

# Police and Border Guard Act

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RT I 2009, 26, 159

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## Amended by the following Acts

Passing	Publication	Entry into force
26.11.2009	RT I 2009, 62, 405	01.01.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date determined by the Decision of the Council of the European Union on abrogation of a derogation established in respect of the Republic of Estonia on the basis of Article 140(2) of the Treaty on the Functioning of the European Union, Council Decision No. 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, pp. 24–26).
09.06.2010	RT I 2010, 41, 240	01.09.2010
23.12.2010	RT I, 31.12.2010, 3	01.07.2011
09.02.2011	RT I, 04.03.2011, 1	01.04.2011
17.02.2011	RT I, 21.03.2011, 2	01.01.2012, time of entry into force amended
23.02.2011	RT I, 22.03.2011, 1	01.01.2013 [RT I, 22.12.2011, 3]
08.12.2011	RT I, 22.12.2011, 3	01.04.2011, partially 01.01.2012
08.12.2011	RT I, 29.12.2011, 1	23.12.2011
		01.01.2012, partially 01.11.2014

## Chapter 1 GENERAL PROVISIONS

### § 1. Scope of application

(1) This Act provides for the functions, rights and organisation of the police and the legal bases of police service.

(2) The police is an institution of executive power within the area of government of the Ministry of the Interior and the main functions thereof are protection of public order, organisation of matters of border management, detection and elimination of marine pollution, organisation of search and rescue operations at sea, and organisation of matters in the area of citizenship and migration.

(3) The provisions of the Administrative Procedure Act shall apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

(4) The functions and activity of the police in offence proceedings have been provided for in the Code of Criminal Procedure and in the Code of Misdemeanour Procedure.

(5) This Act shall apply to the functions and activity of the police upon protection of public order. Upon applying a measure of state supervision based on a specific law, the police shall proceed from the provisions of the specific law. If the specific law does not provide for the procedure for the application of the measure, the procedure provided for in this Act shall be proceeded from upon the application of the measure. In a case not regulated by the specific law, provisions of this Act shall be proceeded from.

(6) The Public Service Act shall extend to the police service with the specifications stemming from this Act.

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

**§ 2. [Repealed – RT I 2009, 62, 405 – entry into force 01.01.2010]**

## **Chapter 2**

# **FUNCTIONS AND ORGANISATION OF THE POLICE**

### **§ 3. Functions of the Police**

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

(1) The functions of the police are:

1) prevention, identification and countering of a threat endangering public order and elimination of a breach of public order, unless this function has been assigned by another Act to another administrative authority or the competent administrative authority is unable to perform this function in a timely manner;

2) issue of documents and activity licences on the basis of and pursuant to the procedure provided for in specific laws;

3) organisation of matters in the area of citizenship and migration;

4) performance of search and rescue operations and organisation of detection and elimination of marine pollution in inland maritime waters and territorial waters, in the exclusive economic zone and on Lake Peipsi, Lake Lämmi and Lake Pihkva;

5) performance of search operations on land in case of an aircraft accident;

6) organisation of matters in the area of border guard;

7) process of offences and enforcement of punishments on the basis of and pursuant to the procedure provided by law;

8) protection of the President of the Republic and his or her family, and in cases provided by law also of the President whose term of office has expired, the Prime Minister, Heads of Foreign Countries, Heads of Governments, Ministers of Foreign Affairs and persons specified by the Minister of the Interior on the basis of subsection (3) of this section, and guarding of objects specified by the Government of the Republic on the basis of subsection (4) of this section;

9) performance of other functions arising from the law and legislation issued on the basis thereof.

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

(2) The bases for the organisation of protection of persons and guarding of objects, manners of performance thereof and the procedure for cooperation shall be established by the Government of the Republic by a regulation.

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

(3) If necessary, the Minister of the Interior shall specify, by a directive, the persons being protected, the manners of performance of their protection and the duration thereof.

(4) A list of objects guarded by the police shall be established by the Government of the Republic by a regulation. The manners of performance of the guarding of the guarded objects specified by the Government of the Republic shall be specified by the Minister of the Interior by a directive.

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

(5) The procedure for search and rescue operations, including for detection and elimination of marine pollution in Estonian maritime waters and on Lake Peipsi, Lake Lämmi and Lake Pihkva shall be established by the Government of the Republic by a regulation.

#### **§ 4. Police and Border Guard Board**

(1) The Police and Border Guard Board is a governmental authority within the area of government of the Ministry of the Interior. The Police and Border Guard Board is a police authority.

(2) The territorial jurisdiction of the Police and Border Guard Board is the territory of the Republic of Estonia, unless otherwise provided by law or an international agreement.

(3) The Police and Border Guard Board is headed by the Director General.

(4) The Police and Border Guard Board is competent to perform functions assigned to the police. The competence of the Police and Border Guard Board to perform the functions may be defined by a law, a regulation, a directive of the Minister of the Interior and a directive of the Director General of the Police and Border Guard Board by specifying a structural unit of the Police and Border Guard Board, including a territorial or functional structural unit of a prefecture or a house of detention.

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

(5) The structure of the criminal police and of the organisation of information security, and the staff of the Police and Border Guard Board is information intended for internal use within the meaning of the Public Information Act.

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

## **§ 5. Prefecture**

(1) A prefecture is a regional structural unit of the Police and Border Guard Board.

(2) A prefecture is headed by a prefect.

(3) A prefecture comprises territorial and functional structural units and houses of detention. Territorial structural units are stations, border guard stations and border checkpoints; and functional structural units are bureaus.

## **§ 6. Establishment of positions**

The general number of positions and support staff positions of the Police and Border Guard Board and the division thereof into police officers and into positions and support staff positions of the general public service, including into positions in the area of citizenship and migration shall be approved by the Minister of the Interior by a regulation.

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

## **§ 6<sup>1</sup>. Specification of appointment of officials to office**

(1) In appointment of an official of the Police and Border Guard Board to position, the terms and conditions, procedure and competence of appointment to office provided for in clauses 1) to 7) and 9) of section 40 and in sections 42 and 43 of this Act shall be applied also in the case the relevant position is not a position of a police officer, but the performance of functions in the position requires access to:

1) a database, the chief processor of which is the Ministry of the Interior or the Police and Border Guard Board;

2) information provided for in clauses 35 (1) 5<sup>1</sup>) and 5<sup>2</sup>) of the Public Information Act; or

3) sensitive personal data of officials of the Police and Border Guard Board.

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

(2) A higher official employed in a position of the Police and Border Guard Board, employment in which constitutes general type of public service, shall meet the requirements for professional qualification of an official.

(3) The requirements for professional qualification of a higher official, including requirements for education, and the terms and conditions and the procedure for the verification thereof shall be established by the Minister of the Interior by a regulation.

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

(4) A list of positions provided for in subsection (1) of this section shall be established by the Director General of the Police and Border Guard Board by a directive.

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

## **§ 6<sup>2</sup>. Competence to organise service**

(1) The service of an official of the Police and Border Guard Board, including of a police officer, shall be organised and he or she shall be appointed to office and released from office, transferred from one position to another, his or her service relationship shall be suspended and an authorisation shall be granted, if the law provides for the requirement of an authorisation of a person having the right to appoint to office, by the Director General of the Police and Border Guard Board or by a person provided for in the statutes of the Police and Border Guard Board.

(2) In the case provided for in subsection (1) of this section and for the organisation of the work of the Police and Border Guard Board, the Director General of the Police and Border Guard Board or a person provided for in the statutes of the Police and Border Guard Board may issue a directive.

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

## **§ 6<sup>3</sup>. Competence to exercise disciplinary authority**

(1) In the exercise of disciplinary authority with regard to an official of the Police and Border Guard Board who is not a police officer, the provisions of the Public Service Act shall be applied, taking account of the specifications provided for in this section.

(2) In addition to the provisions of the Public Service Act, the Minister of the Interior shall have the right to commence disciplinary proceedings with regard to an official specified in subsection (1) of this section and the right to impose a disciplinary punishment on him or her.

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

## **§ 7. Training of police officers**

Police officers shall be trained at an institution of professional higher education within the area of government of the Ministry of the Interior (hereinafter *institution of professional higher education for public defence*).

## **Chapter 2<sup>1</sup>**

### **POLICE SUPERVISION**

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

#### **Division 1**

#### **General Provisions**

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

#### **§ 7<sup>1</sup>. Police supervision**

(1) Police supervision (hereinafter *supervision*) is the activity of the police in preventing and countering a threat and in eliminating a disturbance.

(2) A police officer shall have a right to apply a supervisory measure and a special measure provided for in this Chapter.

(3) If a special law provides for the Police and Border Guard Board as the competent administrative authority for the application of a measure and a special measure provided for in this Act, then in addition to a police officer, an official of the Police and Border Guard Board who is not a police officer shall have the competence to apply the relevant measure and special measure, unless otherwise provided by the special law.

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

#### **§ 7<sup>2</sup>. Public order**

(1) Public order is a state of the society in which the adherence to legal provisions and protection of persons' subjective rights and legal rights are guaranteed.

(2) Adherence to the provisions of private law and protection of a person's subjective rights and legal rights are a part of public order insofar as judicial legal protection is not possible in a timely manner, and without an interference of a competent authority exercise of a right is impossible or significantly complicated, and to counter a threat is in the interests of public order.

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

### **§ 7<sup>3</sup>. Threat to public order and disturbance**

(1) Disturbance is a violation of a legal provision within the area of protection of public order or of a person's subjective right, or damage to a legal right.

(2) Threat is a situation where based on an objective assessment of the circumstances which have appeared it can be deemed likely enough that a disturbance will occur in the near future.

(3) Serious threat is a threat to a person's life, physical inviolability, physical liberty or proprietary benefit of great value, or a threat of occurrence of a serious environmental damage. An infringement of physical inviolability within the meaning of this Act is a severe violation of the right of sexual self-determination or causing of serious damage to health.

(4) Immediate threat is a situation where a disturbance is already taking place or there is great probability that it is about to take place.

(5) Prevention of a threat is collection, exchange and analyse of information, and planning and execution of actions for countering threats possibly endangering public order in the future, including prevention of offences.

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

### **§ 7<sup>4</sup>. Person liable for public order**

(1) A person liable for public order is a person who has caused a threat by his or her behaviour or who is causing a disturbance. A person liable for public order shall be required to counter the threat and terminate the disturbance.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(2) If the person who has caused a threat by his or her behaviour or who is causing a disturbance is less than 14 years of age or an adult with restricted active legal capacity, then his or her guardian or other legal representative shall also be a person liable for public order solidarily with the said person.

(3) If pursuant to section 132 of the General Part of the Civil Code Act another person is liable for the behaviour of the person who has caused a threat by his or her behaviour or who is causing a disturbance, that person shall be required to counter the threat or eliminate the disturbance solidarily with the person who has caused the threat or who is causing the disturbance.

(4) If public order is endangered or disturbed by an animal or thing, then the owner thereof or, in the case of an abandoned animal or thing, the previous owner thereof shall be required to counter the threat or eliminate the disturbance.

(5) A person with actual control over the animal or thing shall be required to counter the threat or eliminate the disturbance solidarily with the owner.

(6) A person with actual control over the animal or thing shall be required to counter the threat or eliminate the disturbance alone if he or she has obtained the actual control over the animal or thing against the owner's will or without the owner's will. The same shall apply if he or she has presented a joint application with the owner regarding the obtainment of the actual control to a competent authority.

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

### **§ 7<sup>5</sup>. Protection of rights and principle of guaranteeing human dignity**

Restriction of persons' fundamental rights and other subjective rights in supervision proceedings shall take place only pursuant to law. A person shall be treated in supervision proceedings without defamation and without degrading his or her human dignity.

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

### **§ 7<sup>6</sup>. Explanation obligation of the police**

(1) At the request of a person the police shall provide explanations regarding the reason for the application of a measure by the police with regard to the person, the nature of the measure and the circumstances specified in section 36 of the Administrative Procedure Act.

(2) The police may postpone the fulfilment of the obligation specified in subsection (1) of this section if it is unavoidably necessary for countering an immediate threat.

(3) The police shall not have the obligation specified in subsection (1) of this section if the fulfilment thereof is not possible due to the nature or purpose of a function.

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

### **§ 7<sup>7</sup>. Cooperation with other persons and authorities**

(1) The police shall cooperate with other persons and authorities within its competence to prevent and counter a threat endangering public order and to eliminate disturbances.

(2) The police shall notify other authorities of a known threat or disturbance within their competence, and shall make a proposal to a relevant administrative authority to apply measures of state supervision, counter the threat or ascertain the disturbance. The police shall have a right to obtain from the relevant administrative authority information about measures applied.



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

### **§ 7<sup>8</sup>. International cooperation**

(1) Under an international agreement or legislation of the European Union, a competent authority of another state may be involved in performance of supervision on the territory of the Republic of Estonia. Participation of an official of a competent authority of another state in the activity of the police shall be decided by the Minister of the Interior, unless otherwise provided for by an international agreement or legislation of the European Union.

(2) An official of a competent authority of another state may apply on the territory of Estonia the measures provided for in sections 7<sup>16</sup>, 7<sup>18</sup>, 7<sup>25</sup>, 7<sup>33</sup>, 7<sup>34</sup> and 7<sup>36</sup> of this Act, unless otherwise provided by an international agreement, legislation of the European Union or law.

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

### **§ 7<sup>9</sup>. Addressee of application of supervisory measure**

(1) Unless otherwise prescribed by law, a supervisory measure provided for in this Chapter may be applied only with regard to a person liable for public order or with regard to a person in whose case there is reason to believe that he or she is a person liable for public order.

(2) The supervisory measures provided for in sections 7<sup>12</sup>, 7<sup>15</sup>, 7<sup>16</sup>, 7<sup>20</sup>, 7<sup>31</sup> and in clauses 7<sup>34</sup> (1) 1), 2) and 4) of this Act may be applied also with regard to a person whom there is no reason to deem a person liable for public order.

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

### **§ 7<sup>10</sup>. Application of supervisory measure by the police for ascertainment of threat on the basis of authorisation of Director General of the Police and Border Guard Board**

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(1) On the basis of a prior authorisation of the Director General of the Police and Border Guard Board, the police may apply, in case of a threat or for the ascertainment of a serious threat, the special supervisory measures specified in sections 7<sup>18</sup>, 7<sup>19</sup>, 7<sup>23</sup>, 7<sup>32</sup>, 7<sup>34</sup>, 7<sup>36</sup> and 7<sup>39</sup> of this Act with regard to a person whom there is no reason to deem a person liable for public order.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(2) For the ascertainment of a threat endangering a person's life or physical inviolability, or for detaining a suspect, an accused or a convicted offender or for hindering his or her escape if he or she may be deprived of liberty pursuant to law or if he or she has been deprived of liberty pursuant to law in connection with a violent criminal offence in the first degree or with a criminal offence for which life imprisonment may be imposed as a punishment, the police may

apply with the prior authorisation of the Director General of the Police and Border Guard Board with regard to a person specified in subsection (1) of this section the special supervisory measures specified in sections 7<sup>35</sup> and 7<sup>37</sup> of this Act in addition to those specified in subsection (1) of this section.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(3) In cases of urgency, application of a special measure provided for in subsections (1) and (2) of this section with regard to a person specified in subsection (1) of this section may be decided by a prefect without the authorisation specified in subsections (1) and (2) of this section. The prefect shall be required to immediately but not later than within 24 hours as of the making of the decision to apply the measure inform of the special measure applied the Director General of the Police and Border Guard Board who shall decide the termination of the special measure or the grant of an authorisation to continue with the special measure.

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

(4) The authorisation specified in subsections (1) and (2) of this section shall be prepared in writing and it shall set out:

1) the special measures application of which is permitted with regard to persons specified in subsection (1) of this section;

2) the term during which the special measures may be applied with regard to a person specified in subsection (1) of this section and which generally may not exceed 48 hours;

3) the territory on which the special measures may be applied with regard to a person specified in subsection (1) of this section.

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

(5) In a case of urgency, the Director General of the Police and Border Guard Board may grant the authorisation specified in subsections (1) and (2) of this section orally, but it shall be prepared in writing within 24 hours.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(6) The Police and Border Guard Board shall disclose on its website immediately after the expiry of the term set out in the authorisation of the Director General of the Police and Border Guard Board but not later than within two working days the information regarding the basis for, the time and the territory of the application of special supervisory measures under subsections (1) to (3) of this section, and regarding the number of persons subjected to the application of the special supervisory measure and the results of the application of the special measures.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(7) The information specified in subsection (6) of this section shall be available on the website of the Police and Border Guard Board for at least ten days after the date of disclosure.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

### **§ 7<sup>11</sup>. Maintenance of records of application of supervisory measure and reporting**

(1) Application of a supervisory measure shall be recorded in the minutes on the basis of and pursuant to the procedure provided for in section 18 of the Administrative Procedure Act, taking account of the specifications provided for in this Act. If a measure is recorded in the minutes, the person with regard to whom the measure has been applied shall be given, on his or her demand, a copy of the minutes at the first opportunity.

(2) If substitutive enforcement is used in application of a supervisory measure, the substitutive enforcement shall be recorded pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act.

(3) If direct coercion is used in application of a supervisory measure, the record of the application of the measure shall set out, in addition to the information provided for in the Administrative Procedure Act, the direct coercive measure applied, the official who applied the coercive measure, and the person, animal or thing with regard to whom or which the direct coercion has been applied. In application of direct coercion against a crowd, the names of the persons with regard to whom the direct coercion has been applied shall be set out, if possible. The use of direct coercion with regard to a crowd shall be video recorded, if possible, and the recording shall be preserved on the same bases as the record of the application of the measure.

(4) If a weapon or special equipment is used in application of a supervisory measure, it is mandatory to record the measure.

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

## **Division 2**

### **General Supervisory Measures**

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

#### **§ 7<sup>12</sup>. Notification**

(1) The police shall have the right, within their competence, to perform acts whereby the public or a person is notified of a threat or disturbance (notices, recommendations, warnings).

(2) Disclosure of personal data is permitted only in such case and to such an extent it is unavoidably necessary for the notification of a threat or disturbance.

(3) If the police notify the public or a person of a threat and the threat does not prove to be justified, the police shall be required to disclose a notification in the same form and extent about the lack of a threat if this is requested by a person whose rights were harmed by the notification or in case of substantial public interest.

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

### **§ 7<sup>13</sup>. Precept and application of administrative coercive measure**

(1) In case of a threat or disturbance, the police shall have the right to assign by a precept to a person liable for public order an obligation to counter the threat or eliminate the disturbance, and to caution him or her against application of the administrative coercive measures specified in subsection (2) or (3) of this section if the person fails to fulfil the obligation within the term specified in the caution.

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

(2) If the person liable for public order fails to comply with the precept specified in subsection (1) of this section in a timely manner, it may be enforced by the means and pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. In the case not provided by law, the upper limit of penalty payment for each imposition thereof shall be 9,600 euros.

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

(3) If the enforcement of a precept specified in subsection (1) of this section by the means provided for in the Substitutive Enforcement and Penalty Payment Act is impossible or ineffective, and the compliance with the precept can be achieved by direct coercion, direct coercion may be applied to the enforcement of the precept on the bases of and pursuant to the procedure provided by law.

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

(4) If the prerequisites provided for in subsections 12 (1) to (3) of the Substitutive Enforcement and Penalty Payment Act or in subsection 30 (3) or subsection 31 (4) of this Act have been fulfilled, a threat may be countered or a disturbance may be eliminated pursuant to the procedure provided for in subsection (2) or (3) of this section without issuing a precept or a caution specified in subsection (1) of this section, and without issuing an enforcement order.

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

### **§ 7<sup>14</sup>. Countering of threat or elimination of disturbance**

(1) If a person liable for public order does not exist or if the person is unable or is unable in a timely manner to counter a threat or eliminate a disturbance, the police themselves may apply measures for countering a threat or eliminating a disturbance by using, if necessary, professional assistance or by involving other persons.

(2) The police may require a person, who is not a person liable for public order and whose obligation to counter a threat or eliminate a disturbance does not arise from another Act or a contract under public law, to counter a threat or eliminate a disturbance or give to the disposal of the police an object necessary for countering the threat or eliminating the disturbance, if he or she is able to counter the threat or eliminate the disturbance or if an object necessary for countering the threat or eliminating the disturbance is in his or her possession and if:

1) the threat is immediate and serious;

2) a person liable for public order does not exist or the person liable is unable to counter the threat or eliminate the disturbance in a timely manner or it is not sufficiently effective;

3) the police themselves or with the assistance of a voluntarily involved person are unable in a timely manner or sufficiently effectively to counter the threat or eliminate the disturbance;

4) the involvement does not cause disproportionately great threat to the person involved or to his or her property and is not in contradiction with other obligations, arising from the law, of the person involved.

(3) In the case provided for in subsection (1) of this section, a person other than a person liable for public order shall be permitted to be involved only insofar as this is inevitably necessary for countering the threat or eliminating the disturbance.

(4) If possible, the police shall immediately notify the person liable for public order of the application of a measure specified in subsection (1) of this section.

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

## **Division 3**

### **Special Supervisory Measures**

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

#### **Subdivision 1**

### **Special Supervisory Measures Regarding Processing of Personal Data**

## **[RT I 2009, 62, 405 – entry into force 01.01.2010]**

### **§ 7<sup>15</sup>. Processing of information forwarded to emergency number**

(1) The police shall record information about a disturbance and another event forwarded to the national emergency number “110”.

(2) Information related to a recording is information intended for internal use. Issue of a recording and information related thereto shall be permitted only on the bases of and pursuant to the procedure provided by law.

(3) A recording shall be preserved for at least one month after the date of recording but not for longer than a year.

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

### **§ 7<sup>16</sup>. Questioning and requiring of documents**

(1) The police may question a person if there is reason to believe that the person has information necessary for ascertainment or countering of a threat or for elimination of a disturbance or for guaranteeing the safety of a protected person or a guarded object.

(2) Questioning shall be recorded in a report if the person questioned requests it or if it is deemed necessary by the police. If the police deem it necessary, the person questioned may give explanations autographically.

(3) The police may require a person to present his or her documents if there is reason to believe that the person has information necessary for ascertainment or countering of a threat or for elimination of a disturbance or for guaranteeing the safety of a protected person or a guarded object.

(4) Requirement and receipt of documents by the police shall be recorded or documented pursuant to the general administration procedure of the police. If the documents are required and examined at the site, the measure shall be recorded at the request of the person subjected to the application thereof.

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

### **§ 7<sup>17</sup>. Summons and compelled attendance**

(1) The police may summon a person to an office if there is reason to believe that the person has information necessary for ascertainment or countering of a threat or for elimination of a disturbance.

(2) Section 17 of the Administrative Procedure Act shall apply to a summons, taking account of the specifications in this Act. If the prerequisite specified in subsection (4) of this section exists, the summons shall include a caution that in case the person fails to appear, compelled attendance may be applied with regard to him or her.

(3) If a person summoned who has received a summons fails to appear without good reason at the time set out in the summons at the place set out in the summons, penalty payment may be applied with regard to him or her.

(4) Compelled attendance may be applied with regard to a person if there is reason to believe that the person has significant information necessary for countering a serious threat.

(5) A person with regard to whom compelled attendance is applied shall be immediately given an opportunity to inform a person close to him or her and his or her representative of the deprivation of his or her liberty. In case of a compelled attendance of a minor, the police shall immediately inform thereof a parent or another legal representative or the local government.

(6) The state supervisory measure for which compelled attendance is applied to a person shall be applied immediately. If the application of compelled attendance with regard to a person immediately prior to the application of the measure is not possible, the person may be detained but not for more than 12 hours.

(7) Upon compelled attendance, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.

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

## **§ 7<sup>18</sup>. Establishment of identity**

(1) The police may, with the knowledge of the person, establish identity on the basis of a valid identity document, i.e. ascertain the person's name and age, examine the document, compare the photograph and other biometric data in the document with the person, and verify the authenticity of the document, or if this is not possible, establish identity in another legal manner if it necessary for ascertainment or countering of a threat or for elimination of a disturbance or for guaranteeing the safety of a protected person or a guarded object or offence proceedings.

(2) For the establishment of identity, the police shall have the right to stop a person and require him or her to present a document specified in subsection (1) of this section, and to obtain statements enabling the establishment of identity, including information on the person's place of residence and biometric data.

(3) Upon the establishment of identity, the police may require from a person presentation of a document in proof of a special right if pursuant to a legislation the person is required to carry with him or her such a document.

(4) The police may verify the authenticity of the data entered in the document or given by a person from the population register or from another database established under the legislation or an Act of the European Union.

(5) Upon the establishment of identity, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.

(6) The police shall have the right to take a person to an office for the establishment of identity if the establishment of identity is not possible at the site and it is unavoidably necessary for ascertainment or countering of a threat or for elimination of a disturbance or for guaranteeing the safety of a protected person or a guarded object or offence proceedings.

(7) If a person is taken to an office for the establishment of identity, the police shall be required, after the establishment of identity, to take the person at his or her request back to the point of departure or to his or her place of residence or lodging if his or her place of residence or lodging is located in the same settlement unit or city district.

(8) If for the establishment of identity a person less than 14 years of age is taken to an office, the police shall be required to immediately notify thereof a parent or another legal representative or the local government.

(9) In case of impossibility to promptly establish the identity of a person detained in the process of a mass disorder, the police shall have the right, for the purposes of later establishment of identity, to use the means enabling identification together with recording in a manner which does not offend human dignity.

(10) The Police and Border Guard Board may disclose the personal data of a person who participated in a mass disorder if it is necessary for the purposes of establishment of identity and there was no other manner, which would have burdened the person less, to establish the identity.

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

## **§ 7<sup>19</sup>. Establishment of identity by way of special establishment measure**

(1) The police may establish identity by way of a special establishment measure if it is unavoidably necessary for countering a threat, if the establishment of identity under section 7<sup>18</sup> of this Act is not possible or if it is disproportionately complicated.

(2) A special establishment measure is:

- 1) taking of a finger and palm print;
- 2) photographing or filming of a person or a part of his or her body;
- 3) taking of a DNA sample;



- 4) ascertainment of another external physical characteristic, including measuring;
- 5) ascertainment of dental occlusion and dentition;
- 6) recording of a voice sample;
- 7) taking of a handwriting sample;
- 8) ascertainment of the eye iris image;
- 9) taking of a footwear print and comparison thereof with the data known to the police.

(3) The police may claim the comparative samples necessary for the application of a special establishment measure from a person in whose case there is reason to believe that he or she possesses them.

(4) For the application of a special establishment measure, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.

(5) The procedure for the application of a special establishment measure shall be established by the Minister of the Interior by a regulation.

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

### **§ 7<sup>20</sup>. Processing of personal data by using monitoring equipment**

(1) For ascertainment and countering of a threat or for elimination of a disturbance, the police may use, for monitoring events taking place in a public place, monitoring equipment which forwards images or records.

(2) A recording made with monitoring equipment shall be preserved for at least one month as of the date of recording but not for longer than one year, unless otherwise provided by law.

(3) The police shall be required to previously notify the public of the processing of personal data by means of the technical aid of monitoring equipment.

(4) The procedure for notifying the public of the use of monitoring equipment shall be established by the Minister of the Interior by a regulation.

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

### **§ 7<sup>21</sup>. Processing of personal data by obtaining data from electronic communications undertaking**

(1) The police may process personal data by making a written or electronic enquiry for obtaining the data specified in subsections 111<sup>1</sup> (2) and (3) of the Electronic Communications Act about a person in whose case it is necessary for ascertainment or countering of a serious threat.

(2) A person shall be immediately notified of the processing of the personal data provided for in subsection (1) of this section if the location of the person is known.

(3) Recording of the measure provided for in this section is mandatory.

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

## **Subdivision 2**

### **Special Supervisory Measures Applicable with regard to Person Suspected of State of Intoxication**

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

#### **§ 7<sup>22</sup>. State of intoxication**

(1) A state of intoxication is a state of health which is caused by the consumption of alcohol, a narcotic drug or a psychotropic substance or another substance with a similar effect, and which is expressed in externally perceptible disturbed or altered bodily or mental functions and reactions.

(2) For the purposes of this Act, alcohol means spirit and alcoholic beverages as specified in section 2 of the Alcohol Act, or a liquid or substance with ethanol content and not belonging to the food group.

(3) For the purposes of this Act, a narcotic drug and a psychotropic substance means a narcotic drug and a psychotropic substance as specified in the Act on Narcotic Drugs and Psychotropic Substances and Precursors thereof.

(4) Types of state of intoxication are:

1) intoxication by alcohol;

2) intoxication caused by consumption of a narcotic drug, a psychotropic or another intoxicating substance.

(5) Intoxication by alcohol is presumed if the alcohol content in one litre of breath exhaled by a person being tested is 0.25 milligrams or more, or if the alcohol content in one gram of blood of a person being tested is 0.50 milligrams or more.

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

## **§ 7<sup>23</sup>. Checking and establishment of person's state of intoxication**

The police may check for the presence of alcohol, a narcotic drug or psychotropic substance or another substance with a similar effect in a person's system. The following may be subjected to the procedure for checking or establishment of state of intoxication:

- 1) a driver of a vehicle or another person if there is reason to suspect that the person has committed an offence, the necessary elements of which include a state of intoxication, exceeding of the prescribed maximum limit of alcohol, or consumption of a narcotic drug or psychotropic substance or another substance with a similar effect;
- 2) a person who exhibits clear signs of a state of intoxication if he or she may pose a threat to himself or herself or others;
- 3) a minor who exhibits clear signs of consumption of alcohol, a narcotic drug or psychotropic substance or another substance with a similar effect.

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

## **§ 7<sup>24</sup>. Checking and establishment of intoxication by alcohol at site**

(1) The police shall check by means of an indicator device the alcohol content in the breath exhaled by a person or shall establish intoxication by alcohol at site by means of an evidential breathalyser. If a person is checked by means of an indicator device, then in case of its positive reading upon the occurrence of the need to establish intoxication by alcohol, intoxication by alcohol shall be established by means of an evidential breathalyser or on the demand of the person, he or she shall be taken to a health care provider for the determination of the alcohol content in the blood.

(2) Before the checking of intoxication by alcohol by means of an indicator device, the person's following rights shall be explained to him or her:

- 1) the right to know the reason for and objective of the operation;
- 2) the right to refuse the checking by means of an indicator device;
- 3) the right to examine the report of the supervisory measure and to make statements, which shall be recorded, regarding the conditions, course and results of the measure;
- 4) the right to challenge the reading of the indicator device and to demand establishment of intoxication by alcohol by means of an evidential breathalyser or an analysis of a blood sample;
- 5) the right to file a challenge with the Director General of the Police and Border Guard Board or an action with the administrative court.

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

(3) Before the establishment of intoxication by alcohol by means of an evidential breathalyser, the person's following rights shall be explained to him or her:

1) the right to know the reason for and objective of the operation;

2) the right to refuse the establishment of intoxication by alcohol by means of an evidential breathalyser;

3) the right to examine the report of the supervisory measure and to make statements, which shall be recorded, regarding the conditions, course and results of the measure;

4) the right to file a challenge with the Director General of the Police and Border Guard Board or an action with the administrative court.

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

(4) If the police officer does not deem it necessary to collect other data and the person does not demand determination of the alcohol content in blood or breath exhaled, only the use of an indicator device shall suffice. Only the use of an indicator device shall not suffice in case of a suspicion of commission of offences related to violation of the requirements for safe road traffic of a motor vehicle, an aircraft or a water craft, or a railway vehicle or a tram, or for operating regulations thereof.

(5) The signs of intoxication by alcohol exhibited by the person shall be described by the police officer in case it is necessary for the establishment of a state of intoxication.

(6) If the person refuses the checking of the alcohol content in the breath exhaled by means of an indicator device, he or she shall be explained that in case of a refusal, the intoxication by alcohol shall be established compulsorily by means of an evidential breathalyser or an analysis of a blood sample. If the person refuses the establishment of intoxication by alcohol by means of an evidential breathalyser, he or she shall be explained that in case of a refusal, the intoxication by alcohol shall be established by means of an analysis of a blood sample.

(6<sup>1</sup>) In using an evidential breathalyser, the requirements for the measuring methods and the requirements provided for in the manufacturer's operating instructions shall be adhered to.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(6<sup>2</sup>) The requirements for the measuring process of measuring the ethanol content in the breath exhaled by a person and for the processing of the measuring results shall be established by the Government of the Republic by a regulation.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(7) The procedure for the use of an evidential breathalyser and an indicator device and for documenting the use thereof shall be established by the Minister of the Interior by a regulation.

(8) A list of signs, which a person may exhibit, indicating intoxication by alcohol, and the manner of the establishment of the occurrence or non-occurrence of the said signs shall be established by the Minister of Social Affairs by a regulation.

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

### **§ 7<sup>25</sup>. Taking of person to office and health care provider for establishment of intoxication by alcohol**

(1) If the establishment of a state of intoxication at site is not possible, the person may be taken to an office of the police for the establishment of intoxication by alcohol by means of an evidential breathalyser.

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

(2) A person may be taken to a health care provider or to a state forensic institution for the taking of a blood sample in order to establish intoxication by alcohol by means of an analysis of a blood sample if:

- 1) the person refuses the checking of intoxication by alcohol by means of an indicator device or the establishment thereof by means of an evidential breathalyser;
- 2) the person is not capable of following the procedure for the use of an indicator device or a breathalyser;
- 3) the person demands it in the case of a positive reading of the indicator device;
- 4) it is rational and the person agrees to it.

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

(3) A minor unsupervised by a parent or another legal representative and suspected of a state of intoxication or in a state of intoxication may be, irrespective of the existence of the bases provided for in subsection (2) of this section, handed over to a parent or a legal representative or taken to his or her parent or legal representative or to a social welfare institution of the local government. If the minor is in need of emergency care, the police shall call for the provider of emergency medical care.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

### **§ 7<sup>26</sup>. Establishment of intoxication by alcohol by means of analysis of blood sample**

(1) A health care provider who has the right to take a blood sample and a state forensic institution shall be required to take a blood sample on the demand of the police.

(2) In order to ensure the taking of a blood sample, the police shall have the right to use with regard to the person obligated to give a blood sample direct coercion insofar as it is unavoidable for the achievement of the objective.

(3) If a blood sample is taken at a health care provider, the police shall organise the conveyance of the blood sample to a state forensic institution for the establishment of intoxication by alcohol by means of an analysis of the blood sample.

(4) The police shall introduce the results of the analysis of the blood sample to the person at the first opportunity.

(5) The procedure for the taking, preservation and transfer for analysis of a blood sample, for the performance of the analysis thereof and for the payment for these tests shall be established by the Government of the Republic by a regulation.

(6) The Police and Border Guard Board may conclude with a health care provider a contract under public law for the taking, preservation and transfer to a state forensic institution of a blood sample, prescribing the liability, the amount of the charge and the procedure for the payment.

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

(7) The form of an expert's report concerning the results of an analysis of a blood sample shall be established by the Minister of Justice by a regulation.

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

### **§ 7<sup>27</sup>. Establishment of consumption of narcotic drug or psychotropic substance or substance with similar effect, or of state of intoxication caused thereby**

(1) In case of a suspicion of a state of intoxication caused by the consumption of a narcotic drug, a psychotropic substance or a substance with a similar effect, a police officer may take a person to a health care provider or a state forensic institution for the establishment of a state of intoxication.

(2) In case of a suspicion of the consumption of a narcotic drug, a psychotropic substance or another intoxicating substance, the police shall describe the signs exhibited by the person indicating intoxication.

(3) The police may check by means of an indicator device whether a narcotic drug, a psychotropic substance or another intoxicating substance is present in the person's system.

(4) The following rights of the person shall be explained to him or her:

- 1) the right to know the reason for and objective of the operation;
- 2) the right to refuse the checking by means of an indicator device;

3) the right to examine the report of the supervisory measure and to make statements, which shall be recorded, regarding the conditions, course and results of the measure;

4) the right to file a challenge with the Director General of the Police and Border Guard Board or an action with the administrative court.

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

(5) On the demand of the police:

1) the physician shall be required to describe the person's state of health and give an assessment on the existence or lack of signs of a state of intoxication exhibited by the person;

2) the health care provider or the state forensic institution shall be required to take, preserve and transfer a necessary amount of a biological liquid sample.

(6) In order to ensure the taking of a biological liquid sample, the police shall have the right to use with regard to the person obligated to give a sample direct coercion insofar as it is unavoidable for the achievement of the objective.

(7) If a biological liquid sample is taken at a health care provider, the Police and Border Guard Board shall organise the conveyance of the sample to a state forensic institution for the carrying out of an analysis of the biological liquid sample.

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

(8) A biological liquid sample given to the police voluntarily by the person for the checking by means of an indicator device shall be transferred by the police, in case of a positive reading of the indicator device, to a state forensic institution for the carrying out of an analysis specified in subsection (7) of this section.

(9) The police may conclude with a health care provider a contract under public law for the describing by a physician of a person's state of health and for the giving of a relevant assessment, and for the taking, preservation and transfer of a biological liquid sample, prescribing the health care provider's obligations and the amount of the charge and the procedure for the payment.

(10) The requirements and the procedure for the describing by a physician of a person's state of health, and the degrees of severity of state of health caused by the consumption of a narcotic drug, a psychotropic substance or another substance with a similar effect, and the form of the relevant report shall be established by the Minister of Social Affairs by a regulation.

(11) The procedure for the taking, preservation and transfer for analyse of a biological liquid sample, for the performance of the analysis thereof and for the payment for these tests, and also for the notification of the results of the analysis shall be established by the Government of the Republic by a regulation.

(12) A list of signs, which a person may exhibit, indicating intoxication arising from the consumption of a narcotic drug, a psychotropic substance or a substance with a similar effect, and the manner of the establishment of the occurrence or non-occurrence of the said signs shall be established by the Minister of Social Affairs by a regulation.

(13) The form of an expert's report concerning the results of an analysis of a biological liquid sample shall be established by the Minister of Justice by a regulation.

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

### **§ 7<sup>28</sup>. Establishment of exceeding prescribed maximum limit of alcohol**

In the establishment of exceeding the prescribed maximum limit of alcohol provided for in subsection 20 (4) of the Traffic Act, sections 7<sup>23</sup> to 7<sup>26</sup> of this Act shall be proceeded from.

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

### **§ 7<sup>29</sup>. Taking of person in state of intoxication to recover from intoxication**

(1) A police officer may take an adult in a state of intoxication to his or her place of residence or lodging or to recover from the intoxication in a house of detention or a detention cell or the local government's house for recovering from intoxication if it is unavoidable for countering an immediate threat, arising from the person, to the person himself or herself or another person.

(2) A police officer may take a minor in a state of intoxication to recover from the intoxication in a house of detention or a detention cell or the local government's house for recovering from intoxication if he or she cannot be handed over to the care of an adult family member, caregiver or guardian within the territorial jurisdiction of the prefecture of the location of the detention.

(3) On the bases provided for in subsection (1) of this section, a person may be taken to recover from intoxication if he or she exhibits clear signs of intoxication and:

1) he or she has refused the checking of a state of intoxication by means of an indicator device or establishment thereof by means of an evidential breathalyser or if he or she is not capable of following the procedure for the use of an indicator device or an evidential breathalyser, or

2) a biological liquid sample for the establishment of intoxication has been taken from the person and the establishment of a state of intoxication by an analysis of the biological liquid sample is not possible without delay.

(4) Upon taking a person to recover from intoxication in the cases provided for in subsection (3) of this section, the police officer shall describe the signs exhibited by the person indicating intoxication pursuant to the provisions of the regulation of the Minister of Social Affairs established under subsection 7<sup>24</sup> (8) and subsection 7<sup>27</sup> (12) of this Act.



(5) If the person is in need of emergency care, the police shall call for the provider of emergency medical care.

(6) A security check and examination of belongings shall be performed with regard to a person taken to recover from intoxication. Money, valuables and documents, also items and medicinal products which may pose a threat to the person himself or herself or to another person shall be taken for storage from the person taken to recover from intoxication.

(7) Upon taking to recover from intoxication, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.

(8) A report shall be prepared on the taking of a person to recover from intoxication, the formal requirements of which shall be established by the Minister of the Interior by a regulation.

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

### **§ 7<sup>30</sup>. Detention conditions of person taken to recover from intoxication**

(1) A person taken to recover from intoxication shall be kept separately from persons detained on another basis. Persons of different sex shall be kept in separate cells.

(2) In order to ensure the safety of a person taken to recover from intoxication, the person shall be kept under observation. If the person's health deteriorates, a health care professional shall be called for.

(3) A person taken to recover from intoxication shall be detained until the person has recovered from intoxication but not for longer than 24 hours. If, after such period, the person has not sufficiently recovered from intoxication for him or her to be allowed to leave on their own, a health care professional shall be called for to determine the person's state of health.

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

## **Subdivision 3**

### **Other Special Supervisory Measures**

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

#### **§ 7<sup>31</sup>. Prohibition on stay**

(1) The police may, on a temporary basis, prohibit a person from staying in the vicinity of a certain person or in a certain place, require him or her to leave the vicinity of the said person or the said place, or to avoid coming to a certain distance from the person or place in the following cases:

- 1) in case of an immediate threat endangering a person's life or health;
- 2) for the protection of dominant public interests;
- 3) for the ascertainment or countering of a serious threat;
- 4) for the ensuring of the safety of a protected person;
- 5) for the ensuring of the conduct of offence proceedings.

(2) The police shall be required to clearly mark, if possible, the place of the application of a prohibition on stay. The place of the application of the prohibition on stay need not be marked if the prohibition on stay is applied with regard to a specific person.

(3) In the cases provided for in subsection (1) of this section, the passage of persons at a specified time from a specified place or access to that place may be prohibited. If possible, access of a person to his or her dwelling or place of work shall be maintained.

(4) A prohibition on stay may be applied until the basis provided for in subsection (1) of this section ceases to exist.

(5) On the bases provided for in clauses (1) 1), 3), 4) and 5) of this section, the police may apply a prohibition on stay for up to 12 hours.

(6) On the basis provided for in clause (1) 2) of this section, the Director General of the Police and Border Guard Board or a prefect may apply a prohibition on stay for up to 12 hours.

(7) A prohibition on stay established for more than 12 hours shall be applied by the Minister of the Interior on the basis of subsection (1) of this section.

(8) With regard to a person violating a prohibition on stay, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.

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

## **§ 7<sup>32</sup>. Stopping of vehicle**

(1) A police officer may signal a driver of a vehicle or of an off-road vehicle (hereinafter *driver*) by hand, a traffic baton, a reflector disc, or a lighting device or a loudspeaker of an emergency vehicle pursuant to the procedure provided for in the Traffic Act to stop the vehicle or off-road vehicle (hereinafter *vehicle*) if it is necessary for countering a threat, eliminating a disturbance or ascertaining a serious threat.

[RT I, 31.12.2010, 3 – entry into force 01.07.2011]

(2) The police officer stopping a vehicle shall wear a uniform.

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

(3) If a vehicle is stopped from a vehicle, the vehicle shall be painted pursuant to the procedure applicable to emergency vehicles. As an exception, a vehicle may be stopped from an unmarked vehicle by means of a lighting device, using the loudspeaker if necessary, pursuant to the procedure provided for in the Traffic Act. In case of stopping from a vehicle, the police officer shall not be required to wear a uniform if wearing of the uniform of a police officer is not possible due to the nature or objective of the function.

[RT I, 31.12.2010, 3 – entry into force 01.07.2011]

(4) If a person fails to comply with the signal to stop, the vehicle may be forced to stop by organising a road block or by using a device for forced stopping of a vehicle, a weapon or other special equipment pursuant to the procedure provided for in Chapter 4 of this Act. A vehicle may be forced to stop without a prior signal to stop if it is unavoidably necessary for countering an immediate serious threat or for detaining a suspect or fugitive.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

### **§ 7<sup>33</sup>. Detention of person**

(1) The police may detain a person by locking him or her to a room or a vehicle or by restricting in another manner to a significant extent his or her physical liberty if it unavoidable:

- 1) for the prevention of the commission of an imminent criminal offence;
- 2) for the countering of an immediate threat endangering a person's life or physical inviolability;
- 3) for the ensuring of an injunction to stay away imposed by the court;
- 4) for the compelled attendance on a basis provided for in a special law;

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

5) for the taking of a person in need of assistance due to age or state of health to a safe place prescribed by law or for delivering the person to a competent authority for the purposes of provision of emergency social assistance;

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

6) for the handing over of a child less than 16 years of age in a public place during a curfew provided by law without the company of an adult to his or her parent or legal representative, or for taking the child to his or her parent or legal representative or the local government's social welfare institution.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(2) A person detained shall be immediately notified in a language he or she understands and in a clear manner of the reason for his or her detention and of his or her rights, and given the opportunity to notify a person close to him or her of his or her detention. If a person detained is in a state due to which he or she is not able to notify a person close to him or her of his or her detention, the police shall immediately notify a person close to him or her, if possible. If a person detained is a minor or another person with restricted active legal capacity, the police shall notify his or her legal representative of the detention of the person at the first opportunity, if possible. On the demand of the person detained, he or she shall be given an opportunity to notify a representative of the detention.

(3) The following rights of a person detained shall be explained to him or her:

1) the right to know the reason for the detention;

2) the right not to be detained for more than 48 hours without the permission of the court;

3) the right to notify a person close to him or her and a representative of the detention;

4) the right to be heard;

5) the right to file a challenge with the Director General of the Police and Border Guard Board or an action with the administrative court;

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

6) the right to examine the detention report and to make statements, which shall be recorded, regarding the conditions, course and results of the measure and the report.

(4) Preparing a report in the course of a mass disorder is mandatory if the detention lasts longer than three hours and also if it is requested by the person detained.

(5) Upon detaining, outside a house of detention, a person detained in the course of a mass disorder, the person shall be guaranteed decent conditions and, if possible, video surveillance with recording of the temporary room of detention shall be guaranteed.

(6) A person may be detained until the basis for the application of the detention ceases to exist but not for longer than 48 hours. Upon detaining a person in a house of detention, the provisions of Chapters 4 and 7 of the Imprisonment Act shall be applied.

(7) Upon detention, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.

(8) The procedure for documenting detention of a person shall be established by the Minister of the Interior by a regulation.

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

## **§ 7<sup>34</sup>. Security check**

(1) The police may check a person or his or her clothing by way of observation or feeling or by means of a technical device or a service animal with relevant training in order to ensure that the person does not possess items or substances by which he or she may endanger himself or herself or other persons:

- 1) upon the entry into a building or territory of a public authority;
- 2) if it is necessary for the ascertainment of a serious threat if the person is in a vital energy, communications, signalling, water supply or sewerage system, in a traffic control building or device or in the near vicinity thereof;
- 3) if it is necessary for countering an immediate serious threat;
- 4) if the person may be deprived of liberty pursuant to law;
- 5) if it necessary for ensuring the safety of a protected person or a guarded object; or
- 6) if the application of a measure provided for in this Act is accompanied by a need to take the person to the Police and Border Guard Board or to the location of another administrative authority.

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

(2) The security check shall be performed by way of feeling by a police officer of the same sex as the person. If it is necessary for countering an immediate threat, the security check may be performed by a police officer not of the same sex as the person.

(3) Upon the application of a security check, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.

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

## **§ 7<sup>35</sup>. Examination of person**

(1) The police may examine a person, including the person's body, body cavities, clothes, thing inside the clothes or worn on the body if:

- 1) there is reason to believe that the person carries on him or her a thing or a substance which may be taken into storage, occupied or confiscated pursuant to law;
- 2) it is necessary for the ascertainment of a serious threat if the person is in a building important for the functioning of the public authority or in the near vicinity thereof; or
- 3) it is unavoidably necessary for the establishment of identity.

(2) The person shall be examined by a police officer of the same sex as the person; in case of lack of an official of the same sex, by a health care professional. If it is necessary for countering an immediate serious threat, the person may be examined by a police officer not of the same sex as the person.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(3) For the performance of an examination which requires a medical procedure the person shall be taken to a health care provider. An examination requiring a medical procedure may be performed only by a health care professional.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(4) The police may conclude with a health care provider a contract under public law prescribing the place of the performance of an examination of a person and the manner of the performance thereof, and the liability, the amount of the charge and the procedure for the payment.

(5) Upon the examination of a person, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.

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

### **§ 7<sup>36</sup>. Examination of movable**

(1) The police may, without the consent of the possessor, check a movable sensuously, by means of a technical device or a service animal, including open doors and eliminate other obstacles if:

1) it is carried by a person entering a building or territory of a public authority;

2) it is carried by a person who may be examined pursuant to law;

3) there is reason to believe that a person who may be deprived of liberty pursuant to law or who may be examined pursuant to law or who is in need of assistance is present in the movable;

4) there is reason to believe that it contains things which may be taken into storage, occupied or confiscated on the basis of this Act or another law;

5) it is necessary for the ascertainment of a serious threat with regard to a person who is in a vital energy, communications, signalling, water supply or sewerage system, in a traffic control building or device or in the near vicinity thereof; or

6) it is carried by a person entering a building or territory guarded by the police.

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

(2) The owner or the possessor of the thing shall have the right to be present at the examination of the thing. If the owner or the possessor is not present at the examination of the thing, he or she may appoint an adult who shall have the right to be present at the examination of the thing. If the persons specified in the first and second sentence of this subsection are not present at the examination of the thing, the police shall perform the examination of the thing in the presence of an official of the local government.

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

(3) The police may perform the examination of the thing without the presence of a person specified in subsection (2) of this section if it is necessary for countering an immediate threat.

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

(4) If the identity of the possessor can be established, he or she shall be notified at the first opportunity of the examination of the movable. If as a result of the examination of the movable a significant proprietary asset is left unsupervised, the police shall ensure the supervision of the movable until the arrival of the possessor or another entitled person.

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

(5) Upon the examination of a thing, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.

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

(6) It is mandatory to record in a report the measure provided for in this section, except in the cases specified in clauses (1) 1) and 6).

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

### **§ 7<sup>37</sup>. Entry into premises**

(1) The police may enter without the consent of the possessor a fenced or marked immovable, building, dwelling or room in his or her possession, including open doors and gates or eliminate other obstacles:

1) if there is reason to believe that a person who may be deprived of liberty pursuant to law or whose life, health or physical inviolability is in danger due to his or her need of assistance has entered the fenced or marked immovable, building or room; or

2) for the ascertainment or countering of a serious threat.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(2) On the conditions provided for in subsection (1) of this section, the police may enter the premises for the ascertainment or countering of a threat or for the elimination of a disturbance if nuisances significantly disturbing another person are spreading outward from the premises and the elimination thereof in any other manner is not possible.

(3) The premises shall be entered, if possible, in the presence of the possessor or another entitled person and during the period from 7 a.m. to 11 p.m. Business premises shall be entered, if possible, during their business hours.

(4) A dwelling may be entered without the knowledge of the possessor only if he or she cannot be notified after reasonable efforts and entry is necessary for countering an immediate serious threat.

(5) If the identity of the possessor can be established, he or she shall be notified at the first opportunity of the entry into the premises. If as a result of the entry into the premises a significant proprietary asset is left unsupervised on the premises, the police shall ensure the supervision of the premises until the arrival of the possessor or another entitled person.

(6) Upon the entry into the premises, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.

(7) It is mandatory to record in a report the measure provided for in this section.

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

### **§ 7<sup>38</sup>. Examination of premises**

(1) The police may without the consent of the possessor examine a fenced or marked immovable, building or room in the possession of the person, including examine a thing therein and open doors and gates or eliminate other obstacles:

1) if there is reason to believe that a person who may be deprived of liberty pursuant to law or whose life, health or physical inviolability is in danger due to his or her need of assistance has entered the fenced or marked immovable, building or room;

2) for the ascertainment or countering of a serious threat; or

3) for the ensuring of the safety of a protected person or a guarded object.

(2) The examination of a fenced or marked immovable, building or room in the possession of the person is permitted only with the prior permission of the administrative court of the location of the immovable or building to be examined. If the permission of the administrative court is not possible to request due to the need to counter an immediate serious threat, the police may examine the premises without the permission of the administrative court. In such case, the police shall be required to request the permission at the first opportunity. The judge shall decide on the grant of permission for the examination of the premises or extension thereof pursuant to the



procedure provided for in the Code of Administrative Court Procedure for the grant of a permission to take an administrative measure. If the court refuses to grant the permission, the police shall be required to terminate immediately the examination of the premises.

(3) During the period from 11 p.m. to 7 a.m. the person's dwelling may be examined only if it is necessary for countering an immediate serious threat.

(4) The possessor of the fenced or marked immovable, building or room shall have the right to be present at the examination of the premises. If the possessor is not present at the examination of the premises, he or she may appoint an adult who shall have the right to be present at the examination of the premises. If the persons specified in the first and second sentence of this subsection are not present at the examination of the premises, the police shall perform the examination of the premises in the presence of an official of the local government.

(5) If the identity of the possessor can be established, he or she shall be notified at the first opportunity of the examination of the premises. If as a result of the examination of the premises a significant proprietary asset is left unsupervised on the premises, the police shall ensure the supervision of the premises until the arrival of the possessor or another entitled person.

(6) Upon the examination of the premises, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.

(7) It is mandatory to record in a report the measure provided for in this section.

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

### **§ 7<sup>39</sup>. Taking into storage of movable**

(1) The police shall have the right to take a movable into storage:

1) for countering an immediate threat or for eliminating a disturbance;

2) for the protection of the owner or possessor of the thing against the direct risk of misplacement or loss of or significant damage to the thing if at the same time public interests are in danger;

3) if pursuant to law a permit is required for the possession of the thing but the person possessing the thing lacks such a permit;

4) if the thing is possessed by a person who has been deprived of liberty pursuant to law and there is a risk that the person will use the thing to kill or injure himself or herself or another person or to damage another person's thing or to escape; or

5) if in the course of a security check an object which is not prohibited by law but may endanger the person himself or herself or another person is detected.

(2) A thing taken into storage by the police shall be stored by the Police and Border Guard Board. If due to the characteristics of the thing it is not possible or rational for the police to store the thing, the police may give the thing to be stored by another person who meets the necessary requirements therefor. The police or another person who is storing the thing shall store the thing in a manner which ensures the preservation thereof.

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

(3) The police shall immediately issue to the person from whom the thing is taken into storage a copy of the report on the taking into storage of the thing, specifying the time of and the reason for the taking into storage of the thing and the description of the thing taken into storage. If the person from whom the thing is taken into storage is not the owner of the thing or the legal possessor thereof or if the thing was not taken into storage from the person and the owner or the legal possessor can be established, the police shall immediately notify the owner or the legal possessor of the taking into storage of the thing.

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

(4) The thing taken into storage shall be returned to the owner or the legal possessor of the thing immediately after the basis for the taking into storage ceases to exist.

(5) For the taking into storage of a movable, direct coercion may be used insofar as it is unavoidable for the achievement of the objective.

(6) It is mandatory to record in a report the measure provided for in this section.

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

## **§ 7<sup>40</sup>. Selling or destruction of movable taken into storage**

(1) On the basis of an order of the Police and Border Guard Board, a bailiff shall sell a thing taken into storage at a public auction pursuant to the procedure provided for in the Code of Enforcement Procedure for the selling of movables if:

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

- 1) it is a highly perishable thing or a thing which quickly loses its value in another manner;
- 2) the storage and maintenance of the thing is disproportionately expensive or complicated;
- 3) it is not possible to store the thing in a manner which would ensure the countering of threats arising from the thing;
- 4) it is not possible to return the thing to the entitled person within one year as of the date of the taking into storage without it resulting at the same time in a new need for the thing to be taken into storage by the Police and Border Guard Board; or

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

5) the person entitled therefor has not accepted the thing from the Police and Border Guard Board after the basis for the taking into storage of the thing ceased to exist by the term disclosed to him or her in writing if the notice contained a caution that in case of non-acceptance, the thing shall be sold.

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

(2) The thing shall be valued by the bailiff based on the usual value thereof. If the bailiff is unable to determine the price, the bailiff shall have the valuation organised by an expert.

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

(3) The costs of the storing of the thing and the enforcement costs shall be deducted from the revenue received from the sale of the thing and the remaining amount shall be paid to the former owner of the thing. The costs of the storing of the thing shall be deemed the costs incurred both by the Police and Border Guard Board and the bailiff. If the owner does not accept the amount within one year as of the sale of the thing, it shall be entered into public revenues.

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

(4) If it is not possible to sell the thing at a public auction or if the costs of the organisation of a public auction will exceed the value of the thing, the bailiff may sell the thing without a public auction pursuant to the procedure provided for in the Code of Enforcement Procedure for the sale of movables.

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

(5) If it can be presumed that it is not possible to sell the thing at a public auction or in another manner or if the bailiff is unable to sell the property, the Police and Border Guard Board shall organise the destruction of the thing or shall transfer it to state ownership.

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

(6) Prior to the sale, destruction or transfer to state ownership of the thing, the Police and Border Guard Board shall notify thereof the established owner or legal possessor.

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

(7) After the sale, destruction or transfer to state ownership of the thing, the Police and Border Guard Board shall be required to immediately issue a written notice to that effect to the established owner or legal possessor.

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

(8) The remuneration of the bailiff for the organisation of the sale shall be provided for in the Bailiffs Act.

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

(9) It is mandatory to record in a report the measure provided for in this section. The sale of a movable shall be recorded by the bailiff, the destruction or transfer to state ownership by the police.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

### **§ 7<sup>41</sup>. Escort of person detained**

(1) Escort of a person detained is the escort of a person detained as a suspect, an arrested person, a person with regard to whom compelled attendance has been applied, a person to be expelled, a detained person or a convicted offender in a house of detention and outside a house of detention under the supervision of armed escort.

(2) Prior to and after the escort, a security check shall be performed with regard to the person detained or the person shall be examined.

(3) The duties and the work procedure of the escort shall be established by the Minister of the Interior by a regulation.

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

## **Subdivision 4**

### **Special Supervisory Measures Related to Cross-Border Pursuit**

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

### **§ 7<sup>42</sup>. Cross-border pursuit**

(1) A police officer in pursuit, on the territory of his or her country, of a person apprehended upon commission of a criminal offence specified in the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.07.2002, p 1–20) or of an accessory to the criminal offence shall be permitted to proceed with the pursuit on the territory of another Member State of the European Union without a previously requested authorisation if:

1) due to the urgency of the matter it was not possible to notify competent authorities thereof prior to the entry on the territory of the other Member State; or

2) the competent authorities of the other Member State failed to arrive in time at the scene of the event to take over the pursuit.

(2) Subsection (1) of this section shall also be applied in case the person being pursued has escaped from a penal institution while held in custody or serving an imprisonment.

(3) Cross-border pursuit may take place only across land frontiers.

(4) The foreign country where the cross-border pursuit shall be conducted shall be the country of location.

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

### **§ 7<sup>43</sup>. Procedure for notifying of cross-border pursuit**

(1) A police officer shall contact immediately but not later than upon crossing the state border the competent authority of the state on whose territory the cross-border pursuit shall be conducted.

(2) In notifying of the crossing of the state border, the pursuing police officer shall be required to notify the country of location of the following circumstances:

1) the time and the place of the presumable crossing of the state border;

2) the type and make of the service weapon of the police officer;

3) the means of communication.

(3) In notifying of a cross-border pursuit, the competent authority in Estonia is the Police and Border Guard Board.

(4) The procedure for documenting operations of a police officer of a foreign state related to cross-border pursuit on the territory of Estonia shall be established by the Minister of the Interior by a regulation.

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

### **§ 7<sup>44</sup>. Conduct of cross-border pursuit**

(1) A person being pursued shall be detained by the police officers of the country of location. In case the competent authorities of the country of location do not demand termination of the pursuit but fail to take over the pursuit quickly enough, the pursuing police officer shall detain the person and hand him or her over to a police officer of the country of location for the establishment of identity or for arrest.

(2) In cross-border pursuit, a police officer:

- 1) shall follow the laws of the country of location and the instructions and orders of the competent authority;
- 2) shall be recognisable by his or her police uniform or use a police vehicle;
- 3) shall present his or her identification in proof of the performance of functions;
- 4) may carry a service weapon and use it only for self-protection;
- 5) may, for ensuring safety, examine the detained person and his or her belongings and take away the items carried by the person;
- 6) may use handcuffs on the detained person in taking him or her to the police authority of the country of location;
- 7) may not enter private premises or another place not intended for public use;
- 8) shall appear in the police authority of the country of location after the termination of the pursuit and notify of the operations performed;

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

- 9) shall remain at the disposal of the competent authority of the country of location until the circumstances related to the pursuit are sufficiently clear;
- 10) shall assist, at the request of the competent authority of the country of location, with the conduct of the criminal proceedings after the pursuit, including the court proceedings.

(3) Cross-border pursuit shall be terminated

- 1) when the objective has been achieved;
- 2) when one hour has passed since the crossing of the state border of the country of location;
- 3) on the demand of the country of location.

(4) If the person detained is not a citizen of the country of location, he or she shall be released after the passing of six hours from his her detention at the latest if the competent authorities of the country of location have not received a request for the arrest of the person for the purposes of extradition or handover of the person. The period from 12 a.m. to 9 a.m. shall not be included in the period of detention.

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

## **§ 7<sup>45</sup>. Police officer of foreign country conducting cross-border pursuit**

In case of a criminal offence committed against or by a police officer of a foreign country conducting a cross-border pursuit, he or she shall be deemed equal to a police officer of Estonia.

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

## **Subdivision 5**

### **Processing of Personal Data**

**[RT I, 22.03.2011, 1 – entry into force 01.04.2011]**

#### **§ 7<sup>46</sup>. Processing of personal data**

(1) For the adherence to the law, an international agreement or a directly applicable legislation of the European Union, the police shall have the right to process personal data and transfer it to a foreign country.

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

(2) If the processing of personal data in order to adhere to an international agreement or a directly applicable legislation of the European Union requires the consent of the person, the following shall be disclosed to the person prior to the request for his or her consent:

1) the name and contact information of the processor of the personal data or of the representative thereof;

2) the purpose of the processing of the data;

3) the voluntary nature of granting the consent and the legal consequences of not granting the consent.

(3) The consent for the processing of personal data provided for in subsection (2) of this section shall be prepared in writing.

(4) With regard to the consent provided for in this section, the provisions of the Personal Data Protection Act shall not be applied.

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

#### **§ 7<sup>47</sup>. Covert processing of personal data**

(1) For the adherence to an international agreement or a directly applicable legislation of the European Union, the police shall have the right to process personal data covertly, i.e. by concealing the purpose of the processing of personal data from the data subject.

(2) The following data may be processed covertly:

- 1) the person's given name and surname;
- 2) the route and destination of the person's trip;
- 3) the persons in the accompany of the person or in a vehicle together with the person;
- 4) the data on the vehicle used by the person;
- 5) the items carried by the person.

(3) The person shall not have the right to receive information about the fact of covert processing or about the personal data collected about him or her in the course of covert processing.

(4) The procedure for documenting covert collection of personal data shall be established by the Minister of the Interior by a regulation.

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

### **§ 7<sup>48</sup>. Right of data subject to receive information about his or her personal data and issue of personal data**

The police shall be required to give to a data subject information within the meaning of the Personal Data Protection Act and issue the required personal data or justify the refusal to issue the data or give the information within thirty days following the day of the receipt of the request.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

## **Chapter 3**

### **POLICE DATABASES**

#### **Division 1**

#### **Police Database**

### **§ 8. Police database**

(1) The Ministry of the Interior shall establish a database for the collection of data related to operations and proceedings related to functions of law enforcement and offence proceedings for the efficient and speedy performance of the functions of law enforcement and the criminal police, and for the performance of efficient supervision.



(2) The official title of the database shall be “information system POLIS” (hereinafter *police database*).

### **§ 9. Chief and authorised processor of police database**

(1) The chief processor of the police database shall be the Police and Border Guard Board.

(2) The authorised processor of the police database shall be the person appointed by the Police and Border Guard Board.

### **§ 10. Structure of police database and data to be entered in database**

(1) The police database shall consist of the following data:

- 1) the data on common information objects;
- 2) the data on offence proceedings;
- 3) the data on the preventive activity of the police;
- 4) the data on the responding activity of the police;
- 5) the data on the activity of the houses of detention of the police;
- 6) the data on search;
- 7) the data on pursuit proceedings.

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

(2) The more detailed composition of the data to be entered in the police database shall be provided for in the statutes on the maintenance of the database.

(3) [Repealed – RT I 2009, 62, 405 – entry into force 01.01.2010]

(4) The data specified in subsection (1) of this section may be transferred to a foreign country for the fulfilment of an obligation arising from the European Union law in the cases and pursuant to the procedure provided for by an international convention, an international agreement or a cooperation agreement of state authorities.

### **§ 11. Presentation of data to be entered in police database**

(1) Data to be entered in the police database shall be presented by the Police and Border Guard Board.

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

(2) For the achievement of the purpose provided for in subsection 8 (1), data to be entered in the police database shall be presented by other authorities determined in the statutes on the database to the established extent.

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

## **§ 12. Entry in police database**

(1) Data shall be entered in the police database by means of software developed for the use thereof.

(2) The officials entitled to enter data in the police database shall be determined by the authority presenting the data.

(3) Data shall be entered in the police database immediately but not later than within five working days as of the receipt of the information, occurrence of an event or performance of an operation or making of a decision which serve as the basis for the entry of the data in the police database.

(4) Data shall be entered in the police database on the basis of source documents, notices received from persons or information obtained by police activity.

## **§ 13. Statutes on maintenance of police database**

(1) The statutes on the maintenance of the police database shall be established by the Minister of the Interior by a regulation.

(2) The statutes on the maintenance of the police database shall provide for:

1) the structure of the database and the organisational structure of the database;

2) an exhaustive list of the data to be entered in the database;

3) the preservation term of the data entered in the database;

4) a list of source documents necessary for entering data in the database;

5) the procedure for the receipt of the data to be entered in the database and for keeping account of access thereto;

5<sup>1</sup>) the recipients of data from the database;

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

6) the procedure for the examination of the data and for the issue thereof;

- 7) the procedure for the amendment of incorrect data and for the notification thereof;
- 8) the basis of and procedure for the expansion and liquidation of the database and for the merger thereof with another database;
- 9) other requisite conditions arising from legislation.

## **Division 2**

### **Border Control Database**

#### **§ 14. Border control database**

(1) The Ministry of the Interior shall establish a database, the objective of which is to keep account of and check the persons and vehicles passing the border control.

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

(2) The official title of the database shall be “border control information system PKIS” (hereinafter *border control database*).

#### **§ 15. Chief and authorised processor of border control database**

(1) The chief processor of the border control database shall be the Police and Border Guard Board.

(2) The authorised processor of the border control database shall be the person appointed by the Police and Border Guard Board.

#### **§ 16. Categories of data of border control database**

(1) The categories of data of the border control database are:

- 1) border crossing of a person;
- 2) border crossing of a land vehicle;
- 3) border crossing of a water craft;
- 4) border crossing of an aircraft.

(2) The more detailed composition of the data to be entered in the border control database shall be provided for in the statutes on the maintenance of the database.

(3) [Repealed – RT I 2009, 62, 405 – entry into force 01.01.2010]

(4) The data specified in subsection (1) of this section may be transferred to a foreign country for the fulfilment of an obligation arising from the European Union law in the cases and pursuant to the procedure provided for by an international convention, an international agreement or a cooperation agreement of state authorities.

### **§ 17. Presentation of data to be entered in border control database**

Data to be entered in the border control database shall be presented by the Police and Border Guard Board.

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

### **§ 18. Entry in border control database**

(1) Data shall be entered in the border control database according to border crossings which have taken place.

(2) Data shall be entered in the border control database in the course of the border control of a person or vehicle.

### **§ 19. Statutes on maintenance of border control database**

(1) The statutes on the maintenance of the border control database shall be established by the Minister of the Interior by a regulation.

(2) The statutes on the maintenance of the border control database shall provide for:

- 1) the structure of the database and the organisational structure of the database;
- 2) an exhaustive list of the data to be entered in the database;
- 3) the preservation term of the data entered in the database;
- 4) a list of source documents necessary for entering data in the database;
- 5) the procedure for the receipt of the data to be entered in the database and for keeping account of access thereto;
- 5<sup>1</sup>) the recipients of data from the database;

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

6) the procedure for the examination of the data and for the issue thereof;

7) the procedure for the amendment of incorrect data and for the notification thereof;

8) the basis of and procedure for the expansion and liquidation of the database and for the merger thereof with another database;

9) other requisite conditions arising from legislation.

## **Division 3**

### **State Register of Schengen Information System**

#### **§ 20. State Register of Schengen Information System**

(1) The Ministry of the Interior shall establish a database which is a national part of the Schengen information system specified in Article 92 of the convention signed on 19 July 1990 by which the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (hereinafter the *Schengen Convention*) is applied.

(2) The official title of the database shall be “national register of the Schengen information system” (hereinafter *register*).

#### **§ 21. Chief and authorised processor of register**

(1) The chief processor of the register shall be the Police and Border Guard Board.

(2) The authorised processor of the register shall be the person appointed by the Police and Border Guard Board.

#### **§ 22. Data to be entered in register**

(1) In the register shall be entered data:

1) on the basis of Article 95 of the Schengen Convention relating to persons wanted for arrest for handover or extradition purposes;

2) on the basis of Article 96 of the Schengen Convention relating to aliens who are reported for the purposes of being refused entry;

3) on the basis of Article 97 of the Schengen Convention relating to persons who have disappeared or to persons who, in the interests of their own protection or in order to prevent threats, need to be placed provisionally in a place of safety;

4) on the basis of Article 98 of the Schengen Convention relating to wanted witnesses and persons accused or convicted;

5) on the basis of Article 99 of the Schengen Convention relating to persons or vehicles for the performance of discreet surveillance or specific checks;

6) on the basis of Article 100 of the Schengen Convention in order to ensure the seizure or confiscation of evidence in criminal proceedings.

(2) [Repealed – RT I 2009, 62, 405 – entry into force 01.01.2010]

### **§ 23. Presentation of data to be entered in register**

(1) The data specified in clause 22 (1) 1) of this Act shall be presented by the Police and Border Guard Board, the Estonian Security Police, the Prosecutor's Office, the Tax and Customs Board, the court in case of matters in court proceedings and the Ministry of Justice in case of court judgments which have entered into force.

(2) The data specified in clause 22 (1) 2) of this Act shall be presented by the Police and Border Guard Board.

(3) The data specified in clause 22 (1) 3) of this Act shall be presented by the Police and Border Guard Board and the court in case of matters in court proceedings.

(4) The data specified in clause 22 (1) 4) of this Act shall be presented by the Police and Border Guard Board, the Estonian Security Police, the Prosecutor's Office, the Tax and Customs Board and the court in case of matters in court proceedings.

(5) The data specified in clause 22 (1) 5) of this Act shall be presented by the Police and Border Guard Board, the Estonian Security Police, the Prosecutor's Office and the Tax and Customs Board.

(6) The data specified in clause 22 (1) 6) of this Act shall be presented by the Police and Border Guard Board, the Ministry of Foreign Affairs and the Road Administration.

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

### **§ 24. Entry in register**

(1) The data specified in clauses 22 (1) 1) and 5) of this Act shall be entered in the register by the chief processor within 24 hours as of the receipt of the source documents.

(2) The data specified in clauses 22 (1) 2) to 4) and 6) of this Act shall be presented to the chief processor of the register within 24 hours as of the time the basis for the entry in the register of the data arose.

### **§ 25. Statutes on maintenance of register**

(1) The statutes on the maintenance of the national register of the Schengen information system shall be established by the Minister of the Interior by a regulation.

(2) The statutes on the maintenance of the register shall provide for:

1) the structure of the database and the organisational structure of the database;

2) an exhaustive list of the data to be entered in the database;

3) the preservation term of the data entered in the database;

4) a list of source documents necessary for entering data in the database;

5) the procedure for the receipt of the data to be entered in the database and for keeping account of access thereto;

5<sup>1</sup>) the recipients of data from the database;

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

6) the procedure for the examination of the data and for the issue thereof;

7) the procedure for the amendment of incorrect data and for the notification thereof;

8) the basis of and procedure for the expansion and liquidation of the database and for the merger thereof with another database;

9) other requisite conditions arising from legislation.

## **Chapter 4**

### **DIRECT COERCION**

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

#### **§ 26. Direct coercion**

Direct coercion for the purposes of this Act shall mean affecting of a natural person (hereinafter *person*), animal or thing by physical force, special equipment or a weapon.

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

#### **§ 27. Special equipment**

Special equipment of the police shall be:

- 1) handcuffs;
- 2) shackles;
- 3) binding means;
- 4) a restraint jacket or a restraint chair;
- 5) a service animal;
- 6) a technical barrier;
- 7) a means to force a vehicle to stop;
- 8) a water cannon;
- 9) grenades evoking tears, or smoke, sonic, light or other effect, or sensation of pain;
- 10) an explosive device for special purposes and not used against a person;
- 11) a lighting and audio device for special purposes;
- 12) a colouring and marking device for special purposes.

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

## **§ 28. Service weapons**

Service weapons of the police shall be:

- 1) a firearm;
- 2) a gas weapon;
- 3) a pneumatic weapon;
- 4) a cut-and-thrust weapon;
- 5) an electric shock weapon.

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

## **§ 29. Self-defence equipment of the police**



(1) The self-defence equipment of the police shall be objects used upon the application of direct coercion for ensuring the physical safety of a police officer or service animal.

(2) The list of the self-defence equipment of the police and the requirements for the self-defence equipment shall be established by the Minister of the Interior by a regulation.

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

### **§ 30. Admissibility of application of direct coercion**

(1) A police officer shall have the right to apply direct coercion.

(2) A police officer may apply direct coercion if the ensuring of the fulfilment of the obligation to counter a threat or eliminate a disturbance imposed on a person by an administrative act is not possible by another administrative coercive measure or is not possible in a timely manner.

(3) Direct coercion is permitted to be applied without a prior binding administrative act if the issue of the administrative act is not possible due to the circumstances of the case. Use of a weapon without a prior binding administrative act is permitted only if the issue of the administrative act is not possible due to the urgent need to counter an immediate serious threat or eliminate a disturbance.

(4) Direct coercion is not permitted to be applied in order to obtain a statement, opinion or explanation.

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

### **§ 31. Caution against direct coercion**

(1) Before the application of direct coercion the police officer shall be required to caution the person with regard to whom or with regard to an animal or thing in the person's possession the police officer is planning to apply direct coercion.

(2) If the caution has been prepared in writing, the police officer shall repeat the caution orally before the application of direct coercion.

(3) If possible, people shall be cautioned beforehand about the application of direct coercion against a crowd with the consideration that those who wish would have the possibility to retreat voluntarily. In applying direct coercion against a crowd, it is not required to caution people against the use of a technical barrier with regard to them.

(4) Cautioning may be neglected if cautioning is not possible due to the circumstances of the case. Use of a weapon without a prior caution is permitted only due to the urgent need to counter an immediate serious threat or eliminate a disturbance. Cautioning against the use of a firearm against a crowd may not be neglected.

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

### **§ 32. Use of handcuffs, shackles or binding means**

(1) The police may use handcuffs with regard to a person if the person has been deprived of liberty pursuant to law and there is reason to believe that he or she may:

- 1) attack another person, offer physical resistance to a police officer or an assistant police officer or damage a proprietary benefit of great value;
- 2) escape or he or she may be released unlawfully; or
- 3) injure or kill himself or herself.

(2) Shackles may be used on the bases provided for in subsection (1) of this section with regard to a suspect, accused or convicted offender who has been deprived of liberty in relation to:

- 1) commission of a violent criminal offence in the first degree;
- 2) commission of a criminal offence for which he or she may be sentenced to life imprisonment as a punishment; or
- 3) commission of another criminal offence if use of handcuffs is not sufficient for the achievement of the objective.

(3) If use of handcuffs or shackles is not possible, the police officer may use a binding means on the bases provided for in subsections (1) and (2) of this section if this does not jeopardise the person's life, does not cause him or her bodily injury or constant physical pain. Use of a binding means shall not last for more than one hour at a time.

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

### **§ 32<sup>1</sup>. Use of water cannon**

(1) For countering a serious threat, the police may use a water cannon against a crowd if countering the threat by another measure of direct coercion, except for a firearm, is not possible or is not possible in a timely manner, and with the consideration that in using a water cannon, everything possible shall be done in order not to jeopardise another significant benefit.

(2) The procedure for the use of water cannon shall be established by the Minister of the Interior by a regulation.

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

### **§ 32<sup>2</sup>. Use of electric shock weapon**

(1) For countering a serious threat, the police may use an electric shock weapon if countering the threat by another measure of direct coercion, except for a firearm, is not possible or is not possible in a timely manner, and with the consideration that in using an electric shock weapon, everything possible shall be done in order not to jeopardise another significant benefit.

(2) A police officer may use an electric shock weapon with regard to a person only to make him or her incapable of attacking, offering resistance or escaping if it is not possible to achieve this objective by another measure of direct coercion, except for a firearm, and if it is also necessary in order to:

1) counter an immediate threat to life or health or physical inviolability;

2) obstruct the commission of an imminent or already on-going criminal offence in the first degree;

3) detain a person suspected or accused of a criminal offence in the first degree or to hinder his or her escape if he or she may be deprived of liberty pursuant to law or if he or she has been deprived of liberty pursuant to law; or

4) detain a person or hinder his or her escape if he or she may be deprived of liberty on the basis of a court decision or if he or she has been deprived of liberty on the basis of a court decision.

(3) A police officer may use an electric shock weapon with regard to an animal only to make the animal incapable of attacking if it is not possible to achieve this objective by another coercive measure.

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

### **§ 32<sup>3</sup>. Use of firearm**

(1) For countering a serious threat, the police may use a firearm if countering the threat by another measure of direct coercion is not possible or is not possible in a timely manner, and with the consideration that in using a firearm, everything possible shall be done in order not to jeopardise another significant benefit.

(2) A police officer may use a firearm with regard to a person only to make him or her incapable of attacking, offering resistance or escaping if it is not possible to achieve this objective by another measure of direct coercion and if it is also necessary in order to:

1) counter an immediate threat to life or physical inviolability;

2) obstruct the commission of an imminent or already on-going violent criminal offence in the first degree or such a criminal offence for which life imprisonment may be sentenced as a punishment; or

3) detain a suspect, accused or convicted offender or to hinder his or her escape if he or she may be deprived of liberty on the basis of the law or if he or she has been deprived of liberty pursuant to law in relation to commission of a violent criminal offence in the first degree or such a criminal offence for which he or she may be sentenced to life imprisonment as a punishment.

(3) A police officer may use a firearm with regard to an animal only to make the animal incapable of attacking if it is not possible to achieve this objective by another coercive measure.

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

### **§ 32<sup>4</sup>. Aid to injured person**

If by the application of direct coercion a bodily injury is caused to a person, the police shall be required to guarantee first aid to the person at the first opportunity and, if necessary, call for emergency medical care.

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

## **Chapter 5**

### **POLICE SERVICE**

#### **Division 1**

#### **General Provisions**

### **§ 33. Police service**

(1) Police service shall be deemed service in the Police and Border Guard Board, the Estonian Security Police or an institution of professional higher education for public defence in the position of a police officer.

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

(2) Police service is a special type of public service.

### **§ 34. Police officer**

(1) A police officer is a person in the service of the Police and Border Guard Board, the Estonian Security Police or an institution of professional higher education for public defence in the position of a police officer.

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

(2) A border guard official in the border guard service on the basis of the Border Guard Service Act and a police officer in the police service on the basis of the Police Service Act up to the entry into force of this Act shall be deemed a police officer for the purposes of this Act if he or she is appointed to the position of a police officer on the basis of this Act.

### **§ 35. Position of police officer**

(1) The position of a police officer is a position within the staff of the institution or a non-staff position working in which shall be police service (hereinafter *position*).

(2) A non-staff police officer may be employed in service for the duration of practical training or performance of a function of non-permanent nature.

(3) A non-staff police officer shall be employed in service only for a specified term.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 36. Service rank**

(1) The service rank of a police officer shall be the title given to the police officer in the name of the Republic of Estonia.

(2) A required period of service shall be established for a service rank (hereinafter *period of service for service rank*).

### **§ 37. Cadet**

A cadet is a student acquiring vocational education on the basis of secondary education and a student acquiring professional higher education in an institution of professional higher education for public defence in the specialty of the police or border guard in full-time studies.

[RT I 2010, 41, 240 – entry into force 01.09.2010]

### **§ 37<sup>1</sup>. Uniform and identification**

(1) A police officer and a cadet shall be given a uniform and identification.

(2) A uniform of a police officer may be given to the following public servants of the Police and Border Guard Board not specified in subsection (1) of this section:

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

1) public servants in a house of detention;

2) customer service providers;

3) public servants ensuring passage in a building;

4) migration supervision officials;

5) band members.

(3) The distinguishing marks on the uniform of public servants listed in subsection (2) of this section shall be provided for by a regulation specified in subsection (8) of this section.

(4) The positions specified in subsection (2) of this section, the public servants appointed to which shall be given a uniform of a police officer, shall be decided by the Director General of the Police and Border Guard Board.

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

(5) A police officer shall present identification to a person with regard to whom he or she is performing a function. A police officer in a police uniform shall present identification to the person only on his or her demand.

(6) A police officer may postpone the fulfilment of the obligation specified in subsection (5) of this section if it is unavoidably necessary for countering an immediate threat.

(7) A police officer does not have the obligation specified in subsection (5) of this section if the fulfilment thereof is not possible due to the nature or purpose of the function.

(8) The description of the uniform of a police officer and of the distinguishing marks shall be established by the Minister of the Interior by a regulation. The positions, a police officer appointed to which shall not be given a uniform, shall be decided by the Director General of the Police and Border Guard Board and the Director General of the Estonian Security Police.

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

(9) The description and form of the identification shall be established by the Minister of the Interior by a regulation.

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

## **Division 2**

### **Employment in Service**

#### **§ 38. General requirements for employment in service**

An Estonian citizen who has attained 19 years of age, has at least secondary education, has full active legal capacity, is proficient in Estonian to the extent established by law or legislation

issued on the basis of the law, and meets the health requirements and requirements for professional qualification of a police officer may be employed in service as a police officer.

### **§ 39. Requirements for professional qualification of police officer**

(1) A police officer shall meet the requirements for professional qualification of a police officer, including requirements for physical preparation and education.

(2) The requirements for professional qualification of a police officer, and the conditions and procedure for the verification thereof shall be established by the Minister of the Interior by a regulation.

(3) Evaluation provided for in the Public Service Act shall not be applied to police officers.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

### **§ 40. Persons not to be employed in police service**

The following shall not be employed in service:

1) a person who has been punished for an intentionally committed criminal offence, irrespective of whether the information concerning punishment has been deleted;

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

2) a person who has served imprisonment, irrespective of whether the information concerning punishment has been deleted;

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

3) a person who is a suspect or accused in criminal proceedings;

4) a person who has been released from public service due to commission of a disciplinary offence and less than a year has passed from the release from service;

5) a person who receives a pension, remuneration or other regular compensation from a state which is not a Member State of the European Economic Area or the Swiss Confederation or which does not belong to the North Atlantic Treaty Organisation;

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

6) a person who has been punished for an offence which includes the necessary elements of an act of corruption specified in the Anti-Corruption Act;

7) a person with restricted active legal capacity;

8) a person whose state of health does not meet the requirements established on the basis of section 71 of this Act;

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

9) a person who knowingly presented false information in the personal data form or withheld significant information.

#### **§ 41. Medical surveillance of person applying for employment in police service or acceptance to studies in specialty of police officer**

A person applying for employment in the police service or acceptance to studies in the specialty of a police officer shall undergo a medical surveillance prescribed for a police officer.

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

#### **§ 42. Collection of information for deciding on employment in service of person**

(1) A person applying for employment in the police service shall submit a personal data form to the Police and Border Guard Board or the Estonian Security Police. The personal data form requires data which enables the assessment of the person's suitability for service. In addition, data concerning the given name and surname, personal identification code (in the absence of a personal identification code, date and place of birth) and contact information of relatives and relatives by marriage (parents, sister, brother, children, spouse, former spouse), and also of a permanent partner may be required.

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

(2) The format of the personal data form of a person applying for employment in the police service shall be established by the Minister of the Interior by a regulation.

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

(3) For the verification of the data presented in the personal data form, the Director General of the Estonian Security Police, the rector of the Estonian Academy of Security Sciences or the Director General of the Police and Border Guard Board, or an official authorised by him or her shall have the right to:

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

1) address state authorities and local government authorities and officials thereof, also natural and legal persons with an inquiry concerning the personal data of a person applying for employment in service;

2) talk to the person specified in the personal data form, and also to his or her employer and representatives of his or her educational institution and other persons in order to determine the



applicant's moral character and other personal characteristics and, if necessary and with the consent of the person being questioned, take his or her statement in writing;

3) verify whether the person specified in the personal data form has been punished for an intentionally committed criminal offence, whether the person has served imprisonment or whether he or she is a suspect or accused in criminal proceedings;

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

4) verify personal data from the database of the state, local government or another legal person in public law or legal person in private law.

(4) The authority or person who has received an inquiry specified in subsection (3) of this section shall reply to the inquiry immediately but within ten working days at the latest as of the receipt of the inquiry.

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

(5) The provisions of this section shall extend also to a person who is applying for acceptance to vocational education studies or professional higher education studies in the specialty of the police or border guard, or for the position of a police officer in an institution of professional higher education for public defence. Personal data for deciding on the suitability for police service of the said person shall be collected by the Police and Border Guard Board.

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

### **§ 43. Appointment of police officer to office**

(1) A police officer shall be employed in service by appointment to office.

(2) The Director General of the Police and Border Guard Board shall be appointed to office for a term of five years by the Government of the Republic on the proposal of the Minister of the Interior after having heard the opinion of the Legal Affairs Committee of the Riigikogu.

(3) As the Director General of the Police and Border Guard Board may be appointed a person who has been employed as a Deputy Director General or a head of department of the Police and Border Guard Board, as the head, deputy head or a head of department of a government authority within the area of government of the Ministry of the Interior, as the head of a local authority, having executive power, of a government authority within the area of government of the Ministry of the Interior, as a high official of the Ministry of the Interior or for at least three years as a foreman of a court, as a leading prosecutor, as a leading public prosecutor, as the Prosecutor General, as the head or a head of department of a government authority within the area of government of the Ministry of Justice or the Ministry of Defence or for at least five years as the head or deputy head of another state authority.

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

(4) The Director General of the Estonian Security Police shall be appointed to office for a term of five years by the Government of the Republic on the proposal of the Minister of the Interior after having heard the opinion of the Legal Affairs Committee of the Riigikogu and of the Security Authorities Surveillance Select Committee of the Riigikogu.

(5) As the Director General of the Estonian Security Police may be appointed a person who has been employed, prior to the appointment to office, for at least three years as a Deputy Director General of the Police and Border Guard Board or as a Deputy Director General, a head of a structural unit or the head of a surveillance authority of the Estonian Security Police or as a high official of the Ministry of the Interior or as the head, deputy head or a head of department of a government authority within the area of government of the Ministry of the Interior or for at least three years as a foreman of a court, as a leading prosecutor, as a leading public prosecutor or as the Prosecutor General or for at least five years as the head or deputy head of another state authority.

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

(6) The Deputy Director Generals of the Estonian Security Police shall be appointed to office by the Minister of the Interior on the proposal of the Director General of the Estonian Security Police. Other police officers of the Estonian Security Police shall be appointed to office by the Director General of the Estonian Security Police.

(7) As a Deputy Director General and a prefect of the Police and Border Guard Board shall be appointed to office by the Minister of the Interior on the proposal of the Director General of the Police and Border Guard Board. The head of the structural unit training police officers of an institution of professional higher education for public defence shall be appointed to office by the Minister of the Interior on the proposal of the rector of the Estonian Academy of Security Sciences after having heard the opinion of the Director General of the Police and Border Guard Board.

(8) A Deputy Director General or a prefect of the Police and Border Guard Board may be appointed a person who has been employed as a Deputy Director General of the Estonian Security Police, as the head of a bureau of the Police and Border Guard Board, as the head, deputy head or a head of department of a government authority or as the head of a local authority, having executive power, of a government authority within the area of government of the Ministry of the Interior or as a high official of the Ministry of the Interior or for at least three years as a judge, as a prosecutor, as the head or a head of department of a government authority within the area of government of the Ministry of Justice or the Ministry of Defence.

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

(9) The head of a bureau and a division of the Police and Border Guard Board shall be appointed to office by the Director General of the Police and Border Guard Board.

(10) A person graduating from an institution of professional higher education for public defence in the specialty of the police or border guard shall be appointed to position by the official having the right to appoint to the relevant position.

(11) Police officers of an institution of professional higher education for public defence, except for the head of the structural unit training police officers of an institution of professional higher education for public defence, shall be appointed to office by the rector of the Estonian Academy of Security Sciences on the proposal of the head of the structural unit training police officers of an institution of professional higher education for public defence.

(12) A police officer may be appointed to office without public competition.

#### **§ 44. Term of service**

(1) A police officer shall be appointed to office to a vacant position on the staff of an authority for an unspecified term, except in the cases provided for in subsection (2) of this section.

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

1) the Director General of the Police and Border Guard Board and the Director General of the Estonian Security Police – for five years;

2) a prefect, the head of a regional department of the Estonian Security Police and the head of the structural unit training police officers of an institution of professional higher education for public defence – for five years.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(3) The following may be appointed to office for a specified term:

1) a police officer who has other higher education or vocational education but who lacks professional training – for the term prescribed for completing professional training;

2) a police officer who does not have professional education or other higher or vocational education, to a position of a specialist – for the term of obtaining professional higher or vocational education;

3) a non-staff police officer – for the term of performing a function; and a cadet – for the term of performing a function or practical training.

(4) Term of service shall be calculated in months and years.

#### **§ 45. Oath of police officer**

(1) A person entering the police service for the first time shall take the following oath of office:

“Upon entry into the police service, I, (given name and surname), shall take an oath to be loyal to the constitutional order of Estonia, comply unwaveringly with legislation and use the authority given to me in a just and impartial manner, and perform the duties in an honest and conscientious manner.”

(2) The oath of office shall be administered by the Minister of the Interior or, on the authorisation thereof, by the Director General of the Police and Border Guard Board or the Director General of the Estonian Security Police.

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

(3) The oath of office shall be taken in a festive manner under the national flag.

(4) The police officer taking the oath of office shall read out the oath of office and sign the text of the oath of office.

(5) The signed oath of office shall be preserved together with the service record.

(6) A cadet shall take the oath of office before the first practical training.

#### **§ 45<sup>1</sup>. Fingerprinting of police officer and taking of DNA sample from him or her**

(1) A police officer servicing scenes of a criminal offence shall be fingerprinted and a DNA sample shall be taken from him or her for the purposes of eliminating the traces left by the police officer on objects of analysis.

(2) The list of positions, the police officer serving in which shall be fingerprinted and from whom a DNA sample shall be taken, shall be established by the Director General of the Police and Border Guard Board.

(3) The information obtained upon fingerprinting a police officer shall be entered in the national fingerprint database. The information obtained as a result of analysing a DNA sample taken from a police officer shall be entered in the national DNA register.

(4) The information obtained as a result of fingerprinting a police officer and analysing his or her DNA sample shall be deleted from the national databases upon the release of the police officer from the police service. The Police and Border Guard Board shall notify the Estonian Forensic Science Institute of the need to delete from the national databases the information concerning the police officer.

(5) The procedure for fingerprinting a police officer and taking his or her DNA sample and forwarding the taken fingerprints and DNA samples to the national fingerprint database and the national DNA register under this section shall be established by the Minister of the Interior by a regulation.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

## **§ 46. Service record of police officer**

(1) A service record shall be kept with regard to a police officer wherein the following information shall be entered:

- 1) given name and surname;
- 2) personal identification code;
- 3) date and place of birth;
- 4) [repealed – RT I 2009, 62, 405 – entry into force 01.01.2010]
- 5) education and area of specialisation;
- 6) professional qualification;
- 7) date and place of taking of the oath of office;
- 8) length of the police service;
- 9) [repealed – RT I 2009, 62, 405 – entry into force 01.01.2010]
- 10) grant of and change in service rank;
- 11) career, including the basis for release from position with reference to the section, subsection and clause of the applicable Act;
- 12) [repealed – RT I 2009, 62, 405 – entry into force 01.01.2010]
- 13) incentives, including information concerning bestowal of national decorations;
- 14) disciplinary punishments and deletion thereof.
- 15) [repealed – RT I 2009, 62, 405 – entry into force 01.01.2010]
- 16) [repealed – RT I 2009, 62, 405 – entry into force 01.01.2010]
- 17) [repealed – RT I 2009, 62, 405 – entry into force 01.01.2010]

(2) The procedure for keeping the service record of a police officer shall be established by the Minister of the Interior by a regulation.

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

## **§ 47. Formalising appointment to office**

- (1) Appointment to office shall formalised by a directive.
- (2) The directive shall meet the requirements prescribed for administrative documents and include at least the following information:
  - 1) given name and surname of the person being appointed to office;
  - 2) name of the authority where the person shall be employed in service;
  - 3) service rank of the person being appointed to office or of the position;
  - 4) title of office;
  - 5) date determined for assumption of office;
  - 6) in case of appointment to office for a specified term – term of service;
  - 7) in case of application of a period of probation – duration of the period of probation;
  - 8) salary and additional remuneration;
  - 9) length of police service or absence thereof as at the date of appointment to office.

### **Division 3**

#### **Positions and Service Ranks thereof**

**[RT I, 22.03.2011, 1 – entry into force 01.01.2012]**

##### **§ 48. Positions and service ranks**

- (1) Positions shall be positions of a specialist and positions of an executive officer.
- (2) The positions of a specialist in ascending order are:
  - 1) position of a Junior Specialist;
  - 2) position of a Senior Specialist;
  - 3) position of a Leading Specialist; and
  - 4) position of a Chief Specialist.
- (3) The service ranks in ascending order are:

- 1) Junior Constable, Junior Assistant, Junior Inspector;
- 2) Constable, Assistant, Inspector, Junior Warrant Officer;
- 3) Senior Constable, Senior Assistant, Senior Inspector, Warrant Officer;
- 4) Chief Constable, Chief Assistant, Chief Inspector, Senior Warrant Officer;
- 5) Superintendent, Chief Warrant Officer;
- 6) Senior Superintendent;
- 7) Police Lieutenant;
- 8) Police Captain;
- 9) Police Major;
- 10) Police Lieutenant Colonel;
- 11) Police Colonel;
- 12) Inspector General of Police; and
- 13) Police General.

(4) The service rank of a Junior Warrant Officer, Warrant Officer, Senior Warrant Officer and Chief Warrant Officer is the service rank of the position of a specialist only on vessels.

(5) The service rank of a Junior Assistant, Assistant, Senior Assistant and Chief Assistant is only the service rank of the position of a specialist of the Estonian Security Police.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

#### **§ 49. Service ranks of position of specialist**

(1) The service ranks of the position of a Junior Specialist are:

- 1) Junior Constable, Junior Assistant, Junior Inspector;
- 2) Constable, Assistant, Inspector, Junior Warrant Officer; and
- 3) Senior Constable, Senior Assistant, Senior Inspector, Warrant Officer.

(2) The service ranks of the position of a Senior Specialist are:

- 1) Constable, Assistant, Inspector, Junior Warrant Officer;
- 2) Senior Constable, Senior Assistant, Senior Inspector, Warrant Officer;
- 3) Chief Constable, Chief Assistant, Chief Inspector, Senior Warrant Officer;
- 4) Superintendent, Chief Warrant Officer; and
- 5) Senior Superintendent.

(3) The service ranks of the position of a Leading Specialist are:

- 1) Superintendent, Chief Warrant Officer;
- 2) Senior Superintendent;
- 3) Police Lieutenant; and
- 4) Police Captain.

(4) The service ranks of the position of a Chief Specialist are:

- 1) Senior Superintendent;
- 2) Police Lieutenant;
- 3) Police Captain;
- 4) Police Major; and
- 5) Police Lieutenant Colonel.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

## **§ 50. Service ranks of position of executive officer**

(1) The service ranks of the position of the head of a structural unit of the Police and Border Guard Board not specified in subsections (2) to (4) of this section are:

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

- 1) Senior Superintendent;
- 2) Police Lieutenant;
- 3) Police Captain;



4) Police Major; and

5) Police Lieutenant Colonel.

(2) The service ranks of the position of the head of a structural unit of a bureau of the Police and Border Guard Board (except for the head of a structural unit of a bureau of a prefecture), of the head of a structural unit of an aviation group, of the head of a bureau of a prefecture and of the head of a structural unit of a regional department of the Estonian Security Police are:

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

1) Police Captain;

2) Police Major; and

3) Police Lieutenant Colonel.

(3) The service ranks of a prefect, of the head of a structural unit of the Estonian Security Police, of the head of a bureau of the Police and Border Guard Board and of an aviation group, and of the head of the structural unit training police officers of an institution of professional higher education for public defence are:

1) Police Major;

2) Police Lieutenant Colonel; and

3) Police Colonel.

(4) The service ranks of a Deputy Director General of the Police and Border Guard Board and of a Deputy Director General of the Estonian Security Police are:

1) Police Lieutenant Colonel;

2) Police Colonel; and

3) Inspector General of Police.

(5) The service ranks of the Director General of the Police and Border Guard Board and of the Director General of the Estonian Security Police are:

1) Police Colonel;

2) Inspector General of Police; and

3) Police General.

(6) The service ranks of the position of a deputy executive officer are the same as the service ranks of the position of an executive officer.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

## **Division 4**

### **Service Ranks of Police Officer, and Appointment and Transfer to Position**

**[RT I, 22.03.2011, 1 – entry into force 01.01.2012]**

#### **§ 51. Grant of service rank upon appointment to position upon employment in police service**

(1) Upon appointment to position upon employment in the police service, a police officer shall be granted, in general, the service rank which is the lowest of the service ranks of the relevant position.

(2) If upon employment in the police service, to a position shall be appointed a person who has been employed in the police service and who has been granted a service rank on the basis of this Act or who has been promoted in his or her service rank and whose service rank of a police officer is higher than the lowest service rank of that position, he or she shall, in general, resume the police service with the current service rank.

(3) Upon appointment to position upon employment in the police service, a police officer may be granted a service rank higher than the lowest service rank of that position if it arises from the nature of the service and is necessary for the performance of functions in that position.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

#### **§ 52. Change in service rank**

Change in a service rank is promotion or demotion in the service rank.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

#### **§ 53. Promotion in service rank of police officer**

(1) Promotion in the service rank of a police officer is grant of a higher service rank than the current service rank to the police officer.

(2) The conditions of promotion in the service rank of a police officer shall be the following:

- 1) the police officer has obtained the education corresponding to the necessary level and the professional qualification level;
  - 2) the police officer has met the requirements for professional qualification of a police officer; and
  - 3) the service of the police officer is impeccable.
- (3) A police officer may be promoted in the service rank if:
- 1) he or she has fulfilled the conditions of promotion in the service rank;
  - 2) the service ranks of the position enable promotion; and
  - 3) the period of service for his or her service rank has expired.
- (4) In general, a police officer shall be promoted in the service rank by one rank.
- (5) A police officer may be promoted in the service rank by more than one service rank if it arises from the nature of the service and is necessary for the performance of functions in that position.
- (6) A police officer may be promoted in the service rank regardless of the expiry of the period of service for the service rank if it arises from the nature of the service and is necessary for the performance of functions in that position.
- (7) A police officer may be promoted in the service rank up to the highest service rank of his or her position.
- (8) A police officer shall not be promoted in the service rank during the time the police officer is serving a disciplinary punishment.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

#### **§ 54. Period of service for service rank**

- (1) The period of service for a rank is:
  - 1) three years from the service rank of a Junior Constable, Junior Assistant and Junior Inspector to the service rank of a Police Captain, and
  - 2) four years from the service rank of a Police Major to the service rank of a Police General.
- (2) The period of service for a rank shall be calculated from the date determined in the directive granting a service rank or directive of promotion in service rank.

(3) The period of service for a rank shall include the time when the service relationship of the police officer was suspended.

(4) The period of service for a rank shall not include the time when the police officer was demoted in service rank.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 55. Demotion in service rank of police officer**

(1) Demotion in the service rank of a police officer is grant of the next service rank in descending order after the current service rank to a police officer.

(2) A police officer may be demoted in service rank only as a disciplinary punishment.

(3) The service rank shall be restored after the passing of one year from the demotion in service rank.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 56. Competence to grant service rank of police officer and to change service rank**

(1) The Minister of the Interior shall grant and change the service ranks of a Senior Superintendent, a Police Lieutenant, a Police Captain, a Police Major, a Police Lieutenant Colonel, a Police Colonel, an Inspector General of Police and a Police General.

(2) The service ranks not specified in subsection (1) of this section shall be granted and changed respectively by the Director General of the Police and Border Guard Board, the Director General of the Estonian Security Police and the rector of an institution of professional higher education for public defence, unless otherwise prescribed by this Act.

(3) If pursuant to subsection 51 (3) of this Act it is justified to grant to a police officer upon his or her appointment to position upon employment in the police service a service rank higher than the lowest service rank of that position, then that service rank shall be granted to the police officer by the Minister of the Interior.

(4) If pursuant to subsection 53 (5) or subsection 58 (3) of this Act it is justified to promote a police officer in the service rank by more than one service rank at a time, the police officer shall be promoted in the service rank by the Minister of the Interior.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 57. Transfer to position without police officer's consent**

(1) A police officer may be transferred without his or her consent in the same authority to such a position, one service rank of which corresponds to his or her service rank of a police officer if it does not bring about a change in his or her place of residence.

(2) A police officer in the position of a specialist may be transferred on the conditions specified in subsection (1) of this section to a position which is not lower by more than one position from the police officer's current position in the list provided for in subsection 48 (2) of this Act.

(3) A police officer in the position of an executive officer may be transferred on the conditions specified in subsection (1) of this section only to a position of an executive officer, of a Chief Specialist or of a Leading Specialist.

(4) The person having the right to transfer shall be required to notify the police officer of the transfer to another position without his or her consent in writing at least one month in advance.

(5) A police officer who was transferred shall be paid his or her former wages if the wages in the new position is lower than his or her former wages.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 58. Transfer to position with police officer's consent**

(1) A police officer may be transferred to a position, the service rank of which does not correspond to his or her service rank of a police officer only with his or her consent.

(2) If a police officer is transferred to a position, the lowest service rank of which is higher than his or her service rank of a police officer, his or her service rank of a police officer shall, in general, remain the same and he or she shall be promoted in the service rank pursuant to the general procedure.

(3) If a police officer is transferred to a position, the lowest service rank of which is higher than his or her service rank of a police officer, the police officer may be promoted in the service rank, irrespective of the period of service for his or her current service rank, to meet the lowest service rank of that position or a higher service rank if it arises from the nature of the service and is necessary for the performance of functions in that position.

(4) If a police officer is transferred to a position, the highest service rank of which is lower than his or her service rank of a police officer, the police officer shall not be demoted in the service rank, but the latter will remain the same.

(5) An official who has been employed in service in the position of the head of a structural unit in the Police and Border Guard Board, in the Estonian Security Police or of the structural unit training police officers of an institution of professional higher education for public defence may be appointed or transferred only to the position of an executive officer, of a Chief Specialist or of a Leading Specialist.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

## **§ 59. Level of professional qualification of position**

Levels of professional qualification approved for positions and the procedure for evaluating the conformity of a police officer therewith shall be established by the Minister of the Interior by a regulation.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

## **§ 60. Legal status of cadet**

(1) For undergoing practical training, a cadet shall be appointed a non-staff police officer under clause 44 (3) 3) of this Act. During practical training, sections 40, 43, 50–52, 55, 59–65 and 67–78 of the Public Service Act and Chapters 2<sup>1</sup> and 4, and sections 71 and 72, 74–78, 83–89 and 99–107 of this Act shall be extended to the cadet.

(2) Social guarantees, rights and liability pursuant to Chapters 2<sup>1</sup> and 4, and sections 71 and 72, 74–78, 83–89 and 99–107 of this Act prescribed for a police officer shall be extended to the cadet if he or she was involved by an administrative act in or if he or she commenced on his or her own initiative or at the request of a victim performance of functions of the police.

(3) The basis for calculating the benefit prescribed in subsections 75 (3) and (10) of this Act shall be the salary rate of the first salary grade of a police officer applicable on the date the cadet was killed or injured.

(4) A cadet shall be paid a scholarship, including during practical training. No remuneration shall be paid for the period of practical training. The amount of scholarship and the terms and conditions and the procedure for the payment thereof shall be established by the Minister of the Interior by a regulation.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

## **§ 61. Police officer guarantees of police officer working and studying in institution of professional higher education for public defence**

(1) Social guarantees pursuant to sections 70–72, 74–78 and 99–107 of this Act prescribed for a police officer shall be extended to a police officer appointed to a position of a police officer in an institution of professional higher education for public defence for up to five academic years for the entire period of his or her employment in that position.

(2) Upon the expiry of the term specified in subsection (1) of this section, the police officer shall resume his or her service in the position in which he or she was employed prior to the appointment to the position of a police officer in an institution of professional higher education for public defence, or he or she shall be transferred to a position, one service rank of which corresponds to his or her service rank of a police officer.

(3) For the transfer specified in subsection (2) of this section to a position, one service rank of which corresponds to the police officer's service rank of a police officer, the consent of the police officer is not required.

(4) The service relationship of a police officer referred to full-time studies in an institution of professional higher education for public defence in the specialty of the police or border guard shall be suspended for the duration of the studies and his or her wages of a police officer shall be retained during the studies.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

## **§ 62. Performance of functions of absent police officer**

(1) The Director General of the Police and Border Guard Board or a person provided for in the statutes of the Police and Border Guard Board or the Director General of the Estonian Security Police may impose for up to six months but not for longer than two consecutive terms the functions of a temporarily absent police officer or of a vacant position of a police officer on another police officer, releasing the latter from the performance of his or her functions.

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

(2) The functions of a temporarily absent police officer or of a vacant position of a police officer may be imposed on a police officer under subsection (1) of this section for more than two months in a calendar year only with his or her written consent.

(3) A police officer who is substituting an absent police officer under subsection (1) of this section shall be paid the degree of wages and the service rank remuneration of the position of the absent police officer which the substitute is entitled to. If the degree of wages of the absent police officer is lower than the degree of wages of the substitute, the current wages of the substitute shall be retained.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

## **Division 4<sup>1</sup>**

### **Employment in Service and Employment in another Authority and International Organisation**

**[RT I, 22.03.2011, 1 – entry into force 01.01.2012]**

**§ 63. Police officer's appointment to and employment in another position in governmental authority, in authority administered by governmental authority and in international organisation**

(1) A police officer may, with his or her consent, be appointed to or employed in a position in a governmental authority, in an authority administered by a governmental authority or in an international organisation, or appointed to or employed in a position created within the framework of international cooperation, including participation in an international civil mission, which requires professional training of a police officer but is not a position of a police officer (hereinafter in this Division *another position*). Another position within the meaning of this Division shall also be a position in a governmental authority, in an authority administered by a governmental authority or in an international organisation, or a position created within the framework of international cooperation, which requires professional training of a police officer but is not a position of a police officer if the police officer has been transferred thereto during service or employment in the host authority.

(2) An authority where the police service relationship of the police officer is suspended in connection with employment in service or employment in a position in a governmental authority, in an authority administered by a governmental authority or in an international organisation, or employment in service or employment in a position created within the framework of international cooperation shall be, within the meaning of this Division, a posting authority (hereinafter in this Division *posting authority*).

(3) A governmental authority, an authority administered by a governmental authority or an international organisation where the police officer is employed or is employed in service in another position shall be, within the meaning of this Division, a host authority (hereinafter in this Division *host authority*).

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

#### **§ 64. Term of service and employment of police officer in host authority in another position**

(1) A police officer may be appointed to or employed in another position in a host authority for up to three consecutive years at a time and this term may be extended once by up to three consecutive years.

(2) In case of employment in service or employment in another authority in a position which requires the professional training of a police officer but is not a position of a police officer as of the day directly following the release of the police officer from service or employment in one host authority, the duration of the service or employment in host authorities in total shall not exceed six consecutive years.

(3) A police officer may be appointed to or employed in another position in a host authority for up to three consecutive years at a time and it may be extended by up to three consecutive years at a time or he or she may be employed in service or employed in another host authority directly as of the day following the day of release from the service or employment for up to three years at a time if the police officer is in the service of or employed in the Ministry of the Interior or an authority within the area of government thereof or if he or she continues his or her service or employment within the Ministry of the Interior or its area of government.



[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 65. Suspension of police service relationship of police officer in connection with appointment to or employment in another position in host authority**

(1) In case a police officer is appointed to or employed in another position, his or her police service relationship shall be suspended until the police officer returns to his or her position or is released from the police service.

(2) In case of appointment to or employment in another position, the police officer may be transferred, prior to the suspension of his or her service relationship and without his or her consent, within the same authority to a position of a posted police officer.

(3) A position of a posted police officer within the meaning of this Act shall be a position of a police officer within the staff of the authority or a non-staff position which a police officer shall be appointed to for the term of service or employment in a host authority.

(4) If the structure of the posting authority lacks a position of a posted police officer which corresponds to the police officer's current position in the posting authority and is a position of the same level and such non-staff position is not created, the police officer shall not be released from his or her current position and his or her police service relationship in his or her current position shall be suspended.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 66. Organisation of suspension of police officer's service relationship in relation to appointment to another position and employment in host authority**

(1) In case a police officer is posted to another position, the host authority shall appoint the police officer to position or employ him or her, and the posting authority shall suspend his or her service relationship until the expiry of the term of his or her employment in the other position.

(2) The posting authority shall have a right to refuse to suspend the service relationship of the police officer.

(3) Subsection (2) of this section shall not be applied if the host authority is the Ministry of the Interior.

(4) The procedure and terms for appointment to or employment in another position and for suspension of the service relationship in the current position shall be established by the Minister of the Interior by a regulation.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 67. Specifications of organisation of police officer's holiday**

(1) If a police officer's police service relationship is suspended in connection with appointment to or employment in another position in a host authority, his or her unused annual and additional holiday shall be compensated for in money upon the suspension of the service relationship.

(2) If a police officer's service relationship has been suspended in connection with appointment to or employment in another position in a host authority, the period of the suspension of the service relationship shall not be included in the period of service for which the police officer is entitled to annual and additional holiday.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 67<sup>1</sup>. Police officer's legal status during service and employment in another position in host authority**

(1) A police officer whose police service relationship has been suspended in connection with appointment to or employment in another position in a host authority shall be a police officer, and the regulatory framework applicable to a police officer shall be applied with regard to him or her, taking account of the specifications arising from this Act and the nature of suspension of the police service relationship.

(2) Divisions 6 and 7 of Chapter 5 of this Act and clauses 1) and 2) of section 86 and sections 87–92 of this Act shall not be applicable with regard to a police officer appointed to or employed in another position, unless otherwise provided for in this Act.

(3) The provisions of sections 74 and 75 of this Act shall be applied with regard to a police officer appointed to or employed in a position in an international organisation or appointed to or employed in a position created within the framework of international cooperation.

(4) Clause 3) of section 86 of this Act shall be applied with regard to a police officer serving or employed in another position in a host authority, and a corresponding disciplinary offence committed by him or her while serving or being employed in the host authority shall be deemed a disciplinary offence committed by a police officer.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 67<sup>2</sup>. Organisation of service and employment of police officer in host authority**

The regulatory framework applicable with regard to an official or employee of a host authority shall be applied with regard to the organisation of the service or employment of a police officer in the host authority, including with regard to his or her transfer from one position to another.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 67<sup>3</sup>. Police officer's salary in another position in host authority**

(1) A police officer whose police service relationship has been suspended in connection with appointment to or employment in another position in a host authority shall be paid by the host authority at the request of the police officer a salary equal to his or her last salary of a position of a police officer.

(2) The provisions of this section shall not be applied if the host authority is an international organisation, the wages management of which does not enable the application of the provisions of this section.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 67<sup>4</sup>. Change in service rank of police officer serving or employed in another position in host authority**

(1) The provisions of Division 3 of Chapter 5 of this Act shall be applied with regard to a police officer appointed to or employed in another position, taking account of the specifications provided for in this section.

(2) While serving or being employed in another position in a host authority, the condition specified in clause 53 (2) 1) of this Act that the official shall have obtained the education corresponding to the necessary level and the professional qualification level, and the condition specified in clause (2) 2) of the same section that the police officer shall have met the requirements for professional qualification of a police officer shall be comprehended as requirements specified for the position in which the official serves or is employed in the host authority, and the corresponding requirements for the position of a police officer shall not be applied with regard to him or her.

(3) A condition for promotion in service rank shall not be the condition specified in clause 53 (3) 2) of this Act that the service rank approved for a position of a police officer in a posting authority or host authority enables promotion, but a police officer serving or being employed in a host authority may be promoted in service rank also in case his or her position of a police officer in which his or her police service relationship has been suspended or from which he or she was transferred to the position of a posted police officer does not enable promotion.

(4) The Minister of the Interior shall have the right to change the service rank of a police officer serving or being employed in another position in a host authority.

(5) A request for promotion in service rank shall be submitted to the Minister of the Interior by the police officer in another position in a host authority.

(6) The Minister of the Interior may establish, by a directive, an advisory committee for changing the service ranks of police officers in other positions in host authorities, and determine, by the directive, the composition, competence and functions of the committee.

(7) Considering the nature of the functions to be performed in the service and position or employment, the Minister of the Interior may establish, by a directive, the highest service rank to

which a police officer appointed to the relevant position or employment may be promoted in service rank.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 67<sup>5</sup>. Change in service rank of police officer and border guard official released from police service and border guard service prior to entry into force of this Act**

(1) The provisions of Division 3 of Chapter 5 and section 67<sup>4</sup> of this Act shall be applied with regard to an official who was released from the police service under section 18<sup>1</sup> or section 52 of the Police Service Act or under section 15<sup>1</sup> of the Security Authorities Act, and with regard to an official who was released from the border guard service under section 35 of the Border Guard Service Act, taking account of the specifications provided for in this section, if the official is still in service in that government authority or international organisation, in connection with appointment to which he or she was released from the police service or border guard service.

(2) The title of office of police officer or the border guard rank of border guard official of an official released from the police service or border guard service shall be deemed to correspond to the service rank of a police officer pursuant to the provisions of this Act.

(3) The period of service for the service rank of an official specified in subsection 1 of this section shall be calculated from the grant of his or her last title of office in the police service or from the grant of his or her last border guard rank in the border guard service.

(4) The period of service in that government authority or international organisation, in connection with appointment to which the official was released from the police service or border guard service shall be included in his or her period of service for the service rank of a police officer.

(5) An official appointed to a position in an international organisation or to a position or employment created within the framework of international cooperation may be promoted in service rank also in case he or she has been released from the police service or border guard service and he or she has been granted a pension on the basis of this Act, the Police Service Act, the Border Guard Service Act or the Defence Forces Service Act.

(6) In the case provided for in subsection (5) of this section, the grant of or promotion in service rank after the grant of a pension shall not affect the amount of the pension, and the decision on grant of pension shall not be reviewed.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 67<sup>6</sup>. Termination of service relationship and employment relationship in another position prior to expiry of term**

A host authority may terminate the service relationship or employment relationship of a police officer before the prescribed term by notifying the police officer and the authority which posted the police officer at least three months in advance, in general.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 67<sup>7</sup>. Resumption of police officer's police service relationship in connection with release from another position**

(1) Upon the release of a police officer from the service or employment in a host authority, the police officer shall resume the police service in the posting authority or in another authority in a position of a police officer.

(2) If in the posting authority the police officer was transferred for the duration of the suspension of the service relationship to a position of a posted police officer, the posting authority shall transfer him or her to a position, one service rank of which corresponds to his or her service rank of a police officer. If the transfer to another position brings about a change in the police officer's place of residence, the police officer's consent is required for the transfer.

(3) If the posting authority lacks a position, one service rank of which corresponds to the police officer's service rank, the police officer shall resume the police service in the position of a posted police officer until such a position becomes vacant or until he or she is transferred to a higher position in the posting authority.

(4) In case a position, one service rank of which corresponds to the police officer's service rank becomes vacant in the posting authority, the police officer shall be entitled to transfer to that position, except to a position of an executive officer.

(5) Only in the case the police officer's service relationship was suspended in the position of an executive officer or he or she was transferred to a position of a posted police officer from the position of an executive officer, he or she shall be entitled to a position of an executive officer of the same level.

(6) If several police officers are entitled to transfer to the same position under subsection (4) or (5) of this section and they wish to assume that position, the transfer shall be decided by the authority.

(7) Upon a police officer's release from service or employment in a host authority, the police officer may be transferred with his or her consent to another authority to a position of a police officer.

(8) A police officer shall not be entitled to transfer or employment in service in a vacant position, one service rank of which corresponds to the police officer's service rank, or to a higher or lower position in another authority.

(9) The provisions of sections 57 and 58 shall be applied with regard to transfer to a vacant position provided for in this section.

(10) The provisions of this section shall be applied also with regard to an official who was released from the police service under sections 18<sup>1</sup> or 52 of the Police Service Act or under section 15<sup>1</sup> of the Security Authorities Act, and with regard to an official who was released from the border guard service under section 35 of the Border Guard Service Act if he or she is released from the service in that government authority or international organisation, in connection with appointment to which he or she was released from the police service or the border guard service, in connection with resumption of the police service.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 67<sup>8</sup>. Transfer of police officer from one host authority to another**

(1) Upon a police officer's release from service or employment in a host authority, the police officer may, with his or her consent, be appointed to or employed in a position in another authority which requires the professional training of a police officer but is not a position of a police officer.

(2) In the case provided for in subsection (1) of this section, the authority where the police officer's service relationship has been suspended shall still be regarded as a posting authority and the authority in which the police officer is appointed to another position as a host authority.

(3) In the case provided for in subsection (1) of this section, the service or employment in another position in both host authorities shall be deemed uninterrupted service or employment in a host authority in another position.

(4) The provisions of this section shall be applied also with regard to an official who was released from the police service under sections 18<sup>1</sup> or 52 of the Police Service Act or under section 15<sup>1</sup> of the Security Authorities Act, and with regard to an official who was released from the border guard service under section 35 of the Border Guard Service Act if he or she is released from the service in that government authority or international organisation, in connection with appointment to which he or she was released from the police service or the border guard service, in connection with appointment to another position in another authority.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 67<sup>9</sup>. Specification upon acting as undercover agent and police agent**

A police officer acting as an undercover agent or a police agent shall not bring about the suspension of his or her police service relationship or his or her release from the position of a police officer, and the tasks performed by him or her as an undercover agent or a police agent shall be deemed functions.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

## **§ 67<sup>10</sup>. Specification of calculation of period of service in case of service in Government Office or Ministry of the Interior**

(1) The period of service in a position of a higher and senior official related to coordination of the work of security authorities in the Government Office or in a position of a higher or senior official in the Ministry of the Interior shall be included in the period of service of the position in which the police officer was employed prior to the appointment to the relevant position in the Government Office or the Ministry of the Interior.

(2) The guarantee specified in subsection (1) of this section shall be valid with regard to a person specified in that subsection as long as his or her period of service in a position of a higher and senior official related to coordination of the work of security authorities in the Government Office or in a position of a higher or senior official in the Ministry of the Interior has not been interrupted.

(3) The guarantee specified in subsection (1) of this section shall be extended to police officers who were released from the police service in connection with appointment to a position of a higher and senior official related to coordination of the work of the security authorities in the Government Office or in a position of a higher or senior official in the Ministry of the Interior prior to the entry into force of this Act.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

## **§ 67<sup>11</sup>. Competence**

The competence to issue the administrative acts and take the administrative measures provided for in sections 63–67 and 67<sup>1</sup>–67<sup>10</sup> of this Act shall lie with the person entitled to appoint to office to that position in the relevant authority.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

## **Division 5**

### **Restrictions on Service and Reimbursement of Training Expenses**

#### **§ 68. Restrictions on service**

In addition to the restrictions on employment and activities prescribed in the Anti-Corruption Act, a police officer shall not be a member of a political party.

#### **§ 69. Reimbