation of amount of parental benefit

(1) The amount of parental benefit per calendar month shall be calculated on the basis of the average income of the applicant for parental benefit per calendar month on which social tax has been paid.

(2) The average income per calendar month is income which is subject to social tax and which is calculated on the basis of data concerning the average amount of individually registered social tax per calendar month entered in the social protection information system.

(3) The average amount of individually registered social tax per calendar month shall be equal to the individually registered social tax of the applicant for parental benefit for the calendar year prior to the date on which the right to receive the benefit arises divided by the number of calendar months. The individually registered social tax shall not include social tax calculated on the unemployment insurance benefit and benefit upon insolvency of the employer provided for in the Unemployment Insurance Act and social tax calculated on the basis of § 6, except for clauses (1) 5) and 14), of the Social Tax Act.

[RT I, 31.10.2019, 6 - entry into force 30.10.2019 - Judgment of Constitutional Review Chamber of Supreme Court declares the second sentence of subsection 37 (3) of the Family Benefits Act (in the wording in force from 1 January 2017 to 31 August 2019) to be in conflict with the Constitution to the extent this prescribed that upon calculation of parental benefit the individually registered social tax did not include the social tax calculated on the benefit upon insolvency of the employer provided for in the Unemployment Insurance Act under circumstances where the person worked during the calendar year on the basis of which parental benefit was calculated and the Estonian Unemployment Insurance Fund paid the benefit upon insolvency of the employer for that calendar year and calculated social tax on the benefit which was received during or after the calendar year on the basis of which parental benefit was calculated.]

(4) The number of calendar months specified in subsection (3) of this section shall be the difference between the number of calendar days in the calendar year and the number of days during which the person is temporarily released from work on the basis of a certificate of incapacity for work divided by 30, however, it shall not exceed 12. The number of calendar months shall be calculated to the accuracy of two decimal places. If the number of calendar months is zero, but the person has received income subject to social tax, his or her income shall be divided by 12.

(5) The amount of parental benefit per calendar month shall be 100 per cent of the average income per calendar month calculated on the basis of subsections (1)–(4) of this section.

### **§ 38. Maximum amount of parental benefit**

(1) The maximum amount of parental benefit per calendar month (hereinafter in this Chapter *maximum amount of benefit*) shall be three times the average income subject to social tax in Estonia per calendar month for the year preceding the calendar year prior to the date on which the right to receive the parental benefit arises.

(2) The amount of the average income subject to social tax in Estonia per calendar month shall be calculated by multiplying the average amount of the pension insurance part of individually registered social tax of the previous calendar year approved by the Government of the Republic on the basis of subsection 13 (3) of the State Pension Insurance Act by five and the result shall be divided by 12. Upon calculation of the amount of the average income subject to social tax in Estonia per calendar month, the amount shall be rounded to the accuracy of one cent.

(3) The Social Insurance Board shall calculate and publish the maximum amount of the benefit of the following calendar year on its website not later than by 1 May of the current year.

### **§ 39. Rate of parental benefit**

(1) The rate of parental benefit (hereinafter in this Chapter *benefit rate*) shall be the minimum wage in force on 1 January of the previous calendar year. The benefit rate shall be established by the state budget for each budgetary year.

(2) If an applicant for parental benefit does not receive income subject to social tax during the period provided for in subsection 37 (3) of this Act, the amount of the benefit per calendar month shall be equal to the benefit rate.

### **§ 40. Specifications of calculation of amount of parental benefit**

(1) If the average income of an applicant for parental benefit per calendar month calculated on the basis of subsections 37 (1)–(4) of this Act or subsections (3) and (4) of this section is less than the minimum wage established by the Government of the Republic, the amount of the benefit per calendar month shall be equal to the minimum wage.

(2) If a mother who has the right to pregnancy and maternity leave or maternity benefit does not exercise the right to pregnancy and maternity leave or maternity benefit, the amount of parental benefit shall be calculated for the first 70 days on the basis of subsections 37 (1)–(4) of this Act or subsections (3) and (4) of this section, however, parental benefit shall not be paid more than in an amount equal to the minimum wage in one calendar month.

(3) The period during which the conditions of employment or service of an employee or official who was pregnant and who had the right to pregnancy and maternity leave were temporarily eased or the employee had temporarily refused to perform the duties due to absence of work suitable to state of health or the right of the official to exercise public authority was suspended shall not be included in the days during which a person is temporarily released from work on the basis of a certificate of incapacity for work specified in subsection 37 (4) of this Act.

(4) In the cases provided for in subsection (3) of this section, the benefit for temporary incapacity for work paid on the basis of the Health Insurance Act for the calendar year prior to the date on which the right to receive parental benefit arises shall be divided by the number of calendar months calculated on the basis of subsection 37 (4) of this Act. The result of the division shall be included in the average income per calendar month specified in subsection 37 (1) of this Act.

(5) If an applicant for parental benefit has worked in another Contracting Party to the EEA Agreement or the Swiss Confederation during the calendar year prior to the date on which the right to receive benefit arises and the applicant did not receive income which is subject to social tax in Estonia during the specified period and from the end of that period until the beginning of the pregnancy and maternity leave or the applicant did not have the right to pregnancy and maternity leave, the amount of the benefit per calendar month shall be equal to the minimum wage.

### **§ 41. Calculation of parental benefit upon successive birth of children**

(1) If the average income per calendar month calculated pursuant to §§ 37–40 of this Act and received by an applicant for parental benefit whose child is born less than two years and six months after the birth of the previous child is smaller than or equal to the income which was the basis for the calculation of the benefit granted to the applicant previously, the amount of the benefit shall be calculated on the basis of the previous income.

(2) The difference between parental benefit and maternity benefit shall be compensated to the person entitled to receive maternity benefit whose parental benefit is calculated on the basis of subsection (1) of this section as of the birth of the child and it shall be deemed to be parental benefit.

(3) Upon calculation of the difference between parental benefit and maternity benefit specified in subsection (2) of this section, the amount of parental benefit per calendar month granted to the person shall be divided by 30. Maternity benefit granted per calendar day shall be deducted from the result of the division. The result shall be multiplied by the number of calendar days as of the date of birth of the child until the final date of the period for payment of maternity benefit provided for in the Health Insurance Act.

(4) The difference between parental benefit and maternity benefit specified in subsection (2) of this section shall not be compensated for the period during which the parent receives parental benefit for the previous child.

(5) The difference between parental benefit and maternity benefit shall be compensated to the applicant once together with the payment of parental benefit.

## **Division 4**

### **Recalculation of Parental Benefit**

#### **§ 42. Recalculation of parental benefit**

(1) If the recipient of parental benefit receives during the calendar month of payment of the benefit income subject to social tax, including from another Contracting Party to the EEA Agreement or from the Swiss Confederation, except the income from self-employment (hereinafter *income*), which is higher than half of the maximum amount of the benefit, the amount of income exceeding the maximum amount of the benefit divided by two shall be deducted from the benefit. The amount of the benefit shall not be reduced below the benefit rate. [RT I, 28.12.2017, 7 - entry into force 01.03.2018]

(2) If due to the fault of the payer of social tax the income subject to social tax which was not paid in time is paid to the recipient of parental benefit during the calendar month of payment of the parental benefit, the Social Insurance Board has the right, based on the evidence submitted by the recipient of the parental benefit, to deem the income subject to social tax to have been paid in the calendar month during which the payer of social tax should have actually paid the income.

(3) The reduction of the amount of benefit provided for in subsection (1) of this section shall not apply to the following income:

- 1) during the first calendar month of payment of the benefit, the income received for the calendar months prior to the date on which the right to receive the benefit arises;
- 2) the income received after termination of the right to receive the benefit if, during the calendar month of payment of the benefit, income is received for the period which follows the termination of the right to receive the benefit;
- 3) the benefit paid upon insolvency of the employer on the basis of the Unemployment Insurance Act if it is paid during the calendar month of payment of parental benefit;
- 4) loss of income before the right to receive the benefit arises which is paid during the calendar month of payment of parental benefit if later payment was the fault of the payer of social tax.

#### **§ 43. Recalculation of parental benefit at turn of calendar year or upon repeated application**

(1) The benefit granted pursuant to subsection 37 (5) of this Act shall be recalculated on 1 January of each calendar year if the amount of the benefit is less than the minimum wage established by the Government of the Republic. The benefit shall be paid in an amount equal to the minimum wage.

(2) Parental benefit granted pursuant to subsections 40 (1), (2) or (5) of this Act shall be recalculated on 1 January of each calendar year, taking account of the minimum wage established by the Government of the Republic.

(3) If the benefit is granted in the maximum amount of the benefit or at the benefit rate, it shall not be recalculated at the turn of the calendar year.

(4) If parental benefit for the same child is repeatedly applied for by the same person, the amount of the benefit shall not be recalculated.

## **Division 5**

## **Grant, Payment and Change of Recipient of Parental Benefit**

### **§ 44. Grant and payment of parental benefit**

(1) Parental benefit shall be granted as of the date on which the right to receive the benefit provided for in subsection 34 (1) of this Act arises if the documents necessary for application for the benefit are submitted within six months from the date on which the right to receive the benefit arises.

(2) Upon a later application for parental benefit, the benefit shall be granted retroactively, but for not more than the six calendar months preceding the month of submission of the application.

(3) The calendar month of payment of parental benefit is the month for which the benefit is paid. The benefit shall be paid monthly for the previous calendar month.

(4) If a judgment by which a person is sentenced to imprisonment has entered into force and the sentence of imprisonment is enforced, payment of the parental benefit shall be suspended for the time of the serving of the punishment.

### **§ 45. Change of recipient of parental benefit**

(1) The amount of benefit granted to a new applicant for parental benefit shall be calculated pursuant to §§ 37–40 of this Act on the basis of the income of the applicant in the calendar year prior to the date on which the right of the previous recipient of the benefit to receive the benefit specified in subsection 34 (1) of this Act arises, unless the parental benefit is granted on the basis of subsection 41 (1) of this Act.

(2) Upon changing the recipient of parental benefit, the benefit rate, minimum wage and maximum amount of benefit in force on the date on which the right of the previous recipient of the benefit to receive the benefit specified in subsection 34 (1) of this Act arises shall apply to the new applicant for the benefit.

(3) Upon changing the recipient of parental benefit, the parental benefit shall be granted to the new applicant as of the first day of the month following the submission of application.

## **Division 6 Recovery of Parental Benefit**

### **§ 46. Recovery of parental benefit**

(1) Parental benefit shall be recovered if:

- 1) it becomes evident that the income paid to the recipient of the benefit was smaller than the income or social tax paid on the income which served as the basis for the calculation of the benefit, or
- 2) maternity benefit or adoption benefit is received on the basis of the Health Insurance Act at the same time with parental benefit.

(2) The Social Insurance Board shall check the data concerning the individually registered social tax for the calendar months of payment of parental benefit during the period of payment of the benefit and after four calendar months have passed from termination of the right to the benefit.

(3) If it becomes evident that the data on individually registered social tax on the basis of which parental benefit is calculated have changed, the benefit shall be recalculated and the overpaid amounts of benefit shall be recovered from the recipient of the benefit.

(4) The Social Insurance Board shall check the data on individually registered social tax on the basis of which parental benefit is calculated retroactively within three years after termination of the right to receive the benefit.

## **Chapter 4 Maintenance Allowance**

### **Division 1**

# Purpose of Maintenance Allowance and Right to Receive Maintenance Allowance

## § 47. Purpose of maintenance allowance

The purpose of maintenance allowance is to ensure provision of maintenance to a child if the obligated person (hereinafter *obligor*) does not perform the maintenance obligation during the time of court proceedings (hereinafter *maintenance allowance during court proceedings*) or enforcement proceedings (hereinafter *maintenance allowance during enforcement proceedings*).

## § 48. Persons entitled to receive maintenance allowance

(1) The following persons are entitled to receive maintenance allowance:

1) a minor child whose parent does not perform the maintenance obligation;  
2) a child who acquires basic, secondary or higher education or is enrolled in formal vocational education as an adult but not more than until he or she attains 21 years of age and whose parent does not perform the maintenance obligation.

(2) A child is not entitled to receive maintenance allowance if the maintenance obligation is performed by another person in lieu of the parent of the basis of § 106 of the Family Law Act.

## Division 2 Bases for Payment of and Application for Maintenance Allowance

### § 49. Bases for payment of maintenance allowance during court proceedings

(1) Maintenance allowance during court proceedings shall be paid if the obligor does not perform the maintenance obligation to the extent provided for in subsection 101 (1) of the Family Law Act.

(2) Maintenance allowance during court proceedings shall be paid to an entitled person who requests from a court ordering of payment of maintenance, except for changing of the amount of maintenance, and for whose benefit the court ruling on proposal for payment if expedited procedure is applied in the matter of the payment order in a claim for maintenance for a child or a ruling on application of a measure to secure an action obligating the parent to pay maintenance (hereinafter *ruling on securing an action*) has been made.

(3) The amount of maintenance allowance during court proceedings for one child shall be 100 euros per calendar month. Maintenance allowance during court proceedings shall be paid for 150 days as of the date of making the ruling on proposal for payment or the ruling on securing an action specified in subsection (2) of this section.

(4) Maintenance allowance during court proceedings shall not be paid if it has been previously paid to the child due to initiation of court proceedings on ordering of payment of maintenance with regard to the same parent.

### § 50. Bases for payment of maintenance allowance during enforcement proceedings

(1) Maintenance allowance during enforcement proceedings shall be paid on the basis of a court decision ordering payment of maintenance or a decision of an administrative authority considered equal to a court decision. The amount of maintenance allowance during enforcement proceedings for one child shall be up to 100 euros per calendar month and it shall be paid on the basis of the amount of maintenance paid by the obligor.

(2) Maintenance allowance during enforcement proceedings shall be paid if four months have passed from the opening of an enforcement file for the collection of maintenance and after that arrears have arisen for the period provided for in subsection (5) of this section.

(3) If the amount of maintenance paid by the obligor is less than 100 euros per calendar month, the amount of maintenance allowance shall be the difference between 100 euros and the maintenance paid. Maintenance allowance during enforcement proceedings shall not be paid if the amount paid by the obligor is 100 euros or more than 100 euros per calendar month.

(4) If the amount of maintenance ordered from the obligor by a court decision is less than 100 euros per calendar month, the maximum amount of maintenance allowance during enforcement proceedings shall be the amount determined by the court decision entered into force.

(5) The amount of maintenance allowance during enforcement proceedings shall be calculated on the basis of the amount of maintenance transferred by the bailiff to the bank account of the claimant from the first day of the calendar month until the last day of the calendar month.

### **§ 51. Application for maintenance allowance**

(1) In order to receive maintenance allowance during court proceedings, an entitled person who requests from a court ordering of payment of maintenance shall submit an application to the Social Insurance Board.

(2) In order to receive maintenance allowance during enforcement proceedings, an entitled person shall submit an application to the Social Insurance Board through the bailiff conducting the enforcement proceedings.

(3) The Social Insurance Board shall initiate the proceedings for maintenance allowance during enforcement proceeding upon receipt of a notice from the bailiff. The bailiff shall forward the application of an applicant for maintenance allowance to the Social Insurance Board at the latest on the first working day of the calendar month following the calculation period specified in subsection 50 (5) of this Act if the applicant for maintenance allowance has granted his or her consent in an application for enforcement for the initiation of proceedings for maintenance allowance during enforcement proceedings at the Social Insurance Board.

(4) The list of information included in the notice and application specified in subsection (3) of this section and the procedure for the submission thereof shall be established by a regulation of the minister responsible for the area.

## **Division 3 Grant and Payment of Maintenance Allowance**

### **§ 52. Grant of maintenance allowance**

(1) Maintenance allowance during court proceedings is granted if the documents necessary for application have been submitted within 45 days after the making of the ruling on proposal for payment or the ruling on securing an action.

(2) The Social Insurance Board shall make a decision to grant or to refuse to grant maintenance allowance during court proceedings within 15 working days after receipt of the application and all the requisite documents.

(3) The decision to grant maintenance allowance during court proceedings shall specify that the maintenance claim has transferred to the state.

(4) The decision to grant maintenance allowance during court proceedings shall be delivered to the applicant for maintenance allowance and the obligor of the maintenance claim. If there is no information concerning the address of the obligor of maintenance allowance or the obligor of maintenance allowance does not reside at the known address and his or her actual place of stay is unknown and the decision cannot be delivered in any other manner, the decision to grant maintenance allowance shall be published in the official publication *Ametlikud Teadaanded*.

(5) Maintenance allowance during enforcement proceedings shall be granted by an act of the Social Insurance Board.

(6) The Social Insurance Board shall notify the bailiff conducting the enforcement proceedings of the act specified in subsection (5) of this section through the social protection information system. The applicant for maintenance allowance shall be notified of the act concerning the grant of maintenance allowance during enforcement proceedings pursuant to the procedure provided for in § 27 of the General Part of the Social Code Act.

### **§ 53. Payment of maintenance allowance**

(1) The first payment of maintenance allowance during court proceedings shall be made no later than in the month following the date of submission of the application for the month of payment and the preceding period. The following payments shall be made during the following month in the amount of maintenance allowance corresponding to the month of payment.

[RT I, 28.12.2017, 7 - entry into force 01.03.2018]

(2) Maintenance allowance during enforcement proceedings shall be paid by the tenth day of the month following the submission of the application for maintenance allowance during enforcement proceedings and the term provided for in subsection 50 (2) of this Act.

#### **§ 54. Termination of payment of maintenance allowance**

(1) The Social Insurance Board shall terminate the payment of maintenance allowance during court proceedings before the end of the term specified in subsection 49 (3) of this Act and shall annul the decision to grant maintenance allowance:

- 1) if the ruling on securing an action whereby the obligor was obliged to pay maintenance during the time of court proceedings has been annulled;
- 2) if the court proceedings in the matter of the maintenance claim have been terminated;
- 3) if it becomes evident that the conditions for payment of maintenance allowance were not or are no longer complied with;
- 4) in the case of the death of the obligor;
- 5) in the case of the death of the person entitled to receive the maintenance allowance.

(2) If the obligor proves that no maintenance obligation has arisen or that the maintenance obligation has been performed or if he or she submits other substantiated objection against the maintenance claim, the Social Insurance Board shall terminate the payment of the maintenance allowance during court proceedings only under the conditions provided for in clauses (1) 1–3) and 5) of this section.

### **Division 4 Obligations of Recipient of Maintenance Allowance**

#### **§ 55. Notification obligation of recipient of maintenance allowance**

(1) A recipient of maintenance allowance during court proceedings is required to immediately notify the Social Insurance Board, in addition to the provisions on § 9 of this Act, of the following circumstances which affect the payment of maintenance allowance:

- 1) annulment of the ruling on securing of action;
- 2) termination of court proceedings, including termination of court proceedings resulting in refusal to satisfy the maintenance claim and ordering of maintenance;
- 3) the fact that the recipient is no longer raising the child;
- 4) commencement by the obligor of the performance of the maintenance obligation;
- 5) a review of the maintenance paid to the child by the obligor and other information significant in terms of the payment of the maintenance allowance during court proceedings and recovery of the maintenance;
- 6) amendment of court judgement concerning maintenance;
- 7) termination of enforcement proceedings for collection of maintenance for the child conducted in a foreign state.

(2) A recipient of maintenance allowance during enforcement proceedings is required to immediately notify the bailiff of the circumstances provided for in clauses (1) 4)–7) of this section.

