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Civil Service Act

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Chapter 1 General Provisions

§ 1. Scope of regulation of Act

This Act shall establish the organisation of civil service and the legal status of an official.

§ 2. Scope of application of Act

(1) This Act applies to the officials of state and local government authorities and in the cases provided for by this Act to the employees of a state and local government authority.

(2) This Act shall be applied to the police, prison and rescue officers, foreign service and prosecutor's service officials, active servicemen and other special categories of officials with specifications provided for by specific laws.

(3) Unless otherwise specified by law, this Act shall not apply to:

- 1) a member of the Riigikogu;
- 2) a member of the European Parliament;
- 3) the President of the Republic;
- 4) a member of the Government of the Republic;
- 5) a judge;
- 6) the Chancellor of Justice;
- 7) the Auditor General;
- 8) the Public Conciliator;
- 9) a member of the local government council;
- 10) a member of the rural municipality or city government;
- 11) a rural municipality or city district elder.

§ 3. Application of acts regarding regulation of employment relationships

(1) The Employment Contracts Act shall not apply to officials, except in the cases provided for by this Act.

(2) The employment relationships of the employees in an authority shall be governed by the Employment Contracts Act and other acts regarding the governing of employment relationships.

(3) The persons who perform support or advisory functions specified in subsection 7 (6) of this Act shall not be applied § 10 of the Employment Contracts Act.

§ 4. Application of Administrative Procedure Act

The provisions of the Administrative Procedure Act shall be applied to the administrative proceedings prescribed in this Act taking account of the specifications of this Act.

§ 5. Civil service

Civil service is:

- 1) a public-law service and trust relationship between the state or local government and an official to perform the functions of the authority, which is the exercise of official authority;
- 2) the employment relationship, governed by private law, between the state or local government and a person to perform the functions of the authority, which is solely the work to support the exercise of official authority;

§ 6. Authority

(1) An authority is a body, which is financed from the budget of the state or local government, whose function is to exercise official authority.

(2) For the purposes of subsection (1) of this section a state authority is:

- 1) a government authority for the purposes of the Government of the Republic Act;
- 2) the Chancellery of the Riigikogu;
- 3) the Office of the President of the Republic;
- 4) the National Audit Office;
- 5) the Office of the Chancellery of Justice;
- 6) the court;
- 7) the Gender Equality and Equal Treatment Commissioner's Office.

(3) For the purposes of subsection (1) of this section a local government authority is:

- 1) an office of a rural municipality or city council;
- 2) a rural municipality or city office;
- 3) a rural municipality or city government as an authority together with its structural units;
- 4) a rural municipality or city district government as an agency;
- 5) a rural municipality or city government office.

§ 7. Official and employee

(1) An official is a person who is in the public-law service and trust relationship with the state or local government.

(2) An official shall be appointed to a post in an authority, specified in § 6 of this Act, which involves the exercise of official authority.

(3) For the purposes of subsection (2) of this section the exercise of official authority means the performance of the following functions:

- 1) the directing of an authority;
- 2) the exercise of state and administrative supervision, as well as the conduct of internal audit;
- 3) the ensuring of the security and constitutional order of the state;
- 4) the permanent military defence of the state and preparation therefor;
- 5) the proceeding of offences;
- 6) the diplomatic representation of the Republic of Estonia in foreign relations;
- 7) the taking of decisions necessary for the performance of the principal functions of the Riigikogu, the President of the Republic, the National Audit Office, the Chancellor of Justice and the courts, the substantive preparation or implementation thereof;
- 8) the substantive preparation or implementation of the policy-making decisions within the competence of the Government of the Republic, local government council, municipal or city government and authority;
- 9) the activities which, in the interests of strengthening and developing the official authority, cannot be given to the competence of a person who is only in the relationships governed by private law with the authority.

(4) An employee is recruited for the job in an authority specified in § 6 of this Act, which does not involve the exercise of official authority but only work in support of the exercise of official authority. The employee shall work under the employment contract.

(5) Employment for the purposes of subsection (4) of this section is primarily:

- 1) accounting;
- 2) human resource work;
- 3) records management;
- 4) activities of procurement specialists;
- 5) activities of administrative personnel;
- 6) activities of information technologists;
- 7) other work in support of the exercise of official authority.

(6) A person who performs support or advisory functions with the President, Vice-President or member of a fraction of the Riigikogu, the Prime Minister, a minister, a chairman or vice-chairman of the council or fraction, a rural municipality mayor or city mayor or a member of the municipal or city government until the expiry of the term of office of the person specified or the termination of the activities of the fraction. Such person, performing support or advisory functions, shall work under the employment contract entered into for a specified term.

§ 8. Place of employment and function group

(1) A place of employment is a post or job established on the staff of an authority.

(2) For the purposes of this Act a function group is a group of places of employment with largely similar service or work functions, which is divided into levels according to the character of the functions to be performed.

§ 9. Development of civil service

(1) The Ministry of Finance shall direct the development of civil service.

(2) To perform the function specified in subsection (1) of this section the Ministry of Finance shall:

- 1) analyse the practical implementation of the legislation regarding the governing of civil services, advise authorities on these issues and answer memorandums and requests for explanation;
- 2) assemble, intermediate and analyse information about the development and management of civil service, provide explanations of this type, form opinions thereon and draft advisory guidelines;
- 3) organise the administration of the personnel and payroll database of the state.

(3) The Ministry of Finance shall administrate the central web page of civil service.

§ 10. Establishment of regulations of Government of Republic

(1) The Government of the Republic shall establish by a regulation:

- 1) the requirements for the education, work experience and foreign language skills of officials which are necessary for the performance of functions;
- 2) the procedure for recruitment and selection of officials;
- 3) the procedure for training officials;
- 4) the procedure for the establishment of the places of employment on the staff of the state authorities, classification and grading of places of employment;
- 5) the procedure for drafting the salary guide and determination of the salary components;
- 6) the procedure for submission of data to the state personnel and payroll database and performance of accounting operations.

(2) The Government of the Republic shall establish, by a regulation, the requirements to the secretary general and the deputy secretary general of a ministry, Director of the Government Office, directors general of an executive agency and inspectorate and the heads of other government authorities, specified in the same regulation, the procedure for recruitment and selection and the development and evaluation thereof.

(3) The Government of the Republic may establish, by a regulation, the conditions applicable to the contract of employment of a national authority, except for the conditions applicable to the contract of employment of the employees of an authority, specified in subsection (4) of this section.

(4) The regulations of the Government of the Republic, specified in clauses (1) 1)-5) of this section (1), are advisory for the Chancellery of the Riigikogu, the Office of the President of the Republic, the National Audit Office, the Office of the Chancellery of Justice, the courts and local governments. The establishment of the procedures, specified in clauses (1) 1)-5) of this section, at the Chancellery of the Riigikogu, the Office of the President of the Republic, the National Audit Office, the Office of the Chancellery of Justice, the courts and local government, is based on this Act.

§ 11. Places of employment on the staff of authority and classification into function groups

(1) At least the division into posts and jobs, the titles thereof, the term and work load of a place of employment within an authority shall be determined in the composition of the places of employment on the staff of an authority.

(2) The places of employment on the staff of a ministry and the Government Office shall be established respectively by a minister or a secretary general of a ministry authorised by him or her or the Secretary of State.

(3) The places of employment on the staff of an authority within the area of government of a ministry shall be established by the minister or the head of the authority authorised by him or her.

(4) The classification of the places of employment of a ministry, an authority within the area of government of a ministry and the Government Office into function groups shall be established respectively by a person specified in subsection (2) or (3) of this section or by a person authorised by him or her. The composition of the places of employment of the Gender Equality and Equal Treatment Commissioner's Office and the classification thereof into function groups shall be established by the Gender Equality and Equal Treatment Commissioner.

(5) The composition of the places of employment of a local government authority shall be established by the local government council. The local government council may delegate the making of the changes in the composition of the places of employment to a municipal or city government within the limits of the salary fund established by the council. The classification of the places of employment of a local government authority into function groups may be established by the local government council or a person authorised thereby.

(6) The composition of places of employment of the Chancellery of the Riigikogu shall be established and the classification of the places of employment into function groups may be established by the Board of the Riigikogu. The composition of places of employment of the Office of the President of the Republic, the National Audit Office, the Office of the Chancellery of Justice and the Supreme Court shall be established and the classification of the places of employment into function groups may be established by the head of the respective authority. The procedure for the establishment of the composition of places of employment at the courts of first and second instance, the classification of the places of employment and the procedure for classification thereof may be established by the Ministry of Justice after hearing the opinion of the Council for Administration of Courts.

(7) The establishment of the composition of places of employment and the classification of the places of employment into function groups of an authority not specified in subsections (5) and (6) of this section shall be guided by the procedure established by a regulation of the Government of the Republic specified in clause 10 (1) 4) of this Act.

§ 12. Council of Ethics of Officials

(1) The Government of the Republic shall form a Council of Ethics of Officials to the Ministry of Finance (hereinafter Council of Ethics) the purpose of whose activities is to reinforce the core values and ethics of officials.

(2) The Council of Ethics shall be independent upon the performance of its functions.

(3) The composition of the Council of Ethics shall be established by the Government of the Republic on the proposal of the Minister of Finance for up to three years.

(4) The Council of Ethics shall approve the Code of Ethics for Officials and support the consistent implementation thereof.

(5) The functions of the Council of Ethics shall be:

- 1) to provide explanations for the implementation of the Code of Ethics for Officials;
- 2) to advise officials and authorities regarding the issues of ethics of officials;
- 3) upon being approached by an official provide opinion about the compliance of his or her action or behaviour with the requirements for ethics of officials;
- 4) to analyse the implementation of the Code of Ethics of Officials and the necessity to amend thereof;
- 5) to participate in drafting the development plans and legislation for the determining the strategic development directions of the ethics of officials.

(6) The Council of Ethics shall have the right:

- 1) to receive information, documents and explanations which are necessary for its work from a state and local government authority;
- 2) involve experts and other persons in the settlement of issues and form working groups.

(7) An official shall be entitled to approach the Council of Ethics with the request for explanation regarding the issues specified in subsection (5) of this section.

(8) Upon being approached by an official the Council of Ethics has the right to refuse to give an opinion as regards the function specified in clauses (5) 2) and 3) of this section if:

- 1) a disciplinary procedure has been initiated in the same matter with regard to an official;
- 2) an official has not attempted to resolve the matter within the authority;
- 3) an official has approached the Council of Ethics in the matter not concerning him or her.

(9) The specific functions and bases for the organisation of work of the Council of Ethics shall be established by a regulation of the Government of the Republic.

§ 13. Principle of equal treatment

The authorities shall have to ensure the protection against discrimination of the persons who apply to take up the service and of those who are employed in the service, follow the principle of equal treatment and promote equality.

Chapter 2 Employment in service

Division 1 Requirements for employment in service

§ 14. Requirements for employment in service

(1) An Estonian citizen who has at least a secondary education, has active legal capacity and is proficient in Estonian to the extent provided by law or on the basis thereof may be employed in the service.

(2) A citizen of a Member State of the European Union who conforms to the requirements established by law and on the basis thereof may also be employed in the service. Only Estonian citizens shall be appointed to a post related to the directing of the authorities, the exercise of state supervision, the national defence and judicial power, the processing of state secrets or classified information of foreign states, the representing of public prosecution or diplomatic representation of the state, and the posts in which an official has the right, in order to guarantee public order and security, to restrict the fundamental rights and freedom of a person.

(3) The requirements for education, work experience, knowledge and skills of the officials of the Chancellery of the Riigikogu, the Office of the President of the Republic, the National Audit Office, the Office of the Chancellery of Justice and the Supreme Court, which are necessary for the performance of functions, shall be established by the head of the respective authority. The requirements for education, work experience, knowledge and skills of the officials of the courts of first and second instance, which are necessary for the performance of functions, shall be established by the Ministry of Justice upon hearing the opinion of the Council for Administration of Courts. The requirements for education, work experience, knowledge and skills of the officials of a local government authority, which are necessary for the performance of functions, shall be established by the local government council.

(4) The head of an authority, not specified in subsection (3) of this section, or a head to whom he or she is subordinate or a secretary general empowered by him or her may establish specific requirements to the requirements for the performance of functions by a regulation of the Government of the Republic specified in clause 10 (1) 1) of this Act and supplementary requirements for education and skills of a person if this is necessary for the performance of functions. A person who has the appointment authority shall have the abovementioned right in the case of the Gender Equality and Equal Treatment Commissioner.

§ 15. Persons who may not be employed in service

The following person may not be employed in service:

- 1) who is under punishment for an intentionally committed criminal offence;
- 2) who has been punished for an intentionally committed criminal offence against the state, regardless of the deletion of the information concerning punishment;
- 3) who has been deprived of the right to work in a particular post or to operate in a particular area of activity by a court judgement which has entered into force in such office or area of activity;
- 4) who is a spouse or a partner in the marriage-like relationship (hereinafter unmarried partner) or a grandparent, a parent of an official who has direct control over the corresponding post, or a parent or a descendant of the parent, including a child and grandchild, of a spouse or an unmarried partner. Within the meaning of this Act an adoptive parent, foster parent, adopted child and foster child are also deemed to be a relative in the descending line.

Division 2 Employment in service by way of competition

§ 16. Obligation to organise competition

(1) A vacant post shall be filled by way of public competition.

(2) The announcement of public competition may be waived and internal competition may be carried out if there is good reason to believe that it is reasonable to fill the vacant post by way of announcing the competition within one or more authorities.

(3) The feasibility of carrying out the internal competition is assumed if the education, work experience, knowledge and skills of the officials employed in the service of the authority involved in the internal competition comply with the requirements established for the performance of functions to the extent which

enables them to perform the functions of the vacant post better than the persons participating in publicly announced competition.

(4) The competition may not be carried out if there is a good reason to believe that it is reasonable to fill the vacant post by way of temporary transfer of an official pursuant to subsection 33 (1) of this Act. The feasibility of the temporary transfer is assumed if this is necessary for the increasing of the competency and motivation of the official to be transferred and for the promotion of the cooperation between the authorities, and the education, work experience, knowledge and skills of the official to be transferred are in compliance with the requirements for the performance of functions to the extent which enables him or her to perform the functions of the vacant post.

(5) The competition shall not be organised if an official is transferred pursuant to clauses 98 (1) 1)-3) of this Act.

(6) The provisions of subsections (2)-(5) of this section shall not extend to filling the vacant post of the Secretary of State, secretary general and deputy secretary general of a ministry, Director of the Government Office, director general of an executive agency and inspectorate or the heads of other government authorities specified in the regulation of the Government of the Republic established on the basis of subsection 10 (2) of this Act.

(7) The competition shall not be carried out if the functions of the missing official are transferred to another official according to § 57 of this Act. The period of replacement of a missing official, specified in subsection (6) of this section, pursuant to § 57 of this Act may not exceed six months per year.

(8) The Secretary of State, a secretary general of a ministry, the Director of the Office of the President of the Republic and the Adviser to the President of the Republic may be employed in service without a competition.

§ 17. Announcement of competition

(1) Upon organising a public competition, a vacant post or arising vacancy shall be published on the central web page of the authority and civil service. The deadline for candidates to submit applications shall not be shorter than 14 calendar days from the date of publication of the competition announcement on the central web page of the civil service.

(2) Upon organising internal competition a vacant post or arising vacancy shall be announced through the internal information exchange channel of the authority. The deadline for candidates to submit applications shall not be shorter than 14 calendar days from the date of publication of the competition announcement via the internal information exchange channel of the authority.

