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Forensic Examination Act

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RT I 2001, 53, 309
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Amended by the following acts

Passed	Published	Entry into force
15.05.2002	RT I 2002, 47, 297	01.01.2003
19.06.2002	RT I 2002, 61, 375	01.08.2002
23.03.2005	RT I 2005, 20, 127	24.04.2005
15.06.2005	RT I 2005, 39, 308	01.01.2006
07.06.2007	RT I 2007, 44, 314	14.07.2007
18.06.2009	RT I 2009, 35, 232	01.07.2009
26.11.2009	RT I 2009, 62, 405	01.01.2010
20.01.2010	RT I 2010, 8, 35	01.03.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, pp. 24-26).
14.06.2012	RT I, 04.07.2012, 1	01.08.2012
13.06.2012	RT I, 06.07.2012, 1	01.04.2013

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of Act

(1) The Forensic Examination Act provides the legal status of forensic experts, state forensic institutions and officially certified experts and the bases for the creation of the rights and obligations of experts in criminal proceedings, civil and administrative proceedings and misdemeanour proceedings (hereinafter *proceedings*).
[RT I 2010, 8, 35 - entry into force 01.03.2010]

(2) The provisions of the Administrative Procedure Act apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.
[RT I 2002, 61, 375 - entry into force 01.08.2002]

§ 2. Forensic examination

Forensic examination is the professional activity of a person who is appointed an expert in proceedings which purpose is to study the materials presented and, based on the expert assignment, provide a scientific expert opinion.

§ 3. Expert opinion

Expert opinion is a categorical or reasoned expert conclusion provided on a fact relevant to the burden of proof and expressed in an expert report.

§ 4. Experts

(1) For the purposes of this Act, expert is a person who uses non-legal expertise in forensic examination, and legal expertise in the cases provided by law (hereinafter *examination*).

(2) Forensic experts, officially certified experts and other persons appointed by bodies conducting proceedings may be experts.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

Chapter 2 FORENSIC EXPERTS AND FORENSIC INSTITUTIONS

Division 1 Forensic experts

§ 5. Forensic experts

Forensic expert is a person employed by a state forensic institution whose duty is to conduct examinations.

§ 6. Requirements for forensic experts

(1) A person may be employed as a forensic expert if the person:

- 1) has active legal capacity;
- 2) is proficient in Estonian to the extent established by law or on the basis of an Act;
- 3) has acquired higher education required in his or her field of expertise in an institution of higher education of the Republic of Estonia or if the person's education corresponds to the said level;
- 4) has been employed in his or her field of expertise in a forensic or research institution or in another position for at least two years immediately prior to commencing employment as a forensic expert.

(2) A person shall not be employed as a forensic expert if the person:

- 1) has been convicted of an intentionally committed criminal offence;
- 2) has been punished under misdemeanour procedure for a violation of the Anti-corruption Act;

[RT I 2010, 8, 35 - entry into force 01.03.2010]

- 3) is in a close blood relationship (grandparent, parent, brother, sister, child or grandchild) or a relationship by marriage (spouse, spouse's parent, brother, sister or child) with the employee who has direct control over the corresponding position or with the immediate superior;
- 4) is unable to work as a forensic expert due to his or her state of health. In the case of doubt, a medical committee shall determine the state of health of the person.

(3) The prohibitions provided for in clauses (2) 1) and 2) of this section do not extend to persons whose punishment data have been expunged from the punishment register pursuant to the Punishment Register Act.

§ 7. Forensic expert's oath

(1) Upon entry into a contract of employment, a forensic expert shall take the following oath in front of the employer:

"I, (name), swear to perform the duties of a forensic expert with honesty and to provide expert opinions impartially, according to my specific knowledge and conscience. I am aware that knowing provision of a false expert opinion is punishable pursuant to the provisions of § 321 of the Criminal Code."

[RT I 2010, 8, 35 - entry into force 01.03.2010]

(2) A forensic expert shall sign the oath and indicate the date of taking the oath. The signed text of the oath shall be annexed to the copy of the employment contract kept by the employer.

Division 2 State forensic institution

§ 8. State forensic institution

(1) A state forensic institution (hereinafter *forensic institution*) is a state agency the main objective of whose activities is to conduct forensic examinations.

(2) A person who has higher education, is proficient in Estonian to the extent established by law or on the basis of an Act, who is of high moral character and has the necessary abilities and personal characteristics and to whom the circumstances provided for in clauses 6 (2) 1) and 2) of this Act do not apply may work as the head of a forensic institution.

(3) The list of forensic institutions and the salary grades of experts employed by forensic institutions shall be approved by the Government of the Republic.

[RT I 2005, 20, 127 - entry into force 24.04.2005]

§ 9. Competence of forensic institutions

(1) Forensic institutions conduct the following examinations:

- 1) forensic medical examinations;
- 2) forensic biological examinations;
- 3) forensic chemical examinations;
- 4) forensic anthropological examinations;
- 5) other examinations prescribed by the statutes of the forensic institution.

(2) The list of forensic medical examinations, forensic chemical examinations and forensic biological examinations shall be approved by the Government of the Republic or a competent minister appointed by the Government of the Republic. The Government of the Republic or a competent minister appointed by the Government of the Republic may establish requirements for forensic medical examinations, forensic chemical examinations and forensic biological examinations.

(3) The list of forensic anthropological examinations shall be approved by the Government of the Republic or a competent minister appointed by the Government of the Republic.

(4) A forensic institution may conduct studies not related to proceedings for a charge and under the conditions and pursuant to the procedure provided by or pursuant to law to natural and legal persons and organisations (hereinafter *customer*), unless this hinders the performance of its duties related to forensic examinations. The list of studies for a charge and, if necessary, a specific procedure for provision thereof shall be established by a regulation of the Minister of Justice.

[RT I 2010, 8, 35 - entry into force 01.03.2010]

(5) A forensic institution is the competent authority specified in Article 4(1) and 5(1) of Council Regulation (EC) No 1338/2001.

[RT I 2010, 8, 35 - entry into force 01.03.2010]

§ 9¹. Forensic Information Management System

(1) Forensic Information Management System is a database established by the Minister of Justice, which is maintained for the performance of the duties of the Estonian forensic anthropological Institute arising from this Act.

(2) The chief processor of the database is the Ministry of Justice. The authorised processor of the database is the Estonian Forensic Science Institute.

(3) The following persons shall have access right to the data in the Forensic Information Management System:

- 1) state and local government authorities and legal or natural persons for the performance of the duties provided by law;
- 2) foreign authorities and persons if this right is provided for in an international agreement.

(4) The following data shall be entered in the Forensic Information Management System:

- 1) data on examinations and studies, including personal data;
- 2) data on materials and physical evidence submitted for examinations and studies;
- 3) data on studies not related to proceedings and provided for a charge, including personal data;
- 4) data on comparative samples.

(5) The statutes of the Information System shall be established by a regulation of the Minister of Justice.

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 9². Terms and conditions for conduct of studies for charge

(1) Studies not related to proceedings and conducted for a charge may be carried out under the following terms and conditions:

- 1) forensic institutions shall prefer conducting of examinations to studies conducted for a charge, therefore the time period agreed for conducting studies for a charge shall be at least 30 days and the forensic institution

shall have the right to extend such term unilaterally for up to one year, and in the case the term is extended, the customer shall have the right to cancel the contract without paying for the study;

- 2) the number of studies for a charge per month shall not exceed 20 per cent of the estimated average number of examinations of the respective type of examinations per month;
- 3) the data and materials of studies for a charge shall be kept and stored separately from examination materials;
- 4) the person who conducts studies for a charge shall be impartial and have been employed by a forensic or scientific research institution or in another position in the area of specialisation corresponding to the field of the studies conducted for a charge for at least one year and conform to other requirements provided for forensic experts by law;
- 5) studies for a charge shall not be conducted anonymously but the customer shall ensure that the person concerned with the conduct or result thereof or the legal representative of such person shall have granted a consent to the forensic institution for conducting a specific study, except if the study for a charge is directly required for such health services for the provision of which the consent of a patient or his or her legal representative is not required;
- 6) the materials and data submitted for conducting a study shall be legal and safe, relevant and correct for conducting the study;
- 7) conducting of a study for a charge shall not induce crime or prejudice the detection of a criminal offence;
- 8) conducting of a study for a charge shall not damage the interests of the Republic of Estonia or the interests of justice;
- 9) no studies for a charge shall be conducted for verifying or supplementing an examination already conducted in the proceedings or for preventing an examination in criminal proceedings;
- 10) conducting of a study shall not violate morals or be in any other way contrary to the general good ethics and practice;
- 11) equipment financed from the European Union Structural Funds and the Cohesion Fund or acquired for money received as foreign aid shall not be used for conduct of studies for a charge, except if the institution which financed the acquisition of the equipment has granted its consent for this purpose.

(2) The person who submits materials and data to a forensic institution for conduct of studies for a charge shall be responsible for their legality, safety, relevance and correctness. The forensic institution has the right to verify the information submitted.

(3) A forensic institution may refuse to conduct a study for a charge. If it becomes evident in the course of an already commenced study for a charge that it is in contradiction with the terms and conditions set for studies for a charge or other legislation, the forensic institution shall discontinue the study for a charge without charging for it or repay the charge already received to the customer. The forensic institution need not repay the charge in the case the circumstances hindering the conduct of a study for a charge was or had to be known to the customer. The forensic institution need not transfer the results of the study conducted until the study for a charge was discontinued or other data relating to the study to the customer and need not compensate the persons concerned with the study for the costs related to ordering the study or the conduct thereof.

(4) Accounting shall be kept of studies for a charge and the data obtained upon ordering or conduct thereof shall be stored pursuant to the records management procedure of a forensic institution.

(5) A person who conducts a study for a charge and persons who participate in it or who are present at it and the forensic institution shall maintain the confidentiality of the circumstances which become known to them upon ordering or conduct of the study, except if the submission or disclosure thereof is permitted or mandatory pursuant to law.

[RT I 2010, 8, 35 - entry into force 01.03.2010]

§ 9³. Financing of studies for charge

(1) Customers shall pay a charge for the conduct of studies for a charge to a forensic institution according to the price list of examinations. In the absence of the price corresponding to the type of the study for a charge, the price for the closest type of examination shall be used as the basis upon agreeing on the charge.

(2) Customers shall pay the full charge prior to the commencement of a study for a charge, unless otherwise agreed.

[RT I 2010, 8, 35 - entry into force 01.03.2010]

Division 3 National Fingerprint Database and National DNA Database

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 9⁴. National Fingerprint Database

(1) The aim of maintenance the National Fingerprint Database is to process the data collected by fingerprinting of persons and friction ridge impressions collected from scenes of crime which have been collected and entered in the database pursuant to law.

(2) Data collected by fingerprinting of persons and friction ridge impressions which have been collected from scenes of crime shall be processed and stored in the National Fingerprint Database.

(3) The chief processor of the National Fingerprint Database is the Ministry of Justice and the authorised processor thereof is a state forensic institution.

(4) The National Fingerprint Database shall be established and the statutes thereof shall be approved by a regulation of the Government of the Republic.

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 9⁵. National DNA Database

(1) The aim of maintenance of the National DNA Database is to process the data obtained from analysis of the DNA samples collected and entered in the database pursuant to law.

(2) The data obtained from the analysis of the DNA samples collected from persons and scenes of crime shall be processed and stored in the National DNA Database.

(3) The chief processor of the National DNA Database is the Ministry of Justice and the authorised processor thereof is a state forensic institution.

(4) The National DNA Database shall be established and the statutes thereof shall be approved by a regulation of the Government of the Republic.

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 9⁶. Access to National Fingerprint Database and National DNA Database

(1) Data entered in the National Fingerprint Database and the National DNA Database shall not be subject to disclosure.

(2) The authorised processor of the database has access to the data in the database.

(3) The authorised processor shall use the data in concordance with the performance of the functions assigned to the authorised processor by law.

(4) Data entered in the national databases shall be issued to:

- 1) investigative bodies, prosecutor's offices, courts and prisons for the performance of the functions assigned thereto by law;
- 2) surveillance agencies and security authorities for the performance of the functions assigned thereto by law;
- 3) bodies conducting extra-judicial proceedings for the performance of the functions assigned thereto by law;
- 4) competent foreign authorities pursuant to law, international agreements or other international legislation binding on Estonia;
- 5) the person himself or herself based on a signed written request.

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 9⁷. Entry of data in National Fingerprint Database and National DNA Database and processing thereof

(1) Data shall be entered in the National Fingerprint Database and National DNA Database only pursuant to law.

(2) The data entered in the databases specified in subsection (1) of this section may be used solely for the performance of the duties prescribed by law and in compliance with the purpose of processing of the data and entry thereof in the database.

(3) The data entered in the database specified in subsection (1) of this section may be transmitted to foreign states for compliance with law, international agreements or other international obligations binding on Estonia only in the case the data are used in compliance with the provisions of subsection (2) of this section.

(4) The following composition of data shall be entered in the National Fingerprint Database:

- 1) data concerning a person, if such data are available;
- 2) biometric data;
- 3) fingerprinting data;
- 4) data concerning the operations conducted with fingerprint data and the results thereof.

(5) The following composition of data shall be entered in the National DNA Database:

- 1) DNA sample data;
- 2) reference to the source documents for collecting DNA samples;

3) information concerning the operations conducted with DNA sample data and the results thereof.
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 9⁸. Consent for entry of fingerprinting data and data from DNA sample analysis in National Fingerprint Database and National DNA Database

(1) A person may apply for entry of his or her fingerprinting data and data from DNA sample analysis respectively in the National Fingerprint Database or the National DNA Database. The request shall be in writing and signed.

(2) A person gives his or her consent by a request for processing the data of his or her fingerprinting or DNA sample analysis and determines the purpose of using the data.

(3) A person whose data are entered in the National Fingerprint Database or National DNA Database pursuant to subsection (1) of this section may apply for deletion of his or her data from the specified database at any time by submitting a signed written request to the authorised processor of the database.
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 9⁹. Storing, archiving and deleting data entered in National Fingerprint Database and National DNA Database

(1) The data obtained from fingerprinting of a person and analysis of the DNA sample of a person shall be stored for the term of 40 years as of the entry of the data respectively in the National Fingerprint Database and the National DNA Database, unless otherwise provided by law. After expiry of the specified term, the data shall be closed and archived.

(2) Upon acquittal of a person, termination of criminal proceedings on the basis of § 200 of the Code of Criminal Procedure or termination of misdemeanour proceedings on the basis of clauses 29 (1) 1)-3) and 5)-7) of the Code of Misdemeanour Procedure, the data from fingerprinting and DNA sample analysis of a person shall be deleted within 14 days respectively from the National Fingerprint Database and the National DNA Database on the basis of a court judgment, an order of a prosecutor's office, investigative body or body conducting extra-judicial proceedings.

(3) Comparative data collected for the purpose of exclusion on the basis of subsection 100 (1¹) of the Code of Civil Procedure shall not be entered in the National Fingerprint Database or National DNA Database or such data shall be deleted from the specified databases immediately after conduct of the comparative study.

(4) Friction ridge impressions and data from DNA sample analysis without reference to a person and entered respectively in the National Fingerprint Database and the National DNA Database shall be stored for the term of 75 years or until reference to a person is made.

(5) DNA samples of a person shall be destroyed two months after the submission of the respective expert report or study to the body conducting the proceedings or entry of the data obtained from DNA sample analysis in the National DNA Database. In exceptional circumstances, the term for storing the DNA sample can be extended at the request of a prosecutor's office until the termination of the criminal proceedings.

(6) The fingerprinting data and data from DNA sample analysis of employees of a state forensic institution and police officers entered respectively in the National Fingerprint Database and the National DNA Database on the basis of subsection 25¹(3) of this Act and subsection 45¹(3) of the Police and Border Guard Act shall be deleted from the specified databases in accordance with subsection 25¹(4) of this Act and subsection 45¹(4) of the Police and Border Guard Act.

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 9¹⁰. Archiving of data entered in National Fingerprint Database and National DNA Database and access to archived data

(1) Fingerprinting data and data from DNA sample analysis of persons shall be respectively stored in the archives of the National Fingerprint Database and the National DNA Database for the term of 35 years after closing of the data in the database.

(2) Data collected for the purpose of detection and prevention of offences and stored in the archives of the National Fingerprint Database and the National DNA Database are used for detection of offences and, if necessary, such data are issued, based on a justified request or examination ruling of the body conducting proceedings, if the object of the criminal proceeding is a criminal offence in the first degree or an intentionally committed criminal offence in the second degree for which at least up to three years' imprisonment is prescribed as punishment.