#### **§ 56. Recovery and set-off of maintenance allowance**

(1) The Social Insurance Board shall recover the maintenance allowance from a recipient or set off the maintenance allowance paid without basis if:

- 1) maintenance allowance has been paid regardless of the fact that the conditions serving as the basis for the receipt of maintenance allowance provided for in this Act were not complied with;
- 2) the court proceedings which served as the basis for the receipt of maintenance allowance during court proceedings have terminated without ordering of payment of maintenance, unless it was due to the death of the defendant;
- 3) at the time of the payment of maintenance allowance during court proceedings, the obligor commences the performance of the maintenance obligation and upon performing such obligation was not and did not have to be aware of the fact that the claim had transferred to the state;
- 4) at the time of the payment of maintenance allowance during enforcement proceedings, the obligor commences the performance of the maintenance obligation.

(2) It is not permitted to set off maintenance allowance during enforcement proceedings paid without basis against the claim of the entitled person for maintenance allowance during enforcement proceedings.

(3) If the bailiff becomes aware of the circumstances specified in clause (1) 4) of this section, the bailiff shall immediately notify the Social Insurance Board thereof.

(4) If the set-off specified in subsection (1) of this section has not resulted in the satisfaction of the claim, the Social Insurance Board shall have the right to forward the claim for collection to the State Shared Service Centre.

[RT I, 28.12.2017, 7 - entry into force 01.03.2018]

### **Division 5**



## **Transfer of Maintenance Claim to State and Collection thereof**

### **§ 57. Transfer of maintenance claim to state**

(1) If the child had the right to claim maintenance from the obligor during court proceedings, the claim of the recipient of maintenance allowance during court proceedings shall transfer to the state upon making of the decision to grant maintenance allowance to the extent specified in the court decision made in the dispute between the obligor and obligee, but not in excess of the part of the maintenance allowance paid by the state to the applicant for maintenance allowance.

(2) The maintenance claim of the recipient of maintenance allowance during enforcement proceedings arising from the court decision shall transfer to the state to the extent of maintenance allowance during enforcement proceedings paid as of the grant of maintenance allowance during enforcement proceedings.

(3) A court decision made in the dispute between the obligor and obligee concerning a maintenance claim transferred to the state based on subsections (1) and (2) of this section also applies to the state. The state has the rights arising from the enforcement instrument which exists in respect of the maintenance claim transferred to the state.

(4) The Social Insurance Board shall inform the obligor of the transfer of the claim for maintenance allowance during court proceedings to the state immediately after the entry into force of the court decision in the dispute between the obligor and obligee.

(5) The obligor shall be informed in writing of the claim which has transferred to the state, as well as of the time, extent and legal basis of the transfer of the claim. At the same time, the obligor is made a proposal to satisfy the state's claim arising from the payment of maintenance allowance during court proceedings and is provided with necessary instructions for satisfaction thereof.

### **§ 58. Collection of maintenance claim transferred to state**

(1) If the obligor of the claim for maintenance allowance during court proceedings has not satisfied the claim which has transferred to the state, the Social Insurance Board may set off the maintenance claim or collect the debt after entry into force of the court decision obligating to pay maintenance pursuant to the procedure provided for in the General Part of the Social Code Act.

(2) The collection of a maintenance claim transferred to the state shall be organised and the rights of the obligee shall be performed by the State Shared Service Centre.  
[RT I, 28.12.2017, 7 - entry into force 01.03.2018]

(3) The Social Insurance Board shall file a petition in respect of a claim transferred to the state due to payment of maintenance allowance during enforcement proceedings for becoming a party in the enforcement proceedings initiated in the maintenance matter or, in the case of intermediation of maintenance received from a foreign state, for deduction of the claim of the state on the basis of subsection 60 (3) of this Act.

(4) A maintenance claim transferred to the state shall be paid to the state in joint enforcement proceedings only if the maintenance claim of the child which has become collectable has been paid in full.

(5) Maintenance allowance shall not be collected from a person entitled to receive maintenance allowance if the claim of the state against the person has arisen pursuant to the procedure provided for in the Law of Succession Act.

(6) The sums related to maintenance claims transferred to the state and collected from the obligors and the sums related to maintenance allowances recovered from the recipients of maintenance allowance shall be transferred to the state budget.

## **Division 6 Specifications of Maintenance Allowance during Enforcement Proceedings upon Conducting Enforcement Proceedings in Foreign State**

### **§ 59. Submission of court decision to foreign state for enforcement**

(1) If it is not possible to conduct enforcement proceedings with regard to an obligor in Estonia because the assets, residence or location of the obligor are not in Estonia and the applicant knows that the location of the

obligor or his or her assets may be in a foreign state, the applicant for maintenance allowance shall, in order to receive maintenance allowance during enforcement proceedings, submit the court decision ordering payment of maintenance to the appropriate foreign state for enforcement. In this case the applicant shall also submit an application for maintenance allowance during enforcement proceedings to the bailiff authorised on the basis of subsection (3) of this section.

(2) If the assets, residence or location of an obligor are in a Member State of the European Union or in a state which is a party to a convention which allows application for enforcement of a court decision ordering payment of maintenance through the Estonian central authority, the applicant for maintenance allowance shall submit the court decision ordering payment of maintenance to the appropriate foreign state for enforcement through the Ministry of Justice. In this case the applicant shall also submit an application for maintenance allowance during enforcement proceedings to the Ministry of Justice.

(3) Upon submission of a court decision ordering payment of maintenance to a foreign state for enforcement, the applicant for maintenance allowance is required to authorise a bailiff selected by the applicant to receive the maintenance collected from the obligor in the foreign state. Upon submission of the court decision ordering payment of maintenance to the foreign state for enforcement, the applicant for maintenance allowance shall indicate the authorised bailiff as the recipient of the maintenance and the official bank account of the bailiff as the account of the recipient.

(4) The list of information included in the authorisation document specified in subsection (3) of this section by which an applicant for maintenance allowance authorises a bailiff to receive maintenance collected from a foreign state shall be established by a regulation of the minister responsible for the area.

(5) The Ministry of Justice shall communicate the application for maintenance allowance, a copy of the court decision sent to the foreign state and calculation of the debt submitted by the applicant to the authorised bailiff.

(6) The authorised bailiff shall open a file concerning the intermediation of maintenance received from the foreign state in which the bailiff shall keep records on the maintenance claims of the child and the state on the basis of the maintenance received in the bank account of the bailiff and the information and documents submitted to the bailiff. The bailiff shall submit to the Social Insurance Board within the term specified in subsection 50 (5) of this Act the amount of the payment of maintenance allowance for the calculation period specified in the same provision on the basis of the amount of maintenance transferred by the bailiff to the applicant for maintenance allowance and written documents submitted to the bailiff certifying that the claim of the applicant for maintenance allowance has been satisfied.

(7) If enforcement proceedings are conducted against the obligor in Estonia but enforcement proceedings can be initiated against the obligor also in a foreign state, the applicant for maintenance allowance is required to commence enforcement proceedings also in the foreign state pursuant to this Division. In this case, the applicant for maintenance allowance shall authorise the bailiff conducting enforcement proceedings in Estonia to receive the maintenance collected in the foreign state.

(8) If an applicant for maintenance allowance has initiated enforcement proceedings in a foreign state on the basis of a court decision ordering payment of maintenance before the applicant submits an application for maintenance allowance, the applicant shall, in order to receive maintenance allowance, authorise the Estonian bailiff to receive the maintenance collected in the foreign state pursuant to this section and notify the institution or person conducting enforcement proceedings in the foreign state that the collected maintenance must be transferred to the official bank account of the authorised bailiff. The applicant for maintenance allowance is required to submit in respect of enforcement proceedings initiated in the foreign state a confirmation from the institution conducting enforcement proceedings which shall be certified by an apostille or legalised.