(3) The competition announcement shall include at least a brief description of functions, requirements for the candidate and the term of service upon appointment to the post for a specified term.

§ 18. Organisation of competition

(1) Recruitment and selection shall be based on the previously published conditions and equal treatment of candidates.

(2) The announced competition may be abandoned or the published conditions of the competition may be amended only in the grounded cases notifying the candidates in a format enabling reproduction in a written form at the first opportunity and, in the case of public competition, on the central web page of an authority and civil service and, in the case of internal competition, via the internal information exchange channel of the authority.

(3) A proposal to fill the post shall be made to the candidate whose education, work experience, knowledge and skills correspond best to the requirements for the performance of functions.

(4) A public competition to fill the post of a secretary general and deputy secretary general of a ministry, Director of the Government Office, the directors general of an executive agency and inspectorate and the head of a government authority specified in the regulation of the Government of the Republic established on the basis of subsection 10 (2) of this Act, shall be performed by the Civil Service Committee for Selection of Top Managers (hereinafter Committee for Selection of Top Managers).

(5) A public competition to fill the post of a secretary general of a ministry, a deputy secretary general of a ministry, Director of the Government Office, a director general of an executive agency and inspectorate and the head of a government authority specified in the regulation of the Government of the Republic established on the basis of subsection 10 (2) of this Act shall be announced at least six months before the expiry of the term of office of a current secretary general and deputy secretary general of a ministry, Director of the Government Office, director general of an executive agency and inspectorate and head of a government authority specified in the regulation of the Government of the Republic established on the basis of subsection 10 (2) of this Act.

(6) The chairman of the Committee for Selection of Top Managers is a State Secretary and the composition thereof shall be determined by the Government of the Republic.

(7) The procedure for recruitment and selection of the officials of the Chancellery of the Riigikogu, the Office of the President of the Republic, the National Audit Office, the Office of the Chancellery of Justice and the Supreme Court shall be established by the head of the corresponding authority. The procedure for recruitment and selection of the court officials of the courts of the first and second instance may be established by the Minister of Justice after hearing the opinion of the Council for Administration of Courts. The procedure for recruitment and selection of officials of a local government authority shall be established by the municipal or city government.

(8) The specific procedure for recruitment and selection of the officials of the authorities not specified in subsection (7) of this section shall be established by the head of the authority or a person empowered by him or her pursuant to the regulation of the Government of the Republic specified in clause 10 (1) 2) of this Act.

(9) A ranking may be compiled for several candidates from among the persons who participated in the competition but were not made a proposal to assume the post.

(10) The next best candidate may be appointed to the post if the person who won the competition abandons the assumption of the post, the administrative act regarding the appointment of the specified person to the post is repealed in the cases provided for in § 29 of this Act or if the official is released from service during the probationary period. The appointing authority may, without announcing a new competition, make a proposal in a format enabling reproduction in a written form to the next best in the ranking of the competition to assume the post within 150 calendar days as of making a proposal to the person who won the competition to assume the post.

§ 19. Failure of competition

(1) A competition shall be considered failed if:

- 1) no applications are submitted for participation therein;
- 2) the appointing authority has abandoned making a proposal to assume the post for a reason that the education, work experience, knowledge and skills of none of the candidates met the requirements for the performance of functions to the extent which would enable him or her to perform his or her functions to the best possible way.

(2) A failure of the competition shall be decided in a written form within 120 calendar days after the expiry of the term appointed for participation in the competition. If no person has been nominated to the post under competition within the term specified, the competition is automatically deemed to have failed.

(3) The appointing authority may, within 120 calendar days as of the date of making a decision about a failure of the competition, nominate a person who meets the requirements for the performance of functions to the post without the announcement of the competition.

(4) If the person appointed to the post on the basis of subsection (3) of this section proves to be unsuitable during the probationary period, a new competition shall be organised to fill the post.

(5) Subsections (3) and (4) of this section shall not extend to filling the vacant post of the Secretary of State, secretary general and deputy secretary general of a ministry, Director of the Government Office, director general of an executive agency and inspectorate and the head of a government agency specified in the regulation of the Government of the Republic established on the basis of subsection 10 (2) of this Act.

§ 20. Announcement of competition results

A person who has won the competition and the candidates who were not selected shall be notified of the final results of the competition in a format enabling reproduction in a written form within 14 calendar days following the date of making the decision.

Division 3

Procedure for employment in service of official

§ 21. Procedure for employment in service of official

(1) An official shall be employed in service by appointment to the post.

(2) An official shall be appointed to a vacant post established on the staff of an authority in the procedure provided for in this Act.

§ 22. Right for appointment

(1) The head of an authority or a person authorised thereby, as well as a body or a person authorised thereby shall have the right to appoint to a post (hereinafter the appointing authority).

(2) The secretary general of a ministry shall be appointed to the post by the Government of the Republic after hearing the opinion of the Committee for the Selection of Top Managers.

(3) The final decision of the Committee for the Selection of Top Managers regarding the suitability of the candidate shall be published on the web page of the Government Office.

§ 23. Term of service

(1) An official shall be appointed to the post for an unspecified term, except in the cases provided for in subsection (2) of this section.

(2) The following shall be appointed to the service for a specified term:

1) a substitute for a temporarily absent official until the return to or release from office of the person substituted;

2) an official performing functions of temporary character, especially the time-limited functions and functions which have arisen due to a temporary increase in the volume of work for the period of the performance of function or the increase in the volume of work but no longer than for five years or until the termination of the activities of the Investigation or Problem Committee of the Riigikogu;

3) the Secretary of State, secretary general of a ministry, deputy secretary general of a ministry, Director of the Government Office, head of a governmental agency – for five years;

4) an adviser to the President of the Republic for the term of office of the President of the Republic;

5) the head of the authorised representative of the national security – for five years;

6) the Gender Equality and Equal Treatment Commissioner - for five years.

(3) If an official appointed to the post for a specified term on the basis of clause (2) 2) of this section is appointed to the same post for a specified term for more than two consecutive times or if his or her term of office is extended more than once during five years, the official is deemed to be appointed to the post for an unspecified term. The appointment of a person is deemed to be consecutive if the interval between the release from office and appointment to office does not exceed 60 calendar days..

(4) The running of the time-limit specified in clause (2) 3) of this section shall be suspended for the period while the official is staying on a maternity, adoptive parents or parental leave.

(5) An official shall not be appointed to a post specified in clause (2) 5) of this section for more than two consecutive terms of office.

§ 24. Probationary period

(1) The purpose of the probationary period is to evaluate if the education, work experience, knowledge and skills of an official are sufficient to meet the requirements for the performance of functions established by or on the basis of this Act or the requirements established by or on the basis of a specific act in the case of a specific function of civil service specified in subsection 2 (2) of this Act (hereinafter requirements for the performance of functions).

(2) The appointing authority shall apply the probationary period on an official with the duration of up to four months from the date of the assumption of the post. The probationary period of an official who is appointed to the post for a specified term shall not be longer than half of his or her term of office.

(3) The probationary period shall not be applied if an official is transferred to another post in the same authority. If the official is transferred to another post in the same authority, where the requirements for the performance of functions significantly differ from those of the current post, a probationary period may be applied on an official.

(4) A probationary period shall not be applied:

1) if an official is transferred to another post for a specified term according to subsection 33 (1) of this Act;

2) if an official is transferred to another post for an unspecified term according to clauses 98 (1) 1)-3) of this Act;

3) if an official who is appointed to a post for a specified term is appointed to the same post for a new period;

4) to an official who is appointed to the post by the Government of the Republic or the Prime Minister;

5) the deputy secretary general, Director of the Government Office and the head of a government authority;

6) to the Gender Equality and Equal Treatment Commissioner.

(5) If an official who is on a probationary period is transferred to another post on the basis of subsection 98 (1), his or her current probationary period shall continue. If the official who is on a probationary period is, on the basis of subsection 98 (1), transferred to another post in which the requirements for the performance of functions significantly differ from those of the current post, the appointing authority may appoint a new probationary period for the official with the duration of up to four months. Where possible, the results of the previous probationary period shall also be taken into account upon evaluating the results of the new probationary period.

(6) The period during which the right to exercise official authority was suspended on the basis provided for in § 83 of this Act shall not be calculated into the probationary period.

(7) Before the end of the probationary period the official shall be offered an opportunity to participate in the probationary interview in the course of which the matters specified in subsection (1) of this section shall be discussed. The summary of the probationary interview shall be formalised in a format enabling reproduction in a written form and forwarded to the official for the submission of an opinion.

§ 25. Documents submitted for assumption of post

(1) A person who applies to assume the post shall submit to the appointing authority the following documents:

- 1) signed application with the confirmation that there are no circumstances which would preclude the employment of an official in the service;
- 2) a *curriculum vitae*;
- 3) a certificate or diploma with regard to the necessary education;
- 4) identification document;
- 5) other documents required by or on the basis of law.

(2) If an official is appointed to another post in the same authority, he or she does not need to submit the documents specified in clauses (1) 2)-4) of this section.

(3) A candidate who has reached the final round of the competition may be interviewed about the economic and other interests for the purposes of the Anti-corruption Act if the submission of the declaration is required in this post on the basis of the Anti-corruption Act.

§ 26. Appointment to post

(1) An administrative act regarding the appointment of an official to a post shall include at least the following data:

- 1) the given name, surname and personal identification code of the person to be appointed to the post;
- 2) the name of the authority where the person shall be appointed to a post;
- 3) the title of the post;
- 4) the authorisation for exercise of official authority with reference to the provision forming the basis therefor or the function of the exercise of official authority specified in subsection 7 (3) of this Act;
- 5) the basic salary of an official;
- 6) the location of the post which is deemed to be the territory of the local government where the performance of functions of the post is carried out;
- 7) the date of the assumption of the post;
- 8) the length of service relationship in civil service (hereinafter the length of service) or the absence thereof as of the date preceding the date of assumption of service;
- 9) the term of service in the case of the appointment to the post for a specified term;
- 10) the duration in the case of the assignment of a probationary period;
- 11) the workload in the case of employment with partial working time;
- 12) a reference to challenge.

(2) If a person is appointed to a post for a specified term in the case specified in clause 23 (2) 2), the respective justification shall be included in the administrative act regarding the appointment to the post.

§ 27. Oath of office

(1) Upon the assumption of a post for the first time an official shall take, before the person who has appointed him or her, the following oath of office in writing:
“I, (name of the official) swear to be faithful to the Republic of Estonia and the constitutional order of Estonia and to perform in an honest manner the functions of the office which is entrusted to me.”

(2) A person who takes the oath shall sign the text of the oath, also indicating the date of taking the oath.

§ 28. Commencement of service

(1) An official shall be in the service as of the date of assumption of the post.

(2) The date of assumption of the post may not be earlier than the date of the administrative act concerning the appointment to the post and the date of taking the oath of office.

(3) The appointing authority may postpone the commencement of the assumption of the post of an official for a good reason on the basis of the request of the official.

(4) A good reason specified in subsection (3) of this section is primarily the illness of a person or an unexpected personal or family-related obstacle.

(5) The authority shall establish a job description and introduce it to an official before the assumption of the post by the official. The obligation specified above shall only apply if the official assumes a post in which the establishment of a job description is compulsory.

§ 29. Cancellation of appointment to post

(1) The appointing authority shall cancel the administrative act regarding the appointment to a post if:

- 1) a person appointed to the post submits a request in this respect before the date determined for the assumption of the post;
- 2) the circumstances, provided by law, which preclude the appointment to a post become known before the assumption of the post;
- 3) a person has not assumed the post by the specified date without good reason;
- 4) a person refuses to take the oath of office.

(2) A person in whose respect the administrative act regarding the appointment has been cancelled is required to return everything received due to the appointment to the post.

Chapter 3 Development and assessment

§ 30. Principles of arrangement of development and assessment interview

(1) At least once a year the immediate supervisor shall conduct an interview with his or her subordinate official during which the performance, professional development and training needs of the official are evaluated and the objectives of the next period discussed, while the official shall give feedback to the superior with regard to management (hereinafter development and appraisal interview). The assessment of the performance of the official and the discussion of the professional objectives for the next period may also take place separately in the form of a discussion.

(2) The development and assessment interview may be postponed for the next year if:

- 1) the right of an official to exercise official authority was suspended for longer than six months altogether during the year prior to the development and assessment interview;
- 2) the service relationship of the official has lasted less than six months immediately before the development and assessment interview;
- 3) the service relationship of the immediate supervisor of the official has lasted less than four months immediately before the development and assessment interview.

(3) The results of the development and assessment interview shall be formalised in a format enabling reproduction in a written form.

(4) The procedure for conducting a development and assessment interview shall be established by the head of authority or a person authorised by him or her.

(5) The development and assessment of the secretary general and deputy secretary general of the ministry, Director of the Government Office, director general of an executive agency or inspectorate and the head of a government authority specified by the regulation of the Government of the Republic established on the basis of subsection 10 (2) of this Act shall be organised by the Government Office.

§ 31. Reimbursement of training expenses

(1) The authority is required to implement measures to develop the professional knowledge and skills of an official, including planning the necessary resources in the budget of the authority.

(2) An official is required to replenish his or her professional knowledge and skills for the competent performance of functions.

(3) The immediate or higher supervisor shall decide the need for an official to participate in the training.

(4) An official cannot be required to participate in the resource-intensive training if the authority wishes to conclude a contract under public law regarding the resource-intensive training, and in the training which involves cost-sharing. Moreover, an official may not be obliged to participate in the training that is conducted outside working time.

(5) Upon sending an official on training the person specified in subsection (3) of this section shall have to take account of the significant facts which may prevent the official from participating in the training.

(6) If an official has been sent on training by an authority, the training expenses shall be reimbursed by the authority.

(7) The procedure for training of the Chancellery of the Riigikogu, the Office of the President of the Republic, the National Audit Office, the Office of the Chancellery of Justice and the Supreme Court shall be established by the head of the respective authority. The procedure for training of the officials of the courts of first and second instance may be established by the Minister of Justice after hearing the opinion of the Council for Administration of Courts. The training of officials of a local government authority shall be established by a municipal or city government.

(8) The specific procedure for training of an authority not specified in subsection (7) of this section shall be established by the head of authority or a person authorised by him or her according to the regulation of the Government of the Republic specified in clause 10 (1) 3) of this Act.

(9) In the case of training the option of out-of-pocket payments of an official may be prescribed in the procedure for training specified in subsection (7) and (8).

(10) The salary shall be retained for an official during the training.

§ 32. Resource-intensive training

(1) The resource-intensive training is a professional training that lasts in total for longer than 90 calendar days within a calendar year and the time spent in training shall make up a significant part of the working time of an official or the cost of the training paid for by the authority and other costs related to training shall exceed at least five times the minimum rate of the monthly salary established by a regulation of the Government of the Republic on the basis of subsection 29 (5) of the Employment Contracts Act.

(2) A contract under public law may be concluded for the participation in the resource-intensive training in which the obligation is imposed on an official to work for the authority after the completion of the training within a determined period but for no longer than three years.

(3) An authority shall conclude the contract specified in subsection (2) of this section with an official if the cost of training paid for by the authority and other expenses related to training exceed a hundred times the minimum rate of the monthly salary established for full-time employment by a regulation of the Government of the Republic on the basis of subsection 29 (5) of the Employment Contracts Act.