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

Chapter 3

OFFICIALLY CERTIFIED EXPERTS

§ 10. Officially certified experts

Officially certified expert is a person who is entered in the list of officially certified experts.

§ 11. List of officially certified experts

(1) The purpose of preparing a list of officially certified experts (hereinafter *list*) is to provide an overview of experts who can be used upon conducting examinations.

(2) Officially certified experts are entered in the list by scientific field and the following data are provided on the experts:

- 1) given names and surname and his or her date of birth or personal identification code by choice of the expert; [RT I 2010, 8, 35 - entry into force 01.03.2010]
- 2) by choice of the expert his or her contact address or telecommunications numbers or both; [RT I 2010, 8, 35 - entry into force 01.03.2010]
- 3) the time of entry in the list and termination of official certification. Comments concerning the narrower speciality of an expert are also entered in the list, if necessary.

(3) The list is maintained by a forensic institution. [RT I 2010, 8, 35 - entry into force 01.03.2010]

(4) A forensic institution publish notices concerning the need for officially certified experts in a daily national newspaper. [RT I 2010, 8, 35 - entry into force 01.03.2010]

(5) The procedure for maintaining the list shall be approved by the Government of the Republic or a competent minister appointed by the Government of the Republic.

§ 12. Entry of officially certified experts in list

(1) A person who complies with the requirements specified in clauses 6 (1) 1)-3) and 6 (2) 1) and 2) of this Act shall be entered in the list, if the person:

- 1) has worked, for at least three years immediately before application for entry in the list, in the scientific field in which he or she applies for official certification and which provides the qualifications in compliance with the nationally recognised requirements for conducting examinations;
- 2) has the opportunity to use the technical resources necessary for expert research;
- 3) has a permanent income.

(2) Persons who are employed as forensic experts by a forensic institution shall not be entered in the list.

(3) A person in a service or employment relationship may be entered in the list only if it is determined that the person shall be released from the performance of service or employment duties for the time of conducting an examination.

(4) Persons are entered in the list by scientific field in which examinations are ordered.

§ 13. Application

(1) A person is entered in the list on the basis of the person's written application.

(2) Applications shall be submitted to a forensic institution. [RT I 2010, 8, 35 - entry into force 01.03.2010]

(3) An application shall set out the following information:

- 1) given name and surname;
- 2) personal identification code;
- 3) the scientific field or fields in which official certification is applied for;
- 4) education and a description of professional career;
- 5) contact address and telecommunications numbers;
- 6) a confirmation under the hand of the person that he or she meets the requirements of § 12 of this Act.

(4) A document certifying education, information concerning the opportunity to use the technical resources necessary to conduct examinations and information concerning permanent income, a confirmation of the employer or immediate superior of a public servant regarding compliance with the requirement specified in subsection 12 (3) of this Act and a recommendation from the professional association of the field or two

recommendations from two qualified persons recognised in the field or information concerning certification (evaluation, licensing or certification in another form) by a relevant agency or authorised legal person shall be annexed to an application. Other information concerning professional suitability may also be annexed to an application.

§ 14. Review of applications

The compliance of a person with the requirements of § 12 of this Act is verified on the basis of an application. A forensic institution may collect additional information concerning the compliance of an applicant by submitting inquiries and request additional information from the applicant.
[RT I 2010, 8, 35 - entry into force 01.03.2010]

§ 15. Decision on entry in list

(1) The head of a forensic institution shall decide on entry of a person in the list within two months as of the receipt of an application. If additional information specified in § 14 of this Act is collected, the forensic institution may extend the term for up to three months.
[RT I 2010, 8, 35 - entry into force 01.03.2010]

(2) [Repealed - RT I 2002, 61, 375 - entry into force 01.08.2002]

(3) [Repealed - RT I 2002, 61, 375 - entry into force 01.08.2002]

§ 16. Disclosure of list

(1) A forensic institution shall ensure the accessibility of the list to courts and the Police and Police and Border Guard Board.
[RT I 2010, 8, 35 - entry into force 01.03.2010]

(2) The list shall be published on the website of a forensic institution.
[RT I 2010, 8, 35 - entry into force 01.03.2010]

§ 17. Officially certified expert's oath

(1) Prior to entry in the list, a person shall take the following oath in front of the Minister of Justice: "I, (name), swear to perform the duties of an officially certified expert with honesty and to provide expert opinions impartially, according to my specific knowledge and conscience. I am aware that knowing provision of a false expert opinion is punishable pursuant to the provisions of § 321 of the Criminal Code."
[RT I 2010, 8, 35 - entry into force 01.03.2010]

(2) The person shall sign the text of the oath and indicate the date of taking the oath.

(3) If the term of official certification is extended pursuant to § 18 of this Act, no new oath is taken. If a person is deleted from the list, the oath becomes invalid.

§ 18. Term of official certification

(1) A person is entered in the list for three years.

(2) Official certification terminates on 15 December of the third year as of the entry in the list.

(3) The term of official certification may be repeatedly extended at the written request of an officially certified expert, if the requirements of § 12 of this Act are complied with. The officially certified expert provides a written confirmation concerning compliance with the requirements of § 12 of this Act.

(4) A request for extension of the term of official certification shall be submitted to a forensic institution not later than three months prior to the termination of the term of official certification.
[RT I 2010, 8, 35 - entry into force 01.03.2010]

(5) The request shall contain a list of matters in which the person conducted examinations as an officially certified expert and, if the person was frequently appointed, also matters of the last calendar year.

(6) A decision to extend the term of official certification shall be made pursuant to the procedure provided for in § 14 and subsection 15 (1) of this Act.