(9) If the Ministry of Justice has received the information from the central authority of the foreign state that enforcement proceedings have not been initiated or have been terminated in the foreign state, the Ministry of Justice shall communicate the specified information to the Estonian bailiff authorised to intermediate maintenance from the foreign state. The bailiff shall terminate the intermediation of maintenance after the receipt of the information and close the file concerning the intermediation of maintenance.

#### **§ 60. Maintenance received from foreign state, payment of maintenance allowance and deduction of claim of state**

(1) A bailiff who has been authorised to receive maintenance collected in a foreign state is required to transfer the maintenance received in the account of the bailiff to the account of the applicant for maintenance allowance within ten working days.

(2) Maintenance allowance during enforcement proceedings shall be paid after four months have passed from the submission of a confirmation concerning the receipt of the court decision by a competent person for compulsory enforcement in the foreign state. In the case the court decision has been submitted for enforcement through the Ministry of Justice, maintenance allowance during enforcement proceedings shall be paid after four months have passed if the Ministry of Justice has received a notice from a competent central authority of the foreign state on communication of the court decision for enforcement.

(3) The bailiff shall deduct the maintenance claim transferred to the state from the maintenance received from the foreign state on the basis of the court decision and a document certifying the transfer of the claim submitted to the bailiff if the maintenance claim of the child which has become collectable has been paid in full.

## **Chapter 5 Implementing Provisions**

### **Division 1 Transitional Provisions and Ex-post Assessment**

#### **§ 61. Continuation of payment of single parent's child allowance**

If a person receives single parent's child allowance during entry into force of this Act, the payment shall continue pursuant to § 19 of this Act.

#### **§ 62. Implementation of subsection 50 (2)**

The term of four months provided for in subsection 50 (2) of this Act shall not apply to a person who has initiated enforcement proceedings at least four months before entry into force of this Act.

#### **§ 63. Ex-post assessment of Act**

(1) For ex-post assessment of this Act, the Social Insurance Board shall prepare an activity plan which sets out the time of ex-post assessment, the types of impact and assessment criteria. The Social Insurance Board shall submit the specified activity plan to the Ministry of Social Affairs by 1 January 2018.

(2) The Social Insurance Board shall carry out ex-post definitive assessment by 1 January 2020 and submit it to the Ministry of Social Affairs for approval.

### **Division 2 Amendment and Repeal of Acts**

§ 64.–§ 72.[Omitted from this text.]

#### **§ 73. Amendment of Social Welfare Act**

The Family Benefits Act is amended as follows:

- 1) clause 16 (1) 5) is amended and worded as follows:  
" 5) allowance for families with many children.";
- 2) the number "50" in subsection 17 (3) shall be replaced with the number "55";
- 3) the number "55" in subsection 17 (3) shall be replaced with the number "60";
- 4) subsection 21 is amended and worded as follows:  
" § 21. Allowance for families with many children

(1) One of the parents, a guardian or caregiver or a person specified in clause 25 (1) 2) or 3) of this Act, raising three or more children in a family, who comply with the requirements provided for in subsection 17 (1) or (2) of this Act has the right to receive the allowance for families with many children.

(2) The allowance for families with many children for families raising three to six children is 300 euros.  
[RT I, 24.12.2016, 1 - entry into force 01.01.2017]

(3) The allowance for families with many children for families raising seven or more children is 400 euros."  
[RT I, 24.12.2016, 1 - entry into force 01.01.2017]

§ 74.–§ 87.[Omitted from this text.]

### **Division 3**

# Entry into Force of Act

## § 88. Entry into Force of Act

- (1) This Act enters into force on 1 January 2017.
- (2) Clause 79 2) and clauses 87 1) and 2) of this Act enter into force pursuant to the general procedure.
- (3) Clauses 73 1) and 4), clause 76 1) and clause 78 5) of this Act enter into force on 1 July 2017.
- (4) Subsection 64, clause 70 1) and clause 73 2) of this Act enter into force on 1 January 2018.
- (5) Clause 73 3) of this Act enters into force on 1 January 2019.