(4) The Government of the Republic may establish by a regulation a list of other expenses related to training specified in subsections (1) and (3) of this section.

(5) If a contract under public law has been concluded with an official for the participation in the resource-intensive training, the official shall have to reimburse the training costs in proportion with the period worked after the end of training if he or she is released from service in the case provided for in §§ 87, 94 or 95 of this Act.

(6) The official shall reimburse the expenses of the resource-intensive training to the full amount if he or she fails to attend the training or interrupts it without good reason.

(7) A good reason specified in subsection (6) of this section is an illness of a person or an unexpected personal or family-related hindrance or a reason arising from the authority.

(8) If a contract under public law is concluded with an official for the participation in the resource-intensive training and he or she is sent on a training during the probationary period, an obligation shall not be created for him or her to reimburse the training expenses if he or she is released from service in the case provided for in § 91 of this Act.

(9) The temporary transfer on the basis of § 33 of this Act is not deemed to be as leaving the authority before the expiry of the term imposed for obligatory working.

(10) If an obligation has arisen for the person to reimburse the training expenses to the authority and he or she has failed to meet the obligation, the authority shall recourse to an administrative court pursuant to the Code of Administrative Procedure.

§ 33. Temporary transfer of official

(1) An official may be transferred to another post within one authority or in another authority for a specified period with the purpose of increasing the competence and motivation of the official or promoting cooperation between authorities.

(2) In the case of a transfer of an official to another authority, the authority from where the official is transferred is a sending authority and the authority to which the official is transferred is a receiving authority.

(3) An official may be transferred for a specified term if:

- 1) the official has given a consent in a format enabling reproduction in a written form;
- 2) in the case of a transfer to another post within the same authority the appointing authority has given the consent or, in the case of a transfer to a post in another authority, the appointing authorities in the sending and receiving authorities have given their consent.

(4) In the case of a transfer for a specified term the official shall be appointed to the other post for a specified time. The specified term may be extended once with the consent of all parties.

(5) In the case of a transfer for a specified term the right of an official to exercise official authority is suspended for the post from where the official was transferred.

(6) Upon expiry of the term for which the official was transferred, at least the former post and basic salary that was paid in the post in the sending authority until the transfer of him or her for a specified period shall be guaranteed to the official by the sending authority, or if the basic salary has risen, such basic salary.

(7) If structural reorganisations, which concern the post of a transferred official, have taken place in a sending authority during the period of the transfer of an official, the sending authority shall guarantee, upon the expiry of the term of transfer, at least the equal post and basic salary that was paid to the official in the former post in the sending authority until his or her transfer for a specified term, or if the basic salary has risen, such basic salary.

(8) The running of a time-limit shall be suspended for the period in which the official is staying on a maternity leave, adoptive parent's leave or parental leave.

(9) In the case of a transfer of an official for a specified term the appointing authority in the receiving authority shall apply:

- 1) § 26 of this Act upon appointment to a post;
- 2) § 29 of this Act upon repeal of the appointment to a post;
- 3) §§ 88, 103 and 104 of this Act in the case of the release from the post of an official upon the expiry of term of a transfer for a specified term.

(10) The transfer for a specified term may be terminated with the consent of all parties before the expiry of term.

(11) Should an official be released during the time he or she is transferred to the receiving authority, the transfer for a specified term shall be terminated by a decision of the receiving authority before the expiry of the term and the sending authority shall have the competence over the release of the official.

(12) The substitute for an official shall be notified of the premature termination of the transfer for a specified term for at least 14 calendar days in advance.

(13) If an official is transferred, his or her service relationship shall not terminate and compensation is not paid for the unused basic holiday which has not expired and the calculation of the holiday pay shall continue in the authority where the right of an official to exercise official authority continues. In such case the official is entitled to receive a holiday as of the date of transfer.

Chapter 4

Rights of official

§ 34. Salary

(1) An official shall be entitled to receive a salary for the performance of functions from the date of the assumption of the post until the date of the release from service.

(2) During suspension of the right to exercise official authority an official shall not be paid a salary or any other compensation unless otherwise provided for by law.

§ 35. Working time

(1) The working time of an official means any period during which he or she is performing functions.

(2) The working time of an official is 40 hours over a period of seven days (hereinafter full time work). In general the working time is eight hours per day.

(3) A part-time employment may be applied with the consent of the official.

(4) The summarised calculation of working time may be prescribed in the interests of the service. In the case of the summarised calculation of working time, the working time of an official per a period of seven days during the calculation period of up to four months is taken into account.

(5) Upon application of the summarised working time an official may be employed during the period that is not entered in the working time schedule as working time only with the consent of the official.

(6) The authority shall compile the working time schedule for the whole calculation period or for every calendar month at least. An official shall be notified of the working time schedule at least ten calendar days before the beginning of the calculation period or a calendar month.

§ 36. Restriction on period of working

The working time together with overtime work shall not exceed on average 48 hours per a period of seven days during the calculation period of up to four months.

§ 37. Organisation of working time

(1) An official shall perform his or her functions during the period prescribed by the organisation of work of the authority.

(2) A break of no less than 30 minutes during the working day is prescribed for working longer than six hours. The breaks during the working day are not calculated into working time unless due to the character of functions it is impossible to give a break and the authority gives an official an opportunity to relax and dine in the working time.

(3) The head of the authority or a person authorised by him or her may change the organisation of working time in the interests of the service, notifying thereof in advance within a reasonable period.

§ 38. On-call time

(1) Arising from the interests of the service an official is required to be available for the authority for the performance of functions outside of working time (hereinafter on-call time) if the specified obligation is included in his or her job description.

(2) If the obligation specified in subsection (1) of this section is not included in the job description of the official, the on-call time may be applied with the consent of the official granted in a format enabling reproduction in a written form.

(3) Additional remuneration which is not less than one-tenth of the basic salary of an official shall be paid to the official for on-call time or, at the request of the official, compensated for with additional spare time which shall be not less than one-fourth of the length of the on-call time.

[RT I, 26.03.2013, 1 - entry into force 01.04.2013]

(4) The part of the on-call time when the official performs functions is considered working time.

(5) An authority shall take account of the significant facts which could prevent application of on-call time, including the fact that an official is pregnant or raising a child under three years of age or a disabled child.

(6) Upon the application of on-call time an official shall be guaranteed the possibility of using daily and weekly rest time.

(7) Upon payment of additional remuneration for on-call time the maximum rate of the variable salary provided for in subsection 61 (5) shall not apply.

§ 39. Overtime work

(1) An authority may require an official to perform functions outside working time if the functions arise from extraordinary circumstances and need to be performed immediately.

(2) In the case not specified in subsection (1) of this section the overtime work may be applied with the consent of an official granted in a format enabling reproduction in a written form.

(3) The performance of functions outside working time is not overtime work if the necessity for the application thereof arises from an official himself or herself.

(4) In the case of the summarised calculation of working time, overtime work is the performance of functions during the period exceeding the working time of the calculation period.

(5) An official who is pregnant or who is entitled to maternity leave may not be required overtime work. Upon requesting overtime work the authority is required to take account of other significant facts which may hinder working overtime, including the fact that the official is raising a child under three years of age or a disabled child.

(6) Upon compensation for overtime work, the authority shall pay an official 1.5 times the basic salary or, at the request of the official, provide additional spare time which equals the length of the period of overtime work. [RT I, 26.03.2013, 1 - entry into force 01.04.2013]

(7) Upon compensation for overtime work the maximum limit of the variable salary provided for in subsection 61 (5) of this Act shall not apply.

§ 40. Night work and work done on public holiday

(1) An authority may require an official to perform functions at night-time (from 22.00 to 6.00) or on a public holiday if the said obligation is included in the job description of the official or the functions arise from extraordinary circumstances and need to be performed immediately.

(2) In the case not specified in subsection (1) of this section the night work and work done on a public holiday may be applied with the consent of the official granted in a format enabling reproduction in a written form.

(3) If the working time of the official falls on night-time, the authority shall pay 1.25 times the basic salary to an official for working at night time if the said obligation is not included in his or her job description and is not taken into account upon the determination of his or her basic salary. [RT I, 26.03.2013, 1 - entry into force 01.04.2013]

(4) If the working time falls on a public holiday, the authority shall pay double basic salary for work done on a public holiday. [RT I, 26.03.2013, 1 - entry into force 01.04.2013]

(5) The authority shall take account of the significant facts which could impede the application of the night work or work done on public holidays, including the fact that the official is pregnant or is raising a child under three years of age or a disabled child.

(6) The authority may, differently from the provisions of subsections (3) and (4) of this section, compensate for the night work or work done on a public holiday, at the request of the official, by granting additional time off. In the case of night work the additional time off shall make up at least half the length of the work done at night. In case of work done on a public holiday the work shall be compensated for by granting additional time off equalling the length of time of work done on a public holiday.

(7) An official who works at night for at least three hours of his or her everyday working time or at least a third of his or her annual working time, is not allowed to work on average for more than eight hours over a period of 24 hours over a calculation period of seven days. Upon the calculation of the average working time the 24-hour period of weekly rest time is excluded from the seven-day calculation period.

(8) A person specified in subsection (1) of this section whose health is affected by a working environment hazard or the character of his or her work is not allowed to work more than eight hours over a period of 24 hours.

(9) The restriction on night work specified in subsections (7) and (8) of this section shall not be applied provided that working does not harm the official's health and safety and the working time does not exceed the limit specified in § 36 of this Act in the case of activities which require constant state supervision.

(10) Upon payment of additional remuneration for night work or work done on a public holiday the maximum limit of the variable salary provided in subsection 61 (5) of this Act shall not apply.

§ 41. Rest time

(1) An official shall have at least 11 hours of the consecutive rest time (hereinafter daily rest time) over a period of 24 hours.

(2) An official shall have at least 48 hours of the consecutive rest time (hereinafter weekly rest time) over a period of seven days.

(3) In case of the summarised calculation of working time an official shall have at least 36 hours of the consecutive rest time over a period of seven days.

(4) If an official works more than 13 hours over a 24-hour period, he or she shall be granted additional spare time in addition to subsection (1) of this section immediately after the end of the working day, equalling the number of hours by which the 13 working hours were exceeded.

(5) In general the weekly rest time is granted on Saturday and Sunday.

§ 42. Shortening of working time

The working day immediately prior to the New Year's Day, the anniversary of the Republic of Estonia, the Victory Day and the Christmas Eve shall be shortened by three hours.

§ 43. Holiday

(1) The holiday regulation provided for in §§ 54-71 of the Employment Contracts Act shall be applied to an official taking account of the specifications provided for in this Act.

(2) The length of the basic holiday of an official is 35 calendar days.

(3) An appointing authority or a person authorised by him or her shall decide on the granting of a holiday.

(4) Upon the delay of the payment of holiday pay, the authority shall pay a penalty for delay for each day delayed pursuant to § 113 of the Law of Obligations Act.

§ 44. Secondment and reimbursement of secondment expenses

(1) A secondment is the sending of an official by an order of the appointing authority or a person authorised by him or her to perform functions or undergo training outside the location of the permanent post within a fixed period.

(2) Upon secondment the significant facts which may prevent the stay of an official on secondment shall be taken account of. An official who is pregnant or is raising a child under three years of age or a disabled minor child may be sent on a secondment only with the consent granted by him or her in a format enabling reproduction in a written form.

(3) The post and salary shall be retained for an official for the duration of secondment.

(4) An authority is not allowed to give functions to an official on secondment during the period when he or she is performing the functions of a seconded national expert with the institutions of the European Union. For the period of performing the functions as a seconded national expert the official shall be retained the basic salary and the right to resume the former post or a post equal thereto after the termination of the secondment.

(5) The terms and procedure for secondment of an official and the reimbursement secondment expenses, including the rate of the daily allowance and terms and procedure for the payment thereof shall be established by a regulation of the Government of the Republic.

§ 45. Long-term secondment abroad and reimbursement of secondment expenses

(1) A long-term secondment abroad is a secondment to a foreign state with the duration over six months.

(2) Every month during the long-term secondment abroad an official is paid a secondment abroad allowance in addition to his or her salary.

(3) The secondment abroad allowance of an official shall be calculated by multiplying the original amount of the allowance relating to secondment with the coefficient of the receiving city where the official was seconded. The calculation of the amount of the secondment abroad allowance shall be based on the coefficients of the cities established on the basis of the Foreign Service Act or the coefficients of the cities established by a regulation of the Government of the Republic specified in subsection (6) of this section if the coefficient of the respective city has not been established on the basis of the Foreign Service Act.

(4) In the case of a long-term secondment abroad the following expenses incurred by the official who is abroad and the accompanying family member shall be covered:

- 1) moving expenses;
- 2) accommodation expenses;
- 3) insurance and medical treatment expenses;
- 4) the fee for a pre-school child care institution or the cost of the wages of au pair;
- 5) the costs of acquiring basic and secondary education of an accompanying child of five years of age or younger if earlier compulsory school attendance is prescribed in the receiving state;
- 6) the expenses of travel to Estonia on holiday and back to the place of service once per year on secondment.

(5) The procedure for sending an official on a long-term secondment abroad, the original amounts of the secondment abroad allowance, the procedure for the calculation and payment of the secondment abroad allowance and the terms and procedure for the reimbursement of secondment expenses shall be established by a regulation of the Government of the Republic.

(6) The Government of the Republic shall establish by a regulation the coefficients of cities in the range that is not established on the basis of the Foreign Service Act. The cost of living, change in exchange rates, security risks and other facts of significant importance shall be taken account of upon determination of the coefficients of cities.

(7) A list of medical treatment expenses specified in clause (4) 3) of this section shall be established by a regulation of the Government of the Republic.

(8) The secondment abroad allowance of an official shall be increased by 25 per cent for the non-working spouse accompanying the official.

(9) The secondment abroad allowance of an official for each accompanying child shall be increased by the amount determined by the Government of the Republic.

(10) For the purposes of this Act an accompanying child means a minor child or a child acquiring basic or secondary education or an adult child who is incapacitated for work and who needs assistance permanently, who is accompanying an official on a long-term secondment for not less than 183 days in a mission year.

(11) The secondment abroad allowance of an official for his or her accompanying spouse shall not be increased if the income received by the spouse for temporary employment or for the provision of a service in a quarter exceeds the double rate of the remuneration specified in subsection 46 (1) of this Act. The payment of the increase shall be terminated in the month following the specified quarter.

(12) The secondment abroad allowance of an official for an accompanying family member shall not be increased if the family member is staying in the receiving state for less than 183 days in the secondment year.

(13) The secondment abroad allowance of an official for an accompanying family member shall not be increased if the family member leaves permanently the receiving state, settles in a separate household from the official or takes up permanent employment or provision of service.

(14) The procedure for the increase and payment of the secondment abroad allowance of an official for an accompanying family member shall be established by a regulation of the Government of the Republic.

(15) The expenses provided for in subsection (4) of this section shall not be compensated for the accompanying family member of the official on a long-term secondment abroad if during the secondment it is impossible to guarantee the accommodation or security of the family member.

§ 46. Allowance for spouse

(1) The allowance for spouse shall be paid every month to a non-working spouse accompanying the official on a long-term secondment abroad the amount of which is calculated, multiplying by two the minimum monthly wages for working full-time established on the basis of 29 (5) of the Employment Contracts Act.

(2) The payment of the allowance for spouse shall be terminated if the income of the spouse received for temporary employment or for the provision of a service in a quarter exceeds the double rate of the remuneration specified in subsection (1) of this section. In such case the payment of the allowance for spouse shall be terminated in the month following the specified quarter.

(3) The payment of the allowance for a spouse shall be terminated if the spouse is staying in the receiving state for less than 183 days in a secondment year. The accompanying of an official on a secondment by the accompanying spouse is not deemed to be the staying away from the receiving state.

(4) The payment of the allowance for spouse shall be terminated if the spouse settles in a separate household from an official, takes up permanent employment or provision of service, earning income which is larger than the minimum monthly rate of the salary for working full-time established on the basis of subsection 29 (5) of the Employment Contracts Act or leaves the receiving state permanently.

(5) The allowance for spouse of an official shall not be paid to the non-working accompanying spouse who receives payments on the basis of the State Pension Insurance Act, the Superannuated Pensions Act, the Old-Age Pensions under Favourable Conditions Act, the Members of the XII Supreme Council of the Republic of Estonia and of the VII, VIII and IX *Riigikogu* Pension Act or the Funded Pensions Act. The allowance for spouse shall also not be paid if the non-working accompanying spouse of the official receives special pension on the basis of a specific Act governing civil service.

(6) During the holiday of an official the payment of the allowance for spouse shall continue to the spouse also in the case of the absence from the receiving state.

(7) If the non-working accompanying spouse temporarily leaves the receiving state for Estonia due to delivery of a child, the payment of allowance to the spouse shall continue but for no longer than two months.

(8) The conditions and procedure for payment of the allowance for spouse shall be established by a regulation of the Government of the Republic.

§ 47. Reimbursement of expenses necessary for performance of functions

(1) An official shall be reimbursed for the expenses directly necessary for the performance of functions to the justified extent.

(2) The Government of the Republic may establish by a regulation a list of expenses specified in subsection (1) of this section and the adjusted conditions and procedure for reimbursement of expenses.

§ 48. Working conditions of pregnant official and official who has right to pregnancy and maternity leave

(1) An official who is pregnant or who is entitled to pregnancy and maternity leave shall have the right to temporary ease of service conditions on the basis of the certificate of the incapacity for work issued by a doctor or midwife.

(2) If the temporary ease of the working conditions is impossible, the right of the official to exercise official authority shall be suspended until the expiry of the term of release from work specified on the certificate for incapacity of work.

(3) In the cases provided for in subsections (1) and (2) of this section an official shall submit to the immediate supervisor the medical decision of the doctor or midwife stating the restrictions on the performance of functions arising from the health condition and the suggestions for functions and conditions which could be in compliance with the health condition.

(4) In the cases specified in subsections (1) and (2) of this section an official shall be paid benefit under the conditions and in the procedure prescribed in the Health Insurance Act.

(5) Upon termination of the pregnancy and maternity leave an official shall have the right to use the improved terms and conditions of service the right for which would have arisen during her absence.

§ 49. Compensation in event of death or loss of capacity for work

(1) If an official dies as a result of an accident or attack against him or her due to his or her functions or as a result of the combating of a criminal offence, his or her child, parent and widow and another person who, for the purposes of the Family Law Act, were maintained by him or her shall be paid a lump-sum benefit in the amount of ten years' basic salary of the deceased person.

(2) An official has the right to nominate a natural person or natural persons to receive up to 50 per cent of the benefit specified in subsection (1) of this section.

(3) If an official dies under the circumstances provided for in subsection (1) of this section, the funeral expenses, which are provided for in § 3 of the State Funeral Benefits Act, shall be borne by the state.
[RT I, 26.03.2013, 1 - entry into force 01.04.2013]

(4) The Government of the Republic shall establish by a regulation the procedure for determining the persons entitled to a benefit specified in subsection (2) of this section and the proportion of the benefit to be paid, a format for the application regarding the determining of the persons specified in subsection (2) of this section and the amount, conditions and procedure of the expenses on arranging the funeral specified in subsection (3) of this section.
[RT I, 26.03.2013, 1 - entry into force 01.04.2013]

(5) If an official is declared permanently incapacitated for work as a result of an accident or an attack against him or her or as a result of the combating of a criminal offence due to the performance of his or her functions, a benefit shall be paid to the official according to the expert assessment decision regarding the first permanent incapacity for work made by the Social Insurance Board as follows:

- 1) in the amount of up to his or her one year's basic salary in the event of a partial loss of capacity for work;
- 2) in the amount of up to his or her five years' basic salary in the event of a total loss of capacity for work.

(6) The benefit specified in subsection (5) of this section shall be paid in instalments. The amount of the instalments is dependent upon the length of the permanent loss of capacity for work determined by the decision of the first time examination or re-examination but no more than the amount corresponding to the extent of the first-time permanent loss of capacity for work specified in subsection (5) of this section.

(7) If the total loss of the capacity for work has been determined for a person and a partial loss of capacity for work is established by the re-examination, the payment of the total benefit is based on the amount specified in clause (5) 1) of this section. If, as a result of the re-examination, a person is entitled to receive a benefit in a smaller amount than she or he has been paid, the overpaid sum shall not be reclaimed. In the event that as a result of re-examination the loss of incapacity for work is not determined for the person, the payment of the benefit shall not continue.

(8) If the total loss of capacity for work was determined for a person by the first examination and he or she has been determined a partial loss of capacity for work in the meantime, the payment of the benefit shall continue if the total loss of capacity for work is determined for him or her again and the benefit has not been paid to him or her to the required amount. In such case a temporal restriction, which is the range provided for in clause (5) 2) of this section from the beginning of the first permanent incapacity for work, shall be applied to the whole period of the payment of benefit together with the period for which benefit was not paid.

(9) If the period of the permanent incapacity for work determined by the re-examination starts in the calendar year that follows the first examination, the basic salary which is serving as the basis for the calculation of the benefit shall be adjusted by the change in the consumer price index of the year when the incapacity for work was first determined. If the period of the permanent incapacity for work determined by the re-examination starts later, the basic salary serving as a basis for the calculation of the benefit shall be adjusted by the changes in the consumer price indexes from the year when the permanent loss of capacity for work was established until the year prior to the last re-examination.

(10) The provisions of this section shall not be applied if an official has, in the case specified in subsection (1) or (5) of this section, committed:

- 1) an offence;
- 2) a suicide or an attempt thereof;
- 3) bodily harm to himself or herself, which is not causally related to the disease condition or arising from the unlawful behaviour of other persons.

(11) The decision regarding payment of a benefit shall be made by the head of authority or a person authorised by him or her.

(12) The benefits specified in this section shall be paid from the state budget through the budget of the authority where the person was employed.

(13) After payment of the benefit on the basis of this section the authority may file a claim for the compensation of the damages arising therefrom against the person that caused the damage on the basis provided for in the Law of Obligations Act.

Chapter 5 Obligations

§ 50. Lawfulness of activity of official

The activities of an official shall be in compliance with the constitution of the Republic of Estonia and other laws and legislation.

§ 51. General obligations

(1) An official shall perform his or her functions honestly, competently and diligently.

(2) An official shall perform his or her functions impartially, among other, shall select the solution upon performing his or her functions which takes account of the rights and freedoms of everyone and considers the public interest to the best possible manner.

(3) An official shall take guidance from the service-related lawful instructions and orders issued by the immediate or higher supervisor, as well as from the job descriptions. The official shall notify the immediate supervisor of the instructions and orders issued by the higher supervisor.

(4) An official shall behave respectably both in the service and outside the service, including refrain from actions which would discredit him or her as an official or harm the image of the authority.

(5) An official shall use the property and resources entrusted to him or her prudently and purposefully.

(6) An official shall facilitate the performance of the functions of the authority, arising from law, within the frames of the service and trust relations.

(7) An authority shall stand up for the professional interests of an official within the frames of service and trust relations, including guarantee the conditions suitable for the performance of functions.

§ 52. Job description

(1) The job description shall determine:

- 1) the functions of the post;
- 2) the requirements established for the education, work experience, knowledge and skills of an official;
- 3) in the event of the application of the summarised working time, on-call time or night work the respective notation.

(2) The appointing authority or a person authorised by him or her shall establish a job description for all the posts of the authority. A job description may not be established for the post of an official appointed by the Riigikogu, the President of the Republic, the Government of the Republic, the Prime Minister or the State Secretary.

- (3) The job description cannot be amended without the consent of the official if:
- 1) the requirements established for performance of functions significantly change;
 - 2) the functions determined in the job description significantly change;
 - 3) the organisation of working time of an official changes due to the change in the application of the summarised working time, on-call time or night work in the job description;
 - 4) the volume of functions of the official increases significantly;
 - 5) the basic salary decreases due to the change of functions.

§ 53. Obligation to perform supplementary functions

(1) An official is required to perform supplementary one-time functions issued by his or her immediate supervisor the obligation for the execution of which does not arise from the job description or legislation.

(2) Supplementary one-time service functions may be issued by the immediate supervisor in the event that the work load of the authority has increased temporarily or if this is arising from an emergency. An emergency is presumed in the case of a possible damage or threat of such damage to the employer's property or other amenity caused, above all, by *force majeure*.

§ 54. Grounds for refusal to perform functions

- (1) An official shall refuse to execute an order if the order:
- 1) is in conflict with the constitution of the Republic of Estonia or other legislation;
 - 2) would lead to the breach of a procedural restriction for the purposes of the Anti-Corruption Act.
- (2) An official may refuse to execute an order if the execution thereof:
- 1) is not advisable to him or her for health reasons;
 - 2) assumes such education or work experience that is not required from an official according to the law or on the basis of the legislation issued on the basis of the law or arising from the job description.
- (3) If an official refuses to execute an order, he or she shall notify the issuer of the order and his or her immediate supervisor immediately in a format enabling reproduction in a written form of the circumstance specified in subsection (1) or (2) of this section.
- (4) If an official notifies of the circumstance provided for in clause (1) 1) of this section, he or she is obliged to execute the order if it is repeated in a format enabling reproduction in a written form. If the official continuously doubts the legality of the order, he or she shall prepare his or her dissenting opinion in a format enabling reproduction in a written form before the execution of the order and shall be relieved of the liability for the execution of the order.
- (5) If an official notifies of the circumstance provided for in clause (1) 1) of this section, he or she is not obliged to execute an order even if it meant committing a crime or misdemeanour.
- (6) If an official notifies of the circumstance provided for in clause (1) 2) of this section, he or she is not obliged to execute an order even if the order is repeated.
- (7) If an official notifies of the circumstance provided for in clause (2) 1) of this section, he or she is not obliged to execute an order even if the order is repeated. At the request of the issuer of the order or an immediate supervisor, the official shall submit the certificate of the doctor or midwife.
- (8) If an official notifies of the circumstance provided in clause (2) 2) of this section, he or she is obliged to execute an order if it is repeated in a format enabling reproduction in a written form. If the execution of the order of the official is unsuitable, he or she shall not be liable for faults which are due to the lack of education, work experience, knowledge and skills necessary to execute the order, which is impossible to obtain by making reasonable effort before the execution of the order.

§ 55. Maintenance of information not subject to disclosure

An official shall not disclose a state or business secret, classified information of foreign states, information concerning the family and private life of others and other information for internal use which becomes known to him or her due to his or her service during the period of the service relationship and after the release from service.

§ 56. Obligation to transfer records management and property

Upon the release from office an official is required to transfer the records management and property entrusted to the official by the authority due to his or her office in the procedure established for that purpose in the authority.

§ 57. Performance of functions of absent official

(1) In order to replace an absent official in the case the normal operation of the authority were hindered due to the absence of the official and if employment of a substitute is not possible or purposeful, the appointing authority may:

- 1) assign the functions of the absent official partly to another official or divide the functions of the absent official fully among other officials without releasing them from the performance of their own functions;
- 2) assign the functions of the absent official partly or fully to another official or several other officials, respectively releasing them from the performance of their own functions either partly or fully.

(2) An official may perform functions of an absent official on the basis of subsection (1) of this section for over 60 calendar days within a calendar year with the consent of the official granted in a format enabling reproduction in a written form.

(3) An official who is pregnant or is raising a child under three years of age or a disabled child may refuse to perform the functions of an absent official.

(4) An official who, pursuant to clause (1) 1) of this section, substitutes for an absent official, shall be paid additional remuneration in addition to his or her own salary if the substitution does on arise from the job description of the official or leads to a considerably higher work load compared with that prescribed in the job description. The additional remuneration for the performance of functions of an absent official shall be paid in proportion to the amount of functions of the absent official assigned to the substitute official according to the basic salary of the absent official.

(5) An official who substitutes for an absent official pursuant to clause (1) 2) of this section shall be retained his or her current salary. If the basic salary of the official to be substituted is higher, the substitute official shall be paid a higher basic salary taking account of the volume of functions of the official to be substituted given over to the substitute official.

[RT I, 26.03.2013, 1 - entry into force 01.04.2013]

(6) The maximum limit of the variable salary provided for in subsection 61 (5) of this Act shall not apply upon payment of additional remuneration for the substitution of an absent official.

§ 58. Advance notice obligation and notification obligation

(1) An official is required to notify the authority of his or her wish to return to service in a format enabling reproduction in a written form for at least 14 calendar days in advance if his or her right to exercise official authority has been suspended on the basis of clause 83 1) of this Act while she is on pregnancy and maternity leave or parental leave.

(2) An official is required to notify the authority immediately if circumstances arise which would preclude his or her employment in service according to subsection 14 (1) or (2) of this Act or § 15.

(3) The authority may require from an official the compensation for the damage which was created due to the payment of the salary to the official in the amount corresponding to the period during which the official failed to notify of the circumstance precluding the service relationship specified in clauses 15 1)-3) at least due to negligence for the purposes of this Act, but not more than in the amount of the six months' basic salary of the official.

(4) The compensation of damages shall be carried out in the procedure provided for in § 81 of this Act.

§ 59. Strike ban on official

(1) An official is not allowed to strike.

(2) An official is not allowed to participate in other collective pressure actions which interfere with the performance of functions of an authority that has recruited the official or of other authority arising from the law. The pressure action is collective if at least half of the officials of the authority participate therein.

§ 60. Restrictions on activities

(1) Unless prohibited by law, an official may also take up an ancillary activity:

- 1) on the basis of the employment or service contract;
- 2) in the elected or appointed post;
- 3) as an undertaking or general partner in a general or limited partnership;
- 4) as a member of the management or controlling body of a legal person.

(2) The appointing authority shall prohibit partly or wholly the ancillary activity of an official specified in clauses (1) 1)-4) of this section by an administrative act if the volume or nature of labour spent on the ancillary activity interferes with the regular performance of functions or the ancillary activities lead to the breach of the service function.

(3) An official shall immediately notify the appointing authority in writing if he or she is engaged or intends to be engaged in an ancillary activity specified in clauses (1) 1)-4) of this section.

(4) An official is prohibited to:

1) exercise direct and constant supervision over a person connected to himself or herself or a connected person for the purposes of clause 15 4) of this Act or clauses 7 (1) 2) and 3) of the Anti-corruption Act;

2) earn profit for the ancillary service if the same activity is included in his or her functions. The ban shall not be applied to the research and pedagogical activity in an educational establishment if the official has notified of his or her ancillary activity pursuant to subsection (3) of this section.

(5) An official who is released from office may not become, within one year from the day of release, a connected person for the purposes of clauses 7 (1) 2) and 3) of the Anti-corruption Act with such legal person in private law over which he or she has exercised direct or constant supervision during the last year.

(6) The appointing authority may grant an exceptional permission for the activity prohibited on the basis of subsection (5) of this section, taking account of the size of the local government, the specific character of posts or the scarcity of persons corresponding to the established requirements. The exceptional permission shall be granted in the procedure provided for in the Administrative Procedure Act.

(7) The competence of the representation of the state, local government or legal person governed by public law in the management or controlling body of a legal person shall not be deemed ancillary activity for the purposes of this Act.

Chapter 6

Salary administration

§ 61. Salary components and bases for salary reduction

(1) The salary of an official is comprised of the basic salary, variable salary and additional remuneration provided for in subsection 38 (3), subsection 39 (6), subsections 40 (3) and (4) and § 57.

(2) The basic salary is a fixed part of the salary which is determined on the basis of the functions of a post and the service-related knowledge, skills and experience of the official.

(3) The basic salary of an official may not be reduced unilaterally. The basic salary may be reduced unilaterally only upon the co-occurrence of the following conditions:

1) if there is a general economic recession and the reduction of the budget of the authority is necessary for the maintenance of the trust in economic environment;

2) if the reduction of the salary does not exceed the percentage by which the budget of the authority is reduced.

(4) If the basis specified in clause (3) 1) of this section has dropped off and the salary fund of the authority is increased according to the increase in the budget of the authority, the authority shall have to find possibilities to restore the basic salary.

(5) The variable salary is an irregular part of the remuneration of an official which may be paid as a performance payment, as an additional payment for the performance of additional duties or as a bonus for exceptional service-related achievements. A variable pay of up to 20 percent of the basic salary of the official may be paid in addition to the basic salary of the official.

(6) An official shall not be paid such additional remuneration or allowance by an authority which is not in accordance with the law.

(7) The basic salary of the secretary general is 90 percent of the salary paid to the minister.

§ 62. Time and manner of payment of salary

(1) An authority shall pay a salary to an official at least once a month.

(2) Upon the payment of average salary the average pay is calculated on the basis of the conditions and procedure for the payment of average salary established by the Government of the Republic on the basis of subsection 29 (8) of the Employment Contracts Act.

(3) An authority shall transfer the salary and other remuneration of the official to the bank account designated by the official unless otherwise agreed upon.

(4) The amount in excess of the limit established for the expenses made at the expense of the authority and the advance payment made to the official, which is repayable to the authority by the official, may be deducted from the wages of an official by the authority. Upon making the deductions from the salary of an official the authority is required to take account of the provisions of § 132 of the Code of Enforcement Procedure about the claim of recovery.

(5) Upon the delay of the payment of salary the authority shall pay a penalty for each day delayed pursuant to § 113 of the Law of Obligations Act.

§ 63. Salary guide

(1) A salary guide is a procedure for the determination and payment of a salary. The salary guide shall prescribe the basic salary or the basic salary range for the post, the conditions and procedure for payment of the variable salary, additional remuneration and benefits provided by law and the time and manner of the payment of the salary.

(2) The salary guide for the Chancellery of the Riigikogu shall be established by the Board of the Riigikogu. The salary guide for the Office of the President of the Republic, the National Audit Office, the Office of the Chancellery of Justice and the Supreme Court shall be established by the head of the respective authority. The salary guide for the courts of first and second instance shall be established the Minister of Justice after hearing the opinion of the Judicial Council for Administration of Courts. The salary guide for a local government authority shall be established by the local government council.

(3) The drawing up of a salary guide for an authority not specified in subsection (2) of this section shall be based on the regulation of the Government of the Republic specified in clause 10 (1) 5) of this Act.

(4) A minister and the State Secretary shall establish, pursuant to the regulation specified in clause 10 (1) 5) of this Act and coordinated with the Ministry of Finance, correspondingly the salary guide for the ministry and the Government Office and an authority within the area of government of the ministry. The salary guide of the Gender Equality and Equal Treatment Commissioner's Office shall be established by the Gender Equality and Equal Treatment Commissioner in coordination with the Ministry of Finance.

§ 64. Payment of salary upon impediment to performance of functions

The salary shall be retained for an official for a reasonable period when the official cannot be expected to perform functions because of a short-term impediment of a personal or family-related kind.

§ 65. Disclosure of remuneration

(1) The basic salary of an official as of the current calendar year shall be published on the central web page of the civil service at the latest on 1 May.

(2) The basic salary and variable pay and other income arising from his or her functions shall be published in the total amount for the previous calendar year on the central web page of the civil service at the latest on 1 May.

(3) The salary guide of the authority shall be disclosed on the web page of the authority.

(4) This section shall also be applied to the disclosure of the remuneration and other income arising from the functions of the persons specified in subsection 7 (6) of this Act.

§ 66. Reporting

(1) The Minister of Finance shall submit a survey of the development directions of the civil service, places of employment, persons who are in the service and employed, their salaries and remuneration to the Riigikogu by authorities and function groups.

(2) The authorities shall submit the necessary data to the Ministry of Finance once a year or shall grant permission for access to the data for the preparation of the survey specified in subsection (1) of this section. The security authorities are not required to submit the data.

Chapter 7 Organisation of work of authority

§ 67. Organisation of work of authority

(1) The head of authority or a person authorised by him or her is entitled to issue service-related acts for the organisation of work.

(2) The following shall be determined in the acts specified in subsection (1) of this section:

- 1) the start and end of the working day;
- 2) the breaks during the day;
- 3) the organisation of working and rest time;
- 4) the conditions and procedure for staying in the authority on the days off, public holidays and after the end of the everyday working time;
- 5) the procedure for announcement of the service-related orders;
- 6) the general guidelines for occupational health and safety;
- 7) the procedure for notification of the absence from work;
- 8) other matters with regard to the organisation of work of an authority.

(3) The possibility for flexible working time may be prescribed in the acts governing working time, including the performance of functions outside the office location or teleworking in so far as the service interests permit.

§ 68. Introduction of organisation of work of authority and notification of officials

(1) An authority shall submit the draft acts governing the areas specified in subsection 67 (2) of this Act to the officials and the persons and organisations representing them for consultation and giving opinion for at least 14 calendar days before they are enacted.

(2) Upon recruitment of an official an authority shall introduce the organisation of work of the authority to the official and ensure the possibility of access to the acts specified in § 67 of this Act at any time.

(3) The head of authority or a person authorised by him or her shall guarantee the notification of the officials of other extensive and essential decisions regarding the officials of the authority.

(4) The officials shall be granted an opportunity to pronounce an opinion before the introduction of the acts governing the areas specified in subsection 67 (2) of this Act or the passing of the resolutions specified in subsection (3) of this section. The proposals submitted by the officials and the persons and organisations representing them are recommended for an authority.

Chapter 8 Disciplinary liability of officials

§ 69. Disciplinary offence

A disciplinary offence is the wrongful breach of duties.

§ 70. Types of disciplinary penalty

The types of a disciplinary penalty are:

- 1) a reprimand;
- 2) the reduction of the basic salary by up to 30 percent for up to six months;
- 3) the release from service.

§ 71. Purpose of disciplinary proceedings

The purpose of a disciplinary proceeding is a rapid and complete identification of the circumstances indicating to the commission of a disciplinary offence, establishment of the potential offender and determination of the fair disciplinary penalty.

§ 72. Initiation of disciplinary proceedings

(1) A disciplinary proceeding may be initiated by a directive or order issued by the appointing authority if sufficient facts are known about the commission of a disciplinary offence.

(2) A disciplinary proceeding shall be initiated with a directive or order issued by the appointing authority if sufficient facts are known about the commission of a disciplinary offence and there is a good reason to believe that the disciplinary offence underlying the breach of duties is significant.

(3) A person for conducting the disciplinary proceedings and the term for the conduct thereof are determined, the facts known are described and the official suspected of the commission of a disciplinary offence is named in a directive or order regarding the initiation of disciplinary proceedings.

(4) A directive or order regarding the initiation of the disciplinary proceedings shall be delivered to the official who is suspected of the commission of a disciplinary offence within five working days following the day of initiating the disciplinary proceedings.

(5) If the facts serving as a basis for the identification of the official suspected of the commission of a disciplinary offence are not sufficient, such official may not be temporarily named in the directive or order regarding the initiation of disciplinary proceedings. In such case the directive or order regarding the initiation of disciplinary proceedings shall be delivered to the official suspected of the commission of the disciplinary offence within five working days following the date of identification of the specified official.

§ 73. Conduct of disciplinary proceedings

(1) The initiator of disciplinary proceedings or a person authorised by him or her for that purpose is entitled to conduct disciplinary proceedings.

(2) The person conducting disciplinary proceedings shall gather evidence on the disciplinary offence.

(3) An official who is suspected of the commission of a disciplinary offence shall be granted an opportunity to submit a written explanation with regard to the disciplinary offence. The official shall be given at least five working days for that purpose from the delivery of the directive or order specified in subsection 72 (3) of this Act.

(4) A person conducting disciplinary proceedings may require from an official or employee of the same official authority, who was present during the commission of the offence or who knows the circumstance of the disciplinary offence (hereinafter witness), explanation about the disciplinary offence in a format enabling reproduction in a written form and the witness is obliged to give such explanation. The refusal to give explanation is a breach of obligation unless the person who is suspected of the commission of the disciplinary offence is required to give an explanation damaging to himself or herself or the witness is required to give an explanation about his or her spouse, unmarried partner or grandparent or about the parent or relative in the descending line of the witness or his or her spouse or unmarried partner. An adopting parent and foster parent are deemed to be a parent and an adopted child and foster child are deemed to be a relative in the descending line.

(5) A person conducting disciplinary proceedings shall prepare a summary of the disciplinary proceedings, sign it and submit for making the decision to the person with the right to impose disciplinary penalty.

(6) The summary of the disciplinary proceedings shall include at least the following data:

- 1) the given name and surname and the post of the official who has committed the disciplinary offence;
- 2) the function violated serving as a basis of the disciplinary offence;
- 3) the evidence gathered on the matter;
- 4) the description, time and location of the commission of the disciplinary offence;
- 5) the proposal for punishment, including the type of penalty, or for leaving unpunished together with the justification.

(7) Before deciding on the imposition of the disciplinary penalty the person conducting the disciplinary proceedings or the person imposing the disciplinary penalty shall deliver the summary of the disciplinary proceedings to the official against his or her signature and, in case this is impossible, deliver the summary by registered mail at the address of the place of residence of the official or, with the consent of the official, electronically and offer the official an opportunity to submit his or her opinion on or objections to the summary of the disciplinary proceedings in a format enabling reproduction in a written form mail within five working days.

(8) If the person imposing the disciplinary proceedings was not the person conducting the disciplinary proceedings, he or she shall have the right to interview the official personally before the imposition of the penalty. Such interview shall be recorded.

(9) An official who is suspected of the commission of the disciplinary offence and his or her representative are entitled to access to the materials of the disciplinary proceedings at every stage and to submit significant requests in the course of the proceeding.

§ 74. Evaluation of fault

(1) An official shall be liable for the disciplinary offence only if the fault exists.

(2) The forms of fault are negligence, severe negligence and intent.

(3) Negligence is a failure to exercise the required care for the performance of functions of an official.

(4) Severe negligence is a failure to follow the required care for the performance of functions of an official to a significant extent.

(5) Intent is a conscious desire to violate service obligation.

(6) The education, work experience, knowledge and skills of an official shall be taken account of upon the assessment of the fault.

§ 75. Imposition of disciplinary penalty

(1) The disciplinary penalty shall be imposed in proportion to the degree of seriousness of the disciplinary offence.

(2) Upon the imposition of a disciplinary penalty the following shall be taken account of:

- 1) the form of fault;
- 2) the seriousness of the consequences;
- 3) if the official has a disciplinary penalty in effect;
- 4) the previous professional behaviour of the official;
- 5) the purpose of the violated duty, including whether the duty had to preclude the occurrence of the consequences which arose upon the breach of duty.

(3) The disciplinary penalty shall be precluded for such breach of duty which was committed:

- 1) on the instruction of the immediate or higher supervisor if the official has failed to execute an instruction which she or he was not supposed to execute pursuant to § 54 of this Act or is released from liability irrespective of the performance;
- 2) to avoid the consequences which are more serious than the consequences resulting from the breach of duties;
- 3) in a state of self-defence or emergency.

(4) The release from office for disciplinary offence is possible if the breach is material.

(5) The breach of duties is material if it leads to the loss of confidence for the official on the grounds that it can be expected from the nature of infringement that the official cannot also ensure the performance of duties in future.

(6) The materiality specified in subsection (4) of this section shall be expected also in the following case:

- 1) the breach was committed intentionally;
- 2) the official has a valid disciplinary penalty and the breach of duty serving as a basis therefor has been persistent or the infringement similar to the breach of duty serving as a basis for the disciplinary penalty has been repeated;
- 3) the breach has caused a significant material damage to the authority;
- 4) the breach has significantly damaged the image of the authority;
- 5) the breach has caused a material damage to other officials, employees of the authority or to the interests of third parties or to public interest.

(7) Upon imposition of the disciplinary penalty specified in clause 70 2) of this Act the duration and scope of the punishment is stated.

(8) One disciplinary penalty shall be imposed for a breach of duties, except when the violations are independent and are not substantially and directly mutually connected.

(9) If the breach of duties is committed with an act for which the official may be sentenced to criminal punishment or a penalty for misdemeanour or for which the payment of damages may be ordered from the official, this shall not preclude the imposition of the disciplinary penalty on the official for the same act.

(10) The change of the authority shall not preclude imposition of the disciplinary penalty for the breach of the duty which was committed in another authority. In such case the authority conducting the disciplinary proceedings may request the opinion of the authority where the disciplinary offence was committed in order to take account thereof upon the determination of the guilt and disciplinary penalty. In the opinion specified at least the data listed in subsection 73 (6) of this Act shall be submitted.

§ 76. Competence of imposition of disciplinary penalty

(1) The appointing authority shall impose the disciplinary penalty by an administrative act evaluating all the evidence and facts gathered through disciplinary proceedings as an aggregate.

(2) If the imposer of the disciplinary penalty decides not to punish the official, the disciplinary proceedings shall be terminated by an administrative act of the imposer of the disciplinary penalty.

§ 77. Terms of imposition of disciplinary penalty

(1) A disciplinary penalty may be imposed within two years from the day of the commission of the disciplinary offence but not later than six months from the date on which the person to whom the offender is subordinate in service became aware of the disciplinary offence.

(2) The running of the six-month time-limit provided for in subsection (1) of this section shall be suspended for the period in which the right of exercise of official authority of the official who is accused of the commission of a disciplinary offence had been suspended on the basis of § 83 of this Act or if the circumstances essential to the imposition of a disciplinary penalty are being evaluated in the same matter but in the course of another proceeding.

§ 78. Removal from office for period of disciplinary procedure

(1) The person authorised to impose a disciplinary punishment has the right to exclude an official from service for the period of disciplinary proceedings if upon the initial assessment of the disciplinary offence it may be assumed that as a result of the disciplinary procedure the release from service as punishment shall be imposed on the official.

(2) The exclusion from service shall be formalised by an administrative act.

(3) During the period in which the official has been excluded from service on the basis of subsection (1) of this section, he or she shall be paid 60% of his or her average salary per month but not less than the minimum rate of remuneration established on the basis of subsection 29 (5) of the Employment Contracts Act.

(4) The unpaid salary shall be paid to the official in arrears immediately after the administrative act regarding the exclusion from office has been declared cancelled.

§ 79. Entry of disciplinary penalty into State Personnel and Payroll Database

(1) An entry regarding the imposed disciplinary penalty shall be made into the State Personnel and Payroll Database.

(2) The validity of the disciplinary penalty shall expire after a year from the entry into force of the administrative act regarding the imposition of the punishment.

(3) The appointing authority has the right to cancel the disciplinary penalty before the expiry of term if the official has not committed another disciplinary offence and has performed the functions as required.

Chapter 9 Proprietary liability of official

§ 80. Liability

(1) If an official has caused material damage to the authority as a result of a wrongful breach of duty, he or she is required to compensate for the damage to the extent specified in subsections (3)-(5) of this section.

(2) If the damage has been caused by several officials jointly, each official shall be liable to the extent corresponding to his or her fault.

(3) If an official has violated a duty intentionally, he or she shall be liable for the damage to the full extent.

(4) Upon the breach of duty by an official due to negligence or severe negligence he or she shall be liable for the caused damage to the extent which is determined taking account of:

- 1) the functions of the official;
- 2) the form of fault;
- 3) the instruction issued to him or her;
- 4) working conditions;
- 5) the basic salary;
- 6) the risk of causing damage arising from the nature of work;
- 7) the length of service relationship in the authority;
- 8) the previous professional behaviour of the official;
- 9) the possibilities of the authority to avoid damages;
- 10) the knowledge and skills of the official.

(5) If damage was not caused intentionally, the compensation required shall not exceed six times the total amount of the basic salary of the official.

§ 81. Procedure for compensation for damage

(1) The appointing authority shall make a written proposal to the official to compensate for damage (hereinafter the proposal on compensation for damage), specifying the extent of, procedure for and the term of compensation for damage and the circumstances serving as a basis for the claim of compensation. The official shall respond to the proposal on compensation for damage in writing, indicating whether he or she undertakes to compensate for damage or refuses to do so.

(2) A proposal on compensation for damage may be made within three months as of the date on which the appointing authority became or should have become aware of the damage and of the person who caused the damage but not later than within three years as of the causing of damage.

(3) An official shall be given at least 14 calendar days to respond to the proposal on compensation for damage.

(4) If an official fails to respond to the proposal on compensation for damage on time, refuses to compensate for damage or has agreed to compensate for damage but fails to do so during the term indicated in the proposal on compensation for damage, the authority may file an appeal with an administrative court.

Chapter 10

Suspension of right to exercise official authority

§ 82. Suspension of right to exercise official authority

(1) The suspension of the right to exercise official authority means a temporary release of an official from the obligation to perform his or her assignments and from the right to exercise official authority entrusted to him or her.

(2) The suspension of the right to exercise official authority shall not release the official from the performance of duties.

§ 83. Bases for suspension of right to exercise official authority

The right to exercise official authority shall be suspended:

- 1) at the request of the official on the basis of an application in a format enabling reproduction in a written form with the consent of the appointing authority consents if the service interests permit;
- 2) for the period of holiday;
- 3) for the period of temporary incapacity for work for the purposes of the Health Insurance Act;
- 4) for the period of performance of the conscript service obligation or service in the alternative service;
- 5) for the period of training exercise and also for the period during which a reservist is unable to perform his or her functions due to mobilisation;
- 6) for the period in which an official is excluded from office for the period of disciplinary proceedings pursuant to subsection 78 (1) of this Act and for the period in which he or she is excluded from office on some other grounds provided by law;
- 7) for the period in which an official is under arrest or in custody;
- 8) in other cases when an official is temporarily released from the performance of his or her assignments pursuant to law.

§ 84. Suspension of right to exercise official authority upon employment in foreign mission and participation in long-term international civil mission

(1) The specifications of the suspension of the right to exercise official authority of an official of the sending ministry or an agency within the area of government thereof in connection with the employment in a foreign mission of the Republic of Estonia shall be provided in the Foreign Service Act.

(2) The specifications of the suspension of the right to exercise official authority of an official participating in a long-term international civil mission as an expert shall be provided in the Participation in International Civil Missions Act.

§ 85. Formalisation of suspension of right to exercise official authority

(1) The appointing authority shall establish the suspension of the right to exercise official authority by a directive or order, except upon the suspension of the right to exercise official authority on the basis provided for in clause 83 3) of this Act. If the holiday is prescribed in the holiday schedule, it is not necessary to establish the suspension of the right to exercise official authority for each case separately during the holiday period.

(2) The appointing authority may appoint the officials of an authority who shall have the right to establish the suspension of the right to exercise official authority on the basis specified in clause 83 2) of this Act.

Chapter 11

Termination of service relationship of official

§ 86. Right to release from service

An official may be released from the service by the appointing authority.

§ 87. Release from service at request of official

(1) An official shall be released from office on his or her own initiative on the basis of a written application which he or she has submitted to the appointing authority.

(2) The advance notice of the resignation shall be submitted at least 30 calendar days before the desired date of release.

(3) If the reason for resignation from the service is the disability or need to take care of a sick or disabled family member, a call up to the conscript or alternative service or if the official is on the probationary period, the application shall be submitted at least ten calendar days before the desired date of release.

(4) A shorter term of advance notice may be applied upon the resignation from the service of an official on the agreement with the person who is authorised to release the official from service.

(5) An official may withdraw an application submitted for the release from service only with the consent granted by the appointing authority.

(6) The last day of the service relationship of an official is the date set out in the application. If the terms specified in subsections (2) and (3) of this section have not been followed, the last day of the service relationship is the date noted in the administrative act regarding the release from service.

§ 88. Release from service due to expiry of term of service

(1) An official appointed to office for a specified term shall be released from service due to the expiry of his or her term of service.

(2) An official appointed to a post for a specified term shall not be released from service due to the expiry of term of service if he or she is appointed to the same post for a new term, to another post in the same authority or to a post in another authority.

(3) The last day of the service relationship of an official is the last day of the term of service.

§ 89. Release from service upon appointment or election to post specified in subsection 2 (3)

(1) If an official assumes the post of a member of the Riigikogu or enters into the post of the President of the Republic or member of the Government of the Republic, the last day of his or her service relationship is the date prior to the date of taking the oath of office.

(2) If an official assumes the post of a member of the European Parliament, the last day of his or her service relationship is, pursuant to the provisions of subsection 72 (4) of the European Parliament Election Act, the date of the notification of the National Electoral Committee of the desire to participate in the work of the European Parliament.

(3) If an official is appointed to the post specified in clauses 2 (3) 5)-8) of this Act, the last day of his or her service relationship is the date prior to the day of appointment to this post.

(4) If an official is elected to the office of a rural municipality mayor or a city mayor, the last day of his or her service relationship is, pursuant to the provisions of subsection 50 (2) of the Local Government Organisation Act, the day of notifying the authority about the election of him or her.

(5) Should the official be released from the service upon the election to a member of the local government council, the last day of his or her service relationship is the day of notifying the electoral committee of the rural municipality or city of the wish to participate in the work of the local government council.

§ 90. Release from service due to redundancy

(1) The authority may release an official from service due to redundancy if:

- 1) the authority is liquidated;
- 2) on justified grounds the post of the official is abolished on the staff of the authority;
- 3) on justified grounds the job description is amended to the extent that presumes the consent of the officials and the official has failed to grant it;
- 4) the official has been appointed to a post to which an unlawfully released official is reinstated in the service.

(2) An official may require the release from service due to redundancy if the job description is amended to the extent which presumes the consent of the official and the official has failed the grant thereof.

(3) The redundancy is not allowed if the functions of the post are transferred to another structural unit in the same authority or to another authority.

(4) The redundancy is not allowed if the functions of a post are amended in such a way that the education, work experience, knowledge and skills of an official are suitable for the performance of the modified functions of the post or the immediate or higher supervisor considers it possible to prepare him or her on a professional training at the expense of the authority within a reasonable period to perform the functions and the official agrees to perform the modified functions.

(5) If upon redundancy the selection is to be made between at least two officials performing similar functions, the person whose education, work experience, knowledge and skills meet best the requirements established for the performance of the functions shall have a preferential right to remain in the service. If it is impossible to differentiate between the officials on the basis of the specified criterion, an official who is raising a child under seven years of age shall have a preferential right to remain in the service, followed by the representative of the officials or an official whose legitimate expectations need higher protection, also taking account of the number of dependants of the official.

(6) If a post is abolished on the staff of the authority, the appointing authority has the right to displace an official, releasing from service due to redundancy an official whose post is retained and appointing to this post another official, whose post is made redundant. Upon relocation of the official the preferential right specified in subsection (5) of this section is to be taken account of.

(7) Before the release of an official from service due to redundancy, a post corresponding to his or her education, work experience, knowledge and skills and a post with the functions that are similar to the former post shall be offered to him or her in the same authority, except upon liquidation of the authority.

(8) The last day of the service relationship of an official is the date noted in the notice on the release from service.

§ 91. Release from service due to unsatisfactory results of probationary period

(1) An official may be released from service due to unsatisfactory results of the probationary period only in the case that his or her work experience, knowledge and skills do not sufficiently meet the requirements established for the performance of duties.

(2) Before the release of an official from service due to unsatisfactory results of the probationary period an official shall be provided an opportunity to participate in the probationary interview. The summary of the probationary interview shall be formalised in a format enabling reproduction in a written form and shall be forwarded to the official for opinion.

(3) The last day of the service relationship of an official is the date noted in the notice on the release from service.

§ 92. Release from service due to unforeseeable circumstances

(1) An official may be released from service due to a circumstance which reveals the deficiency of the knowledge and skills of an official in the extent corresponding to the requirements established for the performance of the functions, which does not allow him or her to continue the service relationship and which could not be foreseen upon employment in service of the official or during the probationary period.

(2) The release of an official from service on the basis provided for in subsection (1) of this section is not allowed if it is possible, with his or her consent, to transfer him or her to another post in the same authority in which the functions foreseen are similar to the functions established in the current post to a considerable extent and the performance of functions is possible, irrespective of the circumstance specified in subsection (1) of this section.

(3) An official may be released from service on the basis provided for in subsection (1) of this section if prior to the release he or she has been given a reasonable term for elimination of faults but the official has failed to do so during the term. The authority organises professional training of the official if the immediate or higher supervisor considers it possible to eliminate the faults through training within a reasonable period and if the training does not cause disproportionately large expenses to the authority.

(4) Before the release from service of an official he or she shall be offered an opportunity to participate in an interview. The summary of the interview shall be formalised in a format enabling reproduction in a written form and forwarded to an official for an opinion.

(5) The last day of the service relationship of the official is the date noted on the notice on the release from service.

§ 93. Release from service due to decrease in capacity for work

(1) An official may be released from work due to decrease in the capacity for work if the official is not capable of performing the functions, based on the certificate of the incapacity for work, for over four consecutive months or over five months within a year.

(2) An official may be released from work on the basis of subsection (1) of this section if there is reason to believe that the incapacity to perform functions shall repeat within the same year and, therefore, the additional burden emerging on the organisation of work of the authority would be disproportionately large.

(3) The release from service of an official on the basis provided for in subsection (1) of this section is not allowed if it is possible for the authority to modify the post with the consent of the official, change the service-related conditions of the official or it is possible to transfer the official, with his or her consent, to another post in the same authority in which the performance of functions is in correspondence with the capacity for work of the official and is in compliance with his or her education, work experience, knowledge and skills.

(4) The last day of the service relationship of the official is the date noted on the notice on the release from service.

§ 94. Release from service for disciplinary offence

(1) An official may be released from service as a disciplinary penalty on the basis provided for in clause 70 3) of this Act under the condition provided for in subsection 75 (4) of this Act.

(2) The last day of the service relationship of an official is the date noted in the administrative act on the release from service.

§ 95. Release from service due to circumstances which would preclude recruitment of official

(1) An official shall be released from service if circumstances appear or arise which would preclude the recruitment of the official pursuant to subsection 14 (1) or (2) or § 15 of this Act.

(2) If the circumstances appear which would preclude recruitment provided for in subsection 14 (1) or (2) or clause 15 4) of this Act, an official shall be released from service on the basis provided for in subsection (1) of this section only if it is impossible to transfer him or her, with his or her consent, to another post in the same authority in which the functions foreseen are substantially similar to the functions established in the current post.

(3) The last day of the service relationship of an official is the date noted in the administrative act on the release from service.

§ 96. Release of secretary general of ministry due to failure of co-operation

(1) A secretary general of a ministry shall be released from service if, according to the assessment of a minister, the co-operation between the minister and the secretary general fails.

(2) A secretary general of a ministry shall not be released from service on the basis specified in subsection (1) of this section earlier than six months after the minister and secretary general have commenced co-operation.

(3) The last day of the service relationship of the secretary general of the ministry is the date specified in the notice on the release from service.

§ 97. Release of county governor due to failure of co-operation between Minister of Regional Affairs and county governor

(1) A county governor is released from office if, based on the opinion of the Minister of Regional Affairs, the co-operation between the Minister of Regional Affairs and the county governor fail.

(2) A county governor shall not be released from service on the basis specified in subsection (1) of this section earlier than six months after the beginning of the cooperation between the Minister of Regional Affairs and the county governor.

(3) The last day of the service relationship of the county governor is the date specified in the notice on the release from service.

§ 98. Transfer of official for unspecified term

(1) An official shall be transferred to another post for an unspecified term if:

1) the functions of the post are transferred to another structural unit of the same authority or to another authority;

- 2) the official is relocated pursuant to subsection 90 (6) of this Act;
- 3) it is possible to offer another post to the official pursuant to subsection 90 (7), subsection 92 (2), subsection 93 (3) or subsection 95 (2) of this Act;
- 4) the official consents to assume another post within the same authority;
- 5) the official consents to assume a post in another state authority or another authority of the same local government.

(2) If an official is transferred for an unspecified term pursuant to the provisions of clause (1) 1) of this section, the conditions of his or her service relationship shall not significantly differ from the conditions of the former service relationship, including his or her basic salary cannot be lower than his or her former basic salary.

(3) If upon the transfer of an official for an unspecified term pursuant to the provisions of clause (1) 1) of this section the location of the post changes, the official may be transferred only with his or her written consent. If the official refuses to give consent, he or she shall be released from service due to redundancy.

(4) In the case provided for in clause (1) 1) of this section the appointing authority shall notify the official in writing at least 30 calendar days in advance. If the functions of the post are transferred to another authority, the appointing authority of the receiving authority in cooperation with the appointing authority of the sending authority shall notify the official thereof.

(5) An official shall be transferred to another post within the same authority in a manner provided for in clause (1) 4) of this section only with the approval of the appointing authority.

(6) An official shall be transferred to a post in another authority in a manner provided for in clause (1) 5) of this section only with the approval of the appointing authorities of the sending and receiving authorities.

(7) In the event of the transfer of an official for an unspecified term the appointing authority or, upon the alteration of the authority, the appointing authority of the other authority shall apply:

- 1) § 26 of this Act upon appointment to a post;
- 2) § 29 of this Act upon cancellation of the appointment to a post.

(8) If an official is transferred for an unspecified term, his or her service relationship shall not terminate and the compensation shall not be paid for the unused annual holiday which has not expired and the holiday calculation shall continue in the other authority.

(9) An official shall be released from the current post on the day directly prior to the date designated for the assumption of the other post.

§ 99. Termination of service relationship upon death

Upon the death of an official the last day of the service relationship is deemed to be the date of death.

§ 100. Restrictions on release from service

(1) On the basis of § 90, 92 or 93 of this Act, except upon liquidation of the authority, it is not allowed to release from service an official who is pregnant, who has the right for pregnancy and maternity holiday or who is raising a child under three years of age.

(2) The provisions of subsection (1) of this section shall be applied only if the official has notified his or her immediate supervisor of her pregnancy or the existence of a child before the notification of the release from service or within 14 calendar days after the notification. If the notification was not possible within the specified period for the reasons beyond the control of the official, the circumstance specified in subsection (1) of this section shall be notified of at the earliest opportunity. At the request of the immediate supervisor an official shall submit a certificate which confirms pregnancy, issued by a doctor or midwife, or a certificate of birth.

§ 101. Advance notice of release from service

(1) An official shall be given an advance notice in writing of the release from service due to redundancy if his or her length of service has lasted:

- 1) less than one year for at least 15 calendar days in advance;
- 2) one to five years for at least 30 calendar days in advance;
- 3) five to ten years for at least 60 calendar days in advance;
- 4) ten and more years for at least 90 calendar days in advance.

(2) An official shall be notified in writing of the release from service due to occurrence of unforeseeable circumstances, decrease in the capacity for work or unsatisfactory results of the probationary period for at least 15 calendar days in advance.

(3) An official may be notified of the release from service due to unsatisfactory results in the probationary period during the probationary period, including the last day of the probationary period, taking account of the term provided for in subsection (2) of this section.

(4) The secretary general of the ministry and the county governor shall be notified in writing of the release from service due to failure of co-operation pursuant to § 96 or 97 of this Act for at least 30 calendar days in advance.

(5) The advance notice is not required upon the release from service if an official is released on the basis of § 88, 94 or 95 of this Act.

(6) If the terms for advance notice are not followed, an official shall be paid a salary for every working day of the remaining period of advance notice in addition to the compensation provided in §102 of this Act.

(7) The release which has been notified of in advance on the basis of this section may be abandoned only with the written consent of an official. If the official refuses to grant consent, he or she shall be released on the basis which he or she has been notified of in advance.

§ 102. Compensation upon release from service

(1) Upon release from the service due to redundancy, an official shall be paid one month's average salary of an official as compensation.

(2) Upon release from the service due to redundancy, an official shall be entitled to insurance indemnity under the conditions and in the procedure prescribed in the Unemployment Insurance Act.

(3) Upon release from service of the secretary general of a ministry on the basis provided for in § 96 of this Act, he or she shall be paid the basic monthly salary as a compensation for the months remaining until the end of the period of office but not more than six months' basic salary.

(4) Upon release from service of a county governor on the basis provided for in § 97 of this Act, he or she shall be paid the basic monthly salary as a compensation for the months remaining until the end of the period of office but not more than six months' basic salary.

§ 103. Formalities of release from service or post

(1) An official shall be released from service or post by an administrative act.

(2) The administrative act referred to in subsection (1) of this section shall include at least the following data:

- 1) the name of the authority;
- 2) the given name and surname of the official and personal identification code;
- 3) the title of the post from which the official is released;
- 4) the reason for release;
- 5) the basis for release with reference to the section, subsection and clause of the act;
- 6) the compensation paid to the official, including the compensation for the unused days of the holidays if the release involves payment of compensation;
- 7) the deduction from the final settlement if the release from service involves such need;
- 8) the last day of service or, upon the transfer of the official, the day of release from the former post;
- 9) a reference to challenge.

§ 104. Payment of final settlement

(1) The authority shall be required to pay to the official all the amounts receivable from the authority (hereinafter final settlement) on the last day of the service relationship, upon the termination of service relationship in the case of death, on the date of the issue of an administrative act.

(2) Upon failure to pay the final settlement by the due date, the authority is required to pay a basic salary for each working day by which the payment of the final settlement is delayed but not more than the official's one month's salary.

(3) Upon release from service of an official the authority may deduct the holiday pay for unearned basic holiday from the final settlement.

§ 105. Right of claim upon unlawful release from service

(1) An official who is unlawfully released from service has the right to demand that the administrative act on his or her release from service be declared unlawful and to demand amendment of the basis for the release from service and compensation in the amount of the three months' average salary of the official. The court may amend the amount of compensation taking account of the circumstances of the termination of the service relationship and considering mutual interests.

(2) An official who is pregnant, who has the right to pregnancy and maternity leave, is raising a child under seven years of age or who has been elected a representative of officials, is entitled to demand that

the administrative act on his or her release from service be declared unlawful upon unlawful release from service, demand amendment of the basis for the release from service and compensation in the amount of the six months' average salary of the official. The court may amend the amount of compensation, taking account of the circumstances for the termination of the service relationship and considering mutual interests.

(3) The limit to the compensation specified in subsection (1) of this section or in subsection (2) of this section shall not apply if an official was released from service violating the principle of equal treatment specified in § 13 of this Act.

(4) An official who is pregnant during the release from service, who has the right to pregnancy and maternity leave or who is raising a child under seven years of age, is entitled to demand, upon the unlawful release from service, the cancellation of the administrative act on his or her release from service, the reinstatement of himself or herself into service and remuneration for the period of forced absence from the service.

(5) The following may be subtracted from the remuneration specified in subsection (4) of this section:

- 1) the compensation paid to the official due to the unlawful release from service;
- 2) outstanding remuneration due for the period of forced absence from service to the extent which is caused by the wrongful behaviour of the official due to the procedural rights abuse, including the reason that the official has evaded the proceeding concerning the illegality of his or her release from service;
- 3) the remuneration received from another employer or the income earned from business during the period of forced absence from the service in the amount which was due to the unlawful release from service.

Chapter 12

State personnel and payroll database

§ 106. State personnel and payroll database

(1) The state personnel and payroll database is a database belonging to the state information system kept for the processing of the data necessary for the personnel and payroll calculation the purpose of which is:

- 1) to guarantee the existence of information necessary for strategic and personnel management of agencies;
- 2) to guarantee the existence of the statistical data necessary for the development of civil service and preparation of a survey for the Riigikogu.

(2) The database shall be founded and the statutes thereof established by a regulation of the Government of the Republic.

(3) The database shall include:

- 1) the data on the structure of an agency;
- 2) the data on the posts and places of employment;
- 3) the data on the persons in the service and working;
- 4) the data on the persons who are close to the persons in the service and working in the cases provided by law;
- 5) the data on the persons to whom the authority makes payments to the extent which is necessary for the performance of functions of the authority provided for by law;
[RT I, 26.03.2013, 1 - entry into force 01.04.2013]
- 6) the data on the persons who fulfil the functions of an authority in the case provided for by the law;
[RT I, 26.03.2013, 1 - entry into force 01.04.2013]
- 7) the data on service and employment relationships;
- 8) the data on the salary, remuneration, allowances and benefits.
[RT I, 26.03.2013, 1 - entry into force 01.04.2013]

(4) The more specific composition of the data to be entered into the database and the period for preservation thereof shall be provided for in the statutes of the database.

(5) The chief processor of the database is the State Support Service Centre.

(6) The consent for entering the data of local governments into the database shall be given by the chief processor of the database.

Chapter 13

Years of service

§ 107. Calculation of years of service

(1) The years of service shall include:

1) the years of service calculated on the basis of the Civil Service Act which entered into force on 1 January 1996;

2) the period of time of the exercise of official authority and the period during which the right to exercise official authority had been suspended on the basis of clauses 83 2)-6) and 8) of this Act.

(2) The Government of the Republic shall establish, by a regulation, a more specific procedure for the calculation of the years of service.

Chapter 14 Implementing provisions

Division 1 Transitional provisions

§ 108. Implementation of §§ 7 and 63 of this Act

(1) The authorities shall submit the composition of the staff arising from the definition of an official specified in § 7 of this Act and the regulation of the Government of the Republic specified in clause 10 (1) 4) of this Act and the salary guides arising from the provisions of § 63 of this Act on the establishment of the salary guide and the regulation of the Government of the Republic specified in clause § 10 (1)5) of this Act for approval to the Ministry of Finance. The authorities in the area of government shall submit their staff composition and salary guides through ministries. The Ministry of Finance shall evaluate the compliance of the staff composition with the definition of an official specified in § 7 of this Act.

(2) The Minister of Finance shall establish by a regulation the time schedule for the authorities for the submission and coordination of the staff composition and salary guides of the authorities. Upon drawing up the time schedule the size of the authority and the staff composition arising thereof and the time spent on preparation and coordination shall be taken account of.

(3) The Ministry of Finance shall review the staff composition and salary guide specified in subsection (1) of this section within two months as of the submission of the staff composition and the salary guide and approve of or refuse to approve thereof for a justified reason.

(4) The new staff composition and salary guides, coordinated with the Ministry of Finance, shall enter into force concurrently with the Civil Service Act.

(5) The staff composition of the authorities established by the local government council arising from the definition of the official specified in § 7 of this Act and the salary guides, in accordance with the provisions of § 63 on the establishment of the salary guide, shall enter into force concurrently with the Civil Service Act. Subsections (1)-(4) of this section shall not be applied upon establishment of the staff composition and the salary guide.

(6) The staff composition of the Chancellery of the Riigikogu, the Office of the President of the Republic, the National Audit Office, the Office of the Chancellery of Justice and the courts, based on the definition of an official specified in § 7 of this Act, and the salary guide, in accordance with the provisions of § 63 of this Act regarding the establishment of the salary guide, shall enter into force concurrently with the Civil Service Act. Subsections (1)-(4) of this section shall not be applied upon establishment of the composition of the staff and the salary guide.

(7) The posts which were on the staff of the authority before the entry into force of this Act shall remain posts and the contracts of employment entered into with the persons employed therein shall apply until the termination or amendment thereof.

(8) The ministry is not required to submit the staff composition and salary guide of the security authorities to the Ministry of Finance for coordination.

[RT I, 06.07.2012, 1 - entry into force 16.07.2012]

§ 109. Notification of official of change of post to place of work

(1) If due to the establishment of the staff composition specified in § 108 of this Act the position of an official becomes a place of employment as an employee, the person authorised to enter into an employment contract shall notify the official thereof in a written form for at least 30 calendar days in advance. A person who is authorised to enter into an employment contract shall make a proposal in writing to enter into an employment contract under favourable conditions as of the entry into force of the Civil Service Act. A proposal (hereinafter offer) shall be made to the official to enter into an employment contract under favourable conditions, taking account of the favourable conditions prescribed in § 110 of this Acts.

(2) An official shall notify the person who is authorised to enter into the employment contract in writing about his or her consent to enter into the employment contract under favourable conditions (hereinafter also

acceptance) within the term, determined by the latter in the offer, which cannot be shorter than 15 calendar days from the delivery of the offer by mail or from the date of the delivery against signature.

(3) If an official who received the offer refuses to enter into the employment contract under favourable conditions, he or she shall be released from service on the basis of this subsection as of the entry into force of the Civil Service Act, paying compensation to him or her to the extent of one month's average salary of the official.

(4) If an official who received the offer accepts to enter into the employment contract under favourable conditions, he or she shall be released without compensation specified in subsection (3) of this section on the basis of this section from the entry into force of the Civil Service Act and the employment contract under favourable conditions shall be concluded with him or her.

(5) The provisions of this section shall also be applied to officials whose service relationships are suspended pursuant to § 108 of the Civil Service Act in force before the entry into force of this Act. An official shall notify in writing a person who is authorised to enter into an employment contract about his or her consent to enter into the employment contract under favourable conditions within the term assigned, which cannot be shorter than 30 calendar days as of the delivery of the offer by post or the date of the delivery against signature.
[RT I, 06.07.2012, 1 - entry into force 16.07.2012]

§ 110. Employment contract under favourable conditions and procedure for preservation of favourable conditions

(1) An official whose post becomes a place of employment job in the procedure specified in § 108 of this Act shall be provided the following rights serving as favourable conditions in the employment contract:

- 1) if the salary of an official corresponding to the salary guide established in the authority appears lower than the salary together with the periodic additional remuneration, the payment of remuneration in the amount of the current salary shall continue;
- 2) the basic holiday of 35 calendar days shall be retained upon the entry into force of this Act;
- 3) the period of being employed in civil service for the increase of the state old-age pension shall be calculated into the years of service according to the provisions of subsections 113 (3) and (4) of this Act.

(1¹) If a person enters into an employment contract with the same authority under favourable conditions after the termination of the employment relations, the calculation of holiday shall continue and the unused days of holiday shall not be compensated for in money upon the termination of the employment relations.
[RT I, 26.03.2013, 1 - entry into force 01.04.2013]

(2) If upon the entry into force of this Act an employee who is employed by a state or local government authority under favourable conditions takes up another post or place of employment within the authority or a post or place of employment in another authority, the favourable conditions specified in clauses (1) 2) and 3) of this section shall be retained for him or her.

(3) The favourable conditions specified in clauses (1) 2) and 3) of this section shall be retained only if the person has been in civil service without interruption or shall continue as an official or employee in another authority upon the release from service or employment in one authority at the latest within 90 calendar days from the release.
[RT I, 06.07.2012, 1 - entry into force 16.07.2012]

(4) If upon the entry into force of this Act an employee of a state or local government authority working under favourable conditions, whose functions are given over to an agency administered by a state or local government authority, commences employment in the administered agency therefor, the favourable conditions specified in subsection (1) of this section shall be retained.
[RT I, 26.03.2013, 1 - entry into force 01.04.2013]

§ 111. Favourable conditions of official and procedure for preservation thereof

(1) An official who is being employed in civil service as an official during the entry into force of this Act and continues the service as an official shall be retained the following favourable conditions:

- 1) if the basic salary of the official corresponding to the salary guide of the authority appears lower than his or her salary together with periodic additional remuneration for the calendar month prior to the entry into force of this Act, the basic salary in the amount of the current salary shall be paid;
- 2) the period of employment in civil service for the increase in the old-age pension shall be calculated into the years of service pursuant to the provisions of subsections 113 (3) and (4) of this Act.

(2) If upon the entry into force of this Act an official of a state or local government authority, employed under favourable conditions, takes up another post or place of employment within the same authority or another post or place of employment in another authority, the favourable conditions specified in clause (1) 2) of this section and the right for a basic holiday of 35-calendar days shall be retained.

(3) The favourable conditions specified in clause (1) 2) of this section and the right of employees for an basic holiday of 35-calendar days shall be retained only if the official has been in civil service without interruption or, upon the release from office in one authority, continues as an official or employee in another authority at the latest within 90 calendar days from the release.

(4) If upon the entry into force of this Act an official of a state or local government authority working under favourable conditions whose functions are given over to an agency administered by a state or local government authority commences employment in the administered agency therefor, the favourable conditions specified in subsection (1) of this section shall be retained.

[RT I, 26.03.2013, 1 - entry into force 01.04.2013]

(5) Until 31 March 2013 the provisions of subsection (4) shall apply in respect of an official who is not an official working under favourable conditions within the meaning of this Act.

[RT I, 26.03.2013, 1 - entry into force 01.01.2013]

§ 112. Specifications of transfer of person employed for specified term upon entry into force of this Act

(1) The following persons employed for a specified term on the basis of the Civil Service Act in force before entry into force of this Act shall act as follows:

1) a substitute for a temporarily absent official shall continue the service relationship under favourable conditions until the expiry of term;

2) an employment contract shall be entered into under favourable conditions until the expiry of the term with the substitute for an absent official whose service relationship becomes an employment relationship pursuant to § 108 of this Act,;

3) an acting official in a post to be filled by way of competition, shall continue service relationship under favourable conditions or an employment contract under favourable conditions shall be entered into with him or her if the person complies with the requirements set for the post on the basis of the Civil Service Act which was in force immediately prior to the entry into force of this Act;

4) an acting official in a post to be filled by way of competition shall continue service relationship under favourable conditions until the designated term, or an employment contract under favourable conditions shall be entered into with him or her for a specified term if the person failed to meet the requirements set to the post on the basis of the Civil Service Act which was in force immediately prior to the entry into force of this Act. He or she shall be released from service within four years as of the entry into force of this Act due to the assumption of the post by a person selected by way of competition or due entering into the employment contract with him or her at the latest within four years from the entry into force of this Act;

5) a non-staff servant for the performance of whose functions a temporary post or place of employment is established on the staff of the authority, shall continue service in the authority under favourable conditions until the specified time, or an employment contract is entered into with him or her under favourable conditions until the expiry of term.

(2) Clauses (1) 3) and 4) of this section shall not be applied to the persons specified in § 134 of this Act.

(3) If an official to be substituted provided for in subsection 109 (5) of this Act refuses to enter into the employment contract under favourable conditions and is released from service, the employment contract under favourable conditions shall be concluded with his or her substitute.

§ 113. Increase of state old-age pension on basis of years of service

(1) A person who is paid the increase of state old-age pension during the entry into force of this Act, the payment thereof shall be continued pursuant to subsection (7) of this section.

(2) A person whose length of service necessary for the increase of the old-age pension is completed by the time of the entry into force of this Act retains the right to receive the increase of the old-age pension and his or her state old-age pension shall be increased pursuant to subsection (7) of this section.

(3) If an employment contract under favourable conditions is entered into with a person on the basis of this Act or he or she continues service under favourable conditions or service in the post specified in subsection 2 (3) of this Act, the calculation of his or her years of service shall continue during five years as of the entry into force of this Act.

(4) The calculation of the years of service of the person specified in subsection (3) of this section shall include:

1) the years of service calculated on the basis of the Civil Service Act in force before;

2) the period of time being employed as an official or employee in the post specified in subsection 2 (3) of this Act in the offices of the local governments associations or in the Estonian Defence League within five years after the entry into force of this Act under the conditions provided for in this Act.

(5) After the entry into force of this Act the calculation of the years of service of officials shall be based on a regulation established on the basis of subsection 107 (2) of this Act. The length of employment and period specified in § 19 of the Employment Contracts Act shall be calculated into the years of service of employees if the employee has the right to refuse to do work.

(6) The old-age pension of a person specified in subsection (3) of this section shall be increased according to subsection (7) of this section..

(7) The old-age pension calculated on the basis of the State Pension Insurance Act shall be increased as follows:

- 1) in the event of the length of service of 10-15 years - by 10 percent;
- 2) in the event of the length of service of 16-20 years - by 20 percent;
- 3) in the event of the length of service of 21-25 years - by 25 percent;
- 4) in the event of the length of service of 26-30 years - by 40 percent;
- 5) in the event of the length of service of over 30 years - by 50 percent.

(8) The increase of the state old-age pension shall be paid from the state funds through the budget of the Ministry of Social Affairs.

(9) Upon payment of the increase of the old-age pension provided for in this Act the provisions of the State Pension Insurance Act shall be applied unless otherwise provided for in this Act.

(10) A person who is released from service on the basis of § 95 of this Act upon the entry into force of a conviction for the intentionally committed criminal offence shall lose the right for the increase of the state old-age pension on the basis of the length of service provided for in this Act.

(11) A person who has been convicted for an offence provided for in Chapter 15 or Chapter 17 Division 2 of the Penal Code for which at least five years' imprisonment is prescribed in the Penal Code, shall lose the right for the increase of the state old-age pension for the length of service provided for in this Act.

(12) If a person was paid the increase of the state old-age pension on the basis of the length of service, the payment thereof shall be terminated from the next month following the month of the entry into force of the court judgement with regard to him or her.

(13) The court shall notify in writing the Estonian National Social Insurance Board within ten working days of the circumstance in connection with which the person shall lose the right for the increase of the state old-age pension.

§ 114. Specification of implementation of favourable conditions with regard to official of Bureau of Association of Local Governments and Estonian Defence League

(1) A person who was employed in service as an official during the entry into force of this Act in an authority specified in clause 2 (3) 5) of the Civil Service Act in force prior to the entry into force of this Act shall have the right to demand that the employment contract for working directly on in the Bureau of the Association of Local Governments be concluded under the following conditions:

- 1) the functions similar to former functions shall be retained;
- 2) the payment of the salary in the amount of at least the former salary shall be continued;
- 3) the basic holiday of 35 calendar days shall be retained upon the entry into force of this Act;
- 4) the calculation of the length of service for the increase of the old-age pension shall be continued according to the provisions of subsections 113 (3) and (4) of this Act.

(2) A person who was employed in service as an official during the entry into force of this Act in an authority specified in clause 2 (2) 9) of the Civil Service Act which was in force before entry into force of this Act shall have the right to demand that the employment contract for working directly on at the National Defence League be concluded under the following conditions:

- 1) the functions similar to former functions shall be retained;
- 2) the payment of the salary in the amount of at least the former salary shall be continued;
- 3) the annual holiday of 35 calendar days shall be retained upon the entry into force of this Act;
- 4) the calculation of the length of service for the increase of the old-age pension shall be continued according to the provisions of subsections 113 (3) and (4) of this Act.

(3) The favourable conditions specified in clauses (1) 3)-4) of this section shall be retained only if the person has been employed in the Bureau of the Association of Local Governments or civil service without interruption or if the interruption of the service or employment relationship in the specified agencies is not over 90 calendar days.

(4) The favourable conditions specified in clauses (2) 3)-4) of this section shall be retained only if the person has been employed in the Estonian Defence League or civil service without interruption or if the interruption of the service or employment relationship in the specified agencies is not over 90 calendar days.

§ 115. Specification of implementation of favourable conditions of persons specified in subsection 2 (3) of this Act

(1) The calculation of the length of service for the increase of the old-age pension of a person who is employed in the post specified in subsection 2 (3) of this Act upon the entry into force of this Act shall continue pursuant to the provisions of subsections 113 (3) and (4) of this Act.

(2) The calculation of the length of service on the basis of the Civil Service Act in force before, under the conditions provided for in subsections 113 (3) and (4) of this Act, shall be retained only if the person had been employed in service as an official on the basis of the Civil Service Act in force before and acquired the length of service and continues service without interruption in his or her current post or civil service or if the interruption of the service in the current post or civil service is not over 90 calendar days.

§ 116. Specification of implementation of subsection 14 (1) of this Act

The requirement for secondary education specified in subsection 14 (1) of this Act shall not be applied to an official who is in civil service upon the entry into force of this Act and who was applied the exemption from the requirement for education provided for in § 168 of the Civil Service Act in force before. The specified requirement shall also not be applied if the official is transferred to another post according to §§ 33 or 98 of this Act.

§ 117. Specification of implementation of subsection 60 (3) of this Act

Upon the entry into force of this Act, the obligation provided for in subsection 60 (3) of this Act shall be fulfilled within three months as of the entry into force of this Act.

§ 118. Transfer of probationary official

The probationary period designated before the entry into force of this Act shall continue until the expiry of the term. In other respect regarding the probationary period, the regulation prescribed in § 24 of this Act shall be applied.

§ 119. Specification of implementation of § 65 of this Act

(1) On the basis of subsection 65 (1) of this Act the basic salary of an official shall be disclosed on the web page of the authority until the year 2015 and from the year 2015 on the central web page of the civil service.

(2) On the basis of subsection 65 (2) of this Act, the basic salary and variable salary and other income of the official in total arising from his or her functions for the previous calendar year shall be disclosed on the web page of the authority from the year 2014 to the year 2015 and from the year 2015 on the central web page of the civil service.

§ 120. Specifications of implementation of § 92 of this Act

(1) From the entry into force of this Act an official may be released due to unforeseen circumstances but not earlier than a year after the entry into force of this Act.

(2) The case referred to in subsection (1) of this section shall be applied to an official who is employed in the service as an official during the entry into force of this Act and is continuing in the same post.

§ 121. Specifications of implementation of § 106 of this Act

All the national authorities, except for the Military Intelligence Battalion and security authorities, shall join the database specified in subsection 106 (1) of this Act at the latest by 31 December 2014.

§ 122. Completion and preservation of evaluation record

(1) The evaluation record of an official shall be terminated.

(2) The terminated evaluation record shall be preserved in the authority during the employment of the official or employee together with other personal records.

(3) After the release from service or termination of the employment contract of an official the evaluation record shall be preserved in the authority for at least 25 years together with other personal documents in the procedure prescribed on the list of documents and in the records management of the authority.

§ 123. Completion of public competition

(1) The competition announced from 1 April in the year 2013 shall be conducted in the procedure provided for in Chapter 2 Division 2 of this Act.

(2) The competition, announced on the basis of the Civil Service Act in force before the entry into force of this Act, which has not ended before 1 April in the year 2013, shall be completed on the basis of the Act serving as a basis for the announcement of the competition.

§ 124. Service record

(1) National authorities are required to keep a service record of the officials, including that of the current officials whose post becomes a place of employment due to the establishment of the staff composition provided for in § 11 of this Act, within five years after the entry into force of this Act. After five years the service records shall be forwarded to the Ministry of Finance.

(2) The local government authorities are required to keep a service record of the officials, including that of the current officials whose post becomes a place of employment due to the establishment of the staff composition provided for in § 11 of this Act, within five years after the entry into force of this Act. From 1 April of the year 2018 until the joining of the state personnel and wage calculation database the local government authorities shall keep a service record on the officials. The service records on the persons for whom the calculation of the years of service shall not continue shall be forwarded to the Ministry of Finance.

(3) With regard to the persons who are employed in an agency specified in § 2 of the Civil Service Act in force before the entry into force of this Act, which is not deemed an authority on the basis of this Act, for whom the calculation of the years of service for the increase of the old-age pension continues, the service record shall be kept within five years as of the entry into force of this Act. After five years their service records shall be forwarded to the Ministry of Finance. The service records of persons for whom the calculation of the years of service for the increase of old-age pension shall not continue shall be forwarded to the Ministry of Finance at the earliest possibility after the entry into force of this Act.

(4) The following data with regard to an official shall be entered in the service record as of the entry into force of this Act:

- 1) the given name, surname and the personal identification code;
- 2) the date and place of taking the oath of office;
- 3) the career, including the basis for release from service with reference to the section, subsection and clause of the applicable Act;
- 4) the suspension of the right to exercise official authority on the basis of clauses 83 1) and 7) of this Act;
- 5) disciplinary penalties and the deletion thereof.

(5) The form of and procedure for the maintenance of a service record shall be established by a regulation of the Government of the Republic.

(6) Upon the release from service of an official or termination of an employment contract with an employee of the authority, the authority shall forward the service record of the person to the Ministry of Finance. Upon taking up another place of service in another authority the service record shall be sent to a new place of service if that is known to the authority.

(7) The Ministry of Finance shall preserve the forwarded service records for 75 years from the entry into force of this Act.

(8) A person who leaves the service shall be given a transcript of the service record at his or her request.

(9) The Ministry of Finance shall forward the deposited service record to the Ministry of Social Affairs at their request.

§ 125. Compensation for damage to property

Upon compensation for damage the Civil Service Act in force during the commission of the offence shall be applied.

§ 126. Validity of earlier oath of office

The oath of office taken on the basis of § 28 of the Civil Service Act in force before the entry into force of this Act shall apply and the official is not be required to take a new oath of office according to § 27 of this Act.

§ 127. Validity of previous disciplinary penalty

The disciplinary penalty imposed before the entry into force of this Act shall also apply after the entry into force of this Act. Such penalty shall be enforced and deleted according to the Act serving as a basis for the imposition of the penalty.

§ 128. Imposition of penalty for previous disciplinary offence

(1) An official may be imposed a disciplinary penalty prescribed by this Act for a disciplinary offence committed before the entry into force of this Act if a penalty has not been imposed on him or her for this offence yet, taking account of the terms provided for in the Civil Service Act in force during the commission of the offence.

(2) If disciplinary proceedings have been commenced before the entry into force of this Act, the completion thereof is carried out pursuant to the procedure applied during the commencement of the proceeding.

§ 129. Application of Employees Disciplinary Punishments Act

The Employees Disciplinary Punishments Act shall not be applied to the officials as of the entry into force of the Act, except in the cases specified in §§ 127 and 128 of this Act.

§ 130. Use of staff housing

(1) The officials who were provided staff housing by the employer or to whom the expenses of using other housing were compensated for according to § 55 of the Civil Service Act in force before the entry into force of this Act, may use this right until 30 June in the year 2014.

(2) The limits to the compensation of the expenses specified in subsection (1) of this section shall be established by a regulation of the Government of the Republic.

§ 131. Expiry of and compensation for additional holiday

(1) The additional days of holiday given for the years of service on the basis of the Civil Service Act in force prior to the entry into force of this Act shall not be retained.

(2) The unused additional days of holiday given for the years of service on the basis of the Civil Service Act in force prior to the entry into force of this Act shall expire within four years from the entry into force of this Act.

(3) The expiry shall be suspended for the period when an official or employee is using the pregnancy and maternity leave, adopting parent's leave or parental leave.

(4) The unused and unexpired additional days of holiday shall be compensated for in money upon leaving employment or service.

§ 132. Validity of earlier code of ethics

The Civil Service Code of Ethics in force prior to the entry into force of this Act shall apply until the Council of Ethics of Officials approves the code of ethics specified in subsection 12 (4) of this Act.

§ 133. Calculation of years of service of Government Office, deputy secretary general of ministry, Director of Government Office and director general of executive agency and inspectorate employed in service for unspecified term and specification of implementation of subsection 18 (5) of this Act

(1) The Government Office, deputy secretary general of ministry, Director General of Government Office and director general of an executive agency and inspectorate employed in service for an unspecified term during the entry into force of this Act are deemed to be appointed to the post as of the date of the entry into force of this Act as follows:

- 1) in the event of up to ten years of service in this post until 31 December in the year 2018;
- 2) in the event of up to ten and more years of service in this post until 31 December in the year 2016.

(2) The period of time being employed in the post of another deputy secretary general of the same ministry directly prior to the current post shall also be calculated into the years of service of the deputy secretary general of a ministry.

(3) A public competition for the post of the deputy secretary general of ministry, Director of the Government Office and director general of an executive agency and inspectorate which becomes vacant on the basis specified in clause (1) 1) of this section shall be announced at least three months before the expiry of the term of service of the current deputy secretary general, director or director general.

§ 134. Conduct of public competition for post of deputy secretary general of ministry and director general of executive agency and inspectorate to which acting official is appointed

A public competition shall be announced within six months from the entry into force of this Act for the post of the deputy secretary general of a ministry and director general of an executive agency and inspectorate in which an acting official is employed on the date of the entry into force of this Act,

Division 2

Amendment and cancellation of acts

§ 135.–§ 176.[Omitted from this text.]

Division 3 Entry into force of Act

§ 177. Entry into force of Act

- (1) §§ 108-110 and 136 of this Act shall enter into force in the general procedure.
- (2) This Act shall enter into force on 1 April in the year 2013.
- (3) Subsection 111 (5) of this Act shall be applied retrospectively from 1 January 2013.
[RT I, 26.03.2013, 1 - entry into force 01.04.2013]