§ 19. Termination of official certification

(1) Official certification terminates and the person is deleted from the list if:
1) an officially certified expert submits a written request to be deleted from the list to a forensic institution;
[RT I 2010, 8, 35 - entry into force 01.03.2010]
2) the term of certification expires and no request to extend the term is submitted, or if a request is denied;
3) an officially certified expert dies.

(2) Termination of official certification does not hinder conducting an examination in pending proceedings.

§ 20. Revocation of official certification

(1) The revocation of official certification shall be decided by the head of a forensic institution, and a person shall be deleted from the list if:

[RT I 2010, 8, 35 - entry into force 01.03.2010]

1) it becomes evident that the requirements specified in subsections 12 (1) and (3) of this Act were not complied with at the time of appointment or if such requirements are not complied with since appointment, except in the case specified in clause 19 (1) 3) of this Act;

2) an officially certified expert refuses, without legal basis, to conduct an examination or delays conducting an examination or does not appear when summoned by the body conducting proceedings without good reason and the body conducting proceedings makes a proposal to revoke official certification.

(2) [Repealed - RT I 2002, 61, 375 - entry into force 01.08.2002]

(3) [Repealed - RT I 2002, 61, 375 - entry into force 01.08.2002]

§ 21. Notification obligation

If the information specified in subsection 13 (3) of this Act changes, an officially certified expert is required to immediately notify a forensic institution thereof in writing.

[RT I 2010, 8, 35 - entry into force 01.03.2010]

Chapter 4 RIGHTS AND OBLIGATIONS OF EXPERTS

§ 22. Basis for creation of rights and obligations of experts

The rights and obligations of an expert arise for a forensic expert on the basis of an examination order indicated on an examination ruling and for other persons on the basis of an examination ruling issued by the body conducting the proceedings.

§ 23. Rights and obligations of experts

(1) The rights and obligations of an expert when conducting an examination are provided by procedural law.

(2) In addition to the provisions of procedural law, an expert is required to:

1) supervise and monitor the activities of the support staff when conducting an examination;

2) store the examination data pursuant to the provisions of § 25 of this Act;

3) in the case of an examination made outside a forensic institution, to submit a copy of the expert report and any annexes thereto within 10 working days as of the completion of the expert report to the forensic institution according to the provisions of subsection (3) of this section.

[RT I 2010, 8, 35 - entry into force 01.03.2010]

(3) A list of the cases when an expert is required to submit a copy of the expert report and any annexes thereto to a forensic institution and the procedure for the submission of the copies and reimbursement of expenses relating thereto shall be established by a regulation of the Minister of Justice.

[RT I 2010, 8, 35 - entry into force 01.03.2010]

§ 24. Use of support staff

An expert has the right to use support staff in expert research. An expert shall supervise the support staff upon conducting expert research and monitor their activities.

§ 25. Obligation to preserve data

(1) An officially certified expert shall keep records of examinations conducted and maintain the following data:

1) the name of the body conducting proceedings which ordered the examination;

2) the number of the matter regarding which proceedings are conducted;

3) the date of the examination ruling;

4) the type of examination;

5) information on the subject of examination or the person regarding whom the examination is ordered;

6) the date of preparation of an expert report or a report on refusal from examination.

(2) An expert is required to preserve the examination records for five years.

(3) Examination records and a copy of the expert report or a copy of the report on refusal from examination shall be preserved in a forensic institution pursuant to the procedure provided by law or on the basis of an Act.

§ 25¹. Fingerprinting of and collecting DNA samples from persons employed by state forensic institution

(1) Persons employed by a forensic institution who come into contact with examination items shall be fingerprinted and their DNA samples shall be taken for the purpose of excluding the prints and traces left on items by employees of the state forensic institution.

(2) A list of positions in which employees of a state forensic institution are fingerprinted and from whom DNA samples are taken shall be established by a directive of the head of the state forensic institution.

(3) The fingerprinting data and data from DNA sample analysis of employees of a state forensic institution shall be entered respectively in the National Fingerprint Database and the National DNA Database.

(4) The fingerprinting data and data from DNA sample analysis of employees of a state forensic institution shall be deleted from the respective database upon termination of the employment contract entered into by the person and the state forensic institution.

(5) The procedure for fingerprinting and taking of DNA sample from persons employed by a state forensic institution shall be established by a directive of the head of the state forensic institution.

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

Chapter 5 FINANCING OF EXAMINATIONS

[RT I 2010, 8, 35 - entry into force 01.03.2010]

Division 1 EXAMINATION COSTS

[RT I 2010, 8, 35 - entry into force 01.03.2010]

§ 26. Calculation and financing of examination costs

(1) Examination costs include the costs incurred by a forensic institution in connection with examinations and participation in proceedings and in justified exceptional cases the costs of persons not participating in proceeding incurred in connection with examinations.

(2) Calculation of examination costs shall be understandable, correct, detailed and consistent.

(3) An expert shall add a certificate to the expert report submitted to a court, prosecutor's office, investigative body or body conducting extra-judicial proceedings which shall set out the cost of the examination according to the established price list and justified costs relating to participation in the proceedings by cost items. An additional certificate shall be submitted with regard to the costs incurred after the submission of the expert report.

(4) If an expert refuses to conduct an examination on the bases provided by law, a certificate shall be submitted with respect to the costs already incurred. A court, prosecutor's office, pre-trial study authority or body conducting extra-judicial proceedings shall assess whether the expenses incurred were justified and the circumstances of refusal to conduct an examination and thereafter determine the amount to be compensated for or refuse to compensate for the costs.

(5) A court, investigative body, prosecutor's office or body conducting extra-judicial proceedings shall include the examination costs in the procedure expenses and payment of such costs shall be ordered or not ordered pursuant to the procedure prescribed in the procedural law.

(6) Conduct of examinations in a forensic institution shall be financed from the funds allocated from the state budget.

[RT I 2010, 8, 35 - entry into force 01.03.2010]

§ 26¹. Cost of examinations conducted in forensic institutions

(1) The costs of an examination conducted in a forensic institution includes the price for the examination on established by this Act or a product of the number of items of examination examined in the course of the examination and the price for the examination of one item of examination established by this Act or the product of the amount of the cost of the methods used in the course of toxicology examinations and the number of the items of examination.

(2) The cost of a forensic medical and forensic anthropology examination conducted in a forensic institution is the sum of the price for the examination and the price for the additional studies conducted in the course of the examination.

(3) No value added tax is added to the price for examinations.
[RT I 2010, 8, 35 - entry into force 01.03.2010]

§ 26². Expenses incurred by forensic institutions in connection with conducting examinations

(1) The price for examinations and additional studies conducted in a forensic institution includes the following costs relating to the conduct of the examination or additional studies:

- 1) cost of salaries of an expert;
- 2) cost of materials;
- 3) cost of maintenance and repairs of equipment;
- 4) cost of transportation required for conducting the examinations;
- 5) administrative costs;
- 6) utility costs;
- 7) depreciation of fixed assets.

(2) The price for examinations and additional studies conducted at a forensic institution shall not include the costs of experts relating to participation in the proceedings.

(3) Costs relating to participation in proceedings include daily allowances and travel and accommodation expenses.
[RT I 2010, 8, 35 - entry into force 01.03.2010]

§ 27. Reimbursement of expenses incurred by officially certified experts and other persons who are appointed experts

Expenses related to examinations conducted by officially certified experts and other persons who are appointed experts by the body conducting the proceedings shall be compensated for pursuant to the procedure provided by procedural law.

[RT I 2010, 8, 35 - entry into force 01.03.2010]

§ 27¹. Compensation of persons not participating in proceedings for costs incurred in connection with conduct of examination

(1) Direct costs incurred by persons not participating in proceedings in connection with conduct of examinations shall be compensated in justified cases, unless such costs are already covered by the fees paid to the expert. Such costs include costs of devices in the possession of persons which incurred only upon conduct of the examination, including costs incurred on transportation, support staff and materials and devices used in studies.

(2) The examination costs of persons not participating in proceedings shall not include the salaries of an expert or other costs relating to him or her.

(3) Persons not participating in proceedings shall submit, at the request of a court, prosecutor's office, pre-trial study authority or body conducting extra-judicial proceedings, the source data of the examination costs set out in the certificate and provide explanations.

(4) The amount to be compensated to persons not participating in proceedings shall be determined on the basis of the certificate submitted by a ruling of a court, prosecutor's office, pre-trial study authority or body conducting extra-judicial proceedings.

(5) A court, prosecutor's office, a pre-trial study authority or body conducting extra-judicial proceedings shall transfer the amount set out in a ruling to the bank account specified by the person within 15 working days as of the date of making the ruling.

[RT I 2010, 8, 35 - entry into force 01.03.2010]

Division 2 Prices for examinations conducted in forensic institution

§ 27². Medical forensic toxicology examination

The price for medical forensic toxicology examination is 95 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 27³. DNA examination

The price for DNA examination per one item of analysis is 57 euros.
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 27⁴. Forensic medical examination

The prices for forensic medical examinations are the following:

- 1) forensic medical examination, including examination for establishing of health damage and state of health – 61 euros;
- 2) complicated forensic medical examination and forensic medical examination in a hospital, prison or custodial institution – 84 euros;
- 3) forensic medical committee examination – 271 euros;
- 4) additional forensic medical examination – 97 euros;
- 5) repeated forensic medical examination – 177 euros;
- 6) minor's gynaecological examination – 129 euros;
- 7) adult's gynaecological examination – 109 euros;
- 8) andrological examination – 119 euros.

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

§ 27⁵. Forensic psychiatric examination and forensic psychological examination

The prices for forensic psychiatric examinations and forensic psychological examinations are the following:

- 1) forensic psychiatric examination – 255 euros, plus in-patient fee in the case of in-patient examination 59 euros per each day;
- 2) forensic psychiatric and forensic psychological complex examination – 380 euros;
- 3) forensic psychiatric committee examination – 380 euros;
- 4) forensic psychological examination – 125 euros.

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 27⁶. Forensic chemical examination

The prices for forensic chemical examinations per one item of examination are the following:

- 1) alcohol examination – 75 euros;
- 2) narcotic substance examination – 84 euros;
- 3) explosives examination – 81 euros;
- 4) ignitable liquid examination – 193 euros.

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

§ 27⁷. Forensic science examination

The prices for forensic science examinations are the following:

- 1) information technology examination of materials relating to sexual abuse of a minor – 451 euros;
 - 2) technical examination of vehicles – 503 euros;
 - 3) document examination of one document – 77 euros;
- [RT I, 04.07.2012, 1 - entry into force 01.08.2012]
- 4) voice examination – 862 euros;
 - 5) information technology examination – 1608 euros;
 - 6) marks examination – 314 euros;
 - 7) fibre examination of one item – 100 euros;
- [RT I, 04.07.2012, 1 - entry into force 01.08.2012]
- 8) image examination – 761 euros;
 - 9) handwriting examination per one person – 282 euros;
- [RT I, 04.07.2012, 1 - entry into force 01.08.2012]
- 10) cut-and-thrust weapon examination – 255 euros;
 - 11) shot trace examination of one item – 45 euros;
- [RT I, 04.07.2012, 1 - entry into force 01.08.2012]
- 12) other subtypes of traffic examination – 428 euros;
 - 13) technical traffic examination – 457 euros;
 - 14) traffic trassology examination – 413 euros;
 - 15) explosive device and explosion examination – 430 euros;
 - 16) metal examination of one item – 50 euros;

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

17) paper money examination of one banknote – 77 euros;

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

18) forensic accounting examination per one enterprise, organisation or legal person – 1585 euros;

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

19) radar detector examination – 86 euros;

20) weapon examination, including firearms examination – 420 euros;

21) fingerprint examination – 663 euros;

22) fire examination – 704 euros;

23) paint coating examination of one item – 40 euros;

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

24) filament lamp examination of one item – 35 euros.

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 27⁸. Medical forensic anthropological examination

The prices for medical forensic anthropological examinations are the following:

1) forensic anthropology examination, including person's identification examination – 333 euros;

2) forensic traumatology examination, including wound ballistics examination, forensic medical trace examination and event scene reconstruction examination – 77 euros.

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

§ 27⁹. Forensic medical examination of dead bodies

The prices for forensic medical examinations of dead bodies are the following:

1) forensic medical examination of dead bodies – 145 euros;

2) complicated forensic medical examination of dead bodies – 222 euros;

3) forensic medical committee examination of dead bodies – 473 euros;

4) additional forensic medical committee examination of dead bodies – 68 euros;

5) second forensic medical examination of dead bodies – 220 euros.

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

§ 27¹⁰. Toxicology examination

(1) The prices for qualitative determination of active ingredients of narcotic substances and pharmaceutical drugs in biological specimen are the following:

1) determination of basic narcotic substances and active ingredients of pharmaceutical drugs by a gas chromatograph-mass spectrometer – 52 euros;

2) determination of amphetamines by a gas chromatograph-mass spectrometer – 54 euros;

3) price for taking venous blood samples by a health care provider or state forensic institution – 2 euros;

4) price for taking urine samples through a catheter by a health care provider or state forensic institution – 12 euros;

5) determination of cannabinoids by a gas chromatograph-mass spectrometer – 53 euros;

6) determination of narcotic and psychotropic substances by a gas chromatograph-mass spectrometer – 61 euros;

7) determination of fentanyl by a gas chromatograph-mass spectrometer – 50 euros;

8) screening measurement of narcotic and psychotropic substances for determining the class thereof – 23 euros;

9) determination of benzodiazepines by a gas chromatograph-mass spectrometer – 46 euros;

10) determination of gammahydroxybutyrate by a gas chromatograph-mass spectrometer – 70 euros;

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

11) determination of other substances by a gas chromatograph-mass spectrometer, spectral analysis or high performance liquid chromatograph – 70 euros.

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

(2) The prices for other toxicology examinations are the following:

1) determination of alcohols and other highly volatile products – 27 euros;

2) determination of alcohols with multiple OH functional groups and their degradation products – 37 euros.

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

Division 3 Prices for studies conducted in state forensic institutions

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 27¹¹. Studies conducted in state forensic institutions

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

(1) The prices for qualitative determination of active ingredients of narcotic substances and pharmaceutical drugs are the following:

- 1) determination of narcotic and psychotropic substances by a gas chromatograph-mass spectrometer – 59 euros;
 - 2) determination of basic narcotic substances and active ingredients of pharmaceutical drugs by a gas chromatograph-mass spectrometer – 39 euros;
 - 3) determination of benzodiazepines by a gas chromatograph-mass spectrometer – 33 euros;
 - 4) determination of cannabinoids by a gas chromatograph-mass spectrometer – 36 euros;
 - 5) determination of fentanyl by a gas chromatograph-mass spectrometer – 35 euros;
 - 6) separation of acid base fractions from biological specimen and their analysis by thin layer chromatography – 35 euros;
 - 7) determination of amphetamines by a gas chromatograph-mass spectrometer – 38 euros;
 - 8) general urine test by a gas chromatograph-mass spectrometer – 31 euros;
 - 9) determination of gammahydroxybutyrate by a gas chromatograph-mass spectrometer – 60 euros;
- [RT I, 04.07.2012, 1 - entry into force 01.08.2012]
- 10) screening measurement of narcotic and psychotropic substances for determining the class thereof – 23 euros.

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

(2) The prices for quantitative tests and analyses of active ingredients of narcotic substances are the following:

- 1) determination of narcotic substances and pharmaceutical drugs by a gas chromatograph-mass spectrometer – 174 euros;
- 2) determination of narcotic substances and pharmaceutical drugs by a high performance liquid chromatograph – 172 euros.

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

(2¹) The prices for forensic medical radiology tests and analyses of dead bodies are the following:

- 1) computerized tomography scan of dead body – 284 euros;
- 2) computerized tomography scan of dead body together with fine needle biopsy for taking samples for toxicology studies – 308 euros;
- 3) computerized tomography scan of dead body together with thick needle biopsy and histological studies – 495 euros;
- 4) magnetic resonance tomography studies of dead body – 1057 euros;
- 5) other forensic radiology studies – according to the price list of the Estonian Health Insurance Fund.

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

(3) The prices for other additional studies are the following:

- 1) forensic traumatology study – 76 euros;
 - 2) forensic medical toxicology study – 52 euros;
 - 3) determination of alcohols and other highly volatile products – 14 euros;
 - 4) determination of alcohols with multiple OH functional groups and their degradation products – 25 euros;
 - 5) determination of carboxyhaemoglobin – 26 euros;
 - 6) determination of other intoxicating substances – 31 euros;
- [RT I 2010, 22, 108 - entry into force 01.01.2011]
- 7) forensic medical study for determination of percentage of loss of capacity for work – 61 euros;
- [RT I, 04.07.2012, 1 - entry into force 01.08.2012]
- 8) elemental analysis of one item – 35 euros;
- [RT I, 04.07.2012, 1 - entry into force 01.08.2012]
- 9) infrared spectrometry study of one item – 40 euros;
- [RT I, 04.07.2012, 1 - entry into force 01.08.2012]
- 10) forensic psychiatric study – 125 euros;
- [RT I, 04.07.2012, 1 - entry into force 01.08.2012]
- 11) forensic psychological study – 73 euros;
- [RT I, 04.07.2012, 1 - entry into force 01.08.2012]
- 12) preliminary study of biological specimen – 70 euros.

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

Chapter 6

IMPLEMENTING PROVISIONS

§ 28. [Omitted from this text.]

§ 29. Specifications of taking oath of forensic expert

A person who is employed for the conduct of examinations and who complies with the requirements set for forensic experts takes the oath specified in § 7 of this Act in front of the person with whom he or she entered into a contract of employment, within six months as of entry into force of this Act.

§ 30. Bringing statutes of forensic institutions into conformity with law

The statutes of a forensic institution shall be brought into conformity with the requirements of this Act within six months as of entry into force of the Act.

§ 30¹. Termination of activities of Forensic Service Centre

(1) The activities of the Forensic Service Centre shall be terminated and the functions, rights, obligations, state assets and records management thereof shall be transferred to the Bureau of Forensic Medicine of Estonia as of 1 January 2008. The supply of police authorities with forensic equipment and the organisation of forensic activities and photography services thereof shall not be transferred to the Bureau of Forensic Medicine of Estonia, these activities shall remain the function of the police authorities. Termination of the activities of the Forensic Service Centre and the transfer relating to it shall be organised by the Government of the Republic or a minister authorised thereby.

(2) The Minister of Justice shall rename the Bureau of Forensic Medicine of Estonia by establishing the new statutes thereof.

(3) In all the legal relationships in which the Republic of Estonia was represented through the Bureau of Forensic Medicine of Estonia or the Forensic Service Centre, the Republic of Estonia shall be represented as of 1 January 2008 by the former Bureau of Forensic Medicine of Estonia, which shall be renamed and act pursuant to the new statutes thereof and which, until the amendment of the legislation, shall also have the competence of the former state forensic institutions provided therein.

[RT I 2007, 44, 314 - entry into force 14.07.2007]

§ 30². Release of officials of Forensic Service Centre upon termination thereof

(1) A notice on termination of the activities of the Forensic Service Centre and a proposal to enter into an employment contract on the terms and conditions offered with the Bureau of Forensic Medicine of Estonia shall be submitted to officials in writing at the latest on 15 November 2007.

(2) The following rights acquired on the basis of the Public Service Act by officials of the Forensic Service Centre who leave from the position of an official to the position subject to contract of employment with the Bureau of Forensic Medicine of Estonia shall be preserved during the time of employment in the respective position:

1) he or she shall continue to receive his or her former salary if the salary at the new position is smaller than the former salary;

2) an official who has at least three years of service by the time of release from service shall be entitled to receive one day of additional holiday for the third and each subsequent year, but not more than a total of ten calendar days. If additional holiday is prescribed for officials in the collective agreement of an institution, the additional holiday granted based on this section shall not be added to the additional holiday granted based on the collective agreement;

3) write off of a study loan is granted pursuant to the procedure provided for in the Study Allowances and Study Loans Act;

[RT I 2009, 35, 232 - entry into force 01.07.2009]

4) the time till 1 January 2013 worked under an employment contract shall be included in the length of service upon increase of the pension on the basis of the Public Service Act.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(3) An official notifies the head of the Bureau of Forensic Medicine of Estonia about his or her consent to enter into an employment contract during the term determined by the latter which may not be shorter than two weeks after the date of receipt of the notice specified in subsection (1) of this section. If the official fails to notify of his or her consent within the specified term, the official shall be deemed to have opposed.

(4) Former employees who grant their consent for entry into an employment contract on time shall not be paid the compensation specified in subsection 131 (1) of the Public Service Act upon release from service.

[RT I 2007, 44, 314 - entry into force 14.07.2007]

§ 30³. Publication of list of officially certified experts on website

A list of officially certified experts shall be made publicly available through a website. A forensic institution shall notify all the experts entered in the list thereof within one month as of the entry into force of this Act and the experts may inform the forensic institution of their intention to change the contact address or telecommunications numbers published in the list or not to disclose one of these. A list of officially certified experts shall be published on the website within two months as of the entry into force of the Act with the data available by that time.

[RT I 2010, 8, 35 - entry into force 01.03.2010]

§ 30⁴. Transitional provisions concerning National Fingerprint Database and National DNA Database

(1) If it is impossible to establish the purpose of data collection, the data entered in the National Fingerprint Database and National DNA Database before 1 August 2012 may be only used for identification purposes.

(2) The fingerprints and data obtained from DNA samples analysis which were respectively entered in the National Fingerprint Database and National DNA Database before 1 August 2012 shall be deleted when 40 years have passed from the entry thereof in the register.

(3) Subsection 9⁹(2) of this Act shall apply to deletion of data from the National DNA Database as of 1 December 2013.

(4) The data obtained from analysis of the DNA samples of the persons specified in subsection 9⁹(2) of this Act shall not be deleted from the National DNA Database, but access to the specified data shall be closed and such data shall be in no case used after the closing thereof. The data closed on the basis of this subsection shall be deleted from the National DNA Database as of 1 December 2013.
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

§ 31. Entry into force of Act

This Act enters into force on 1 January 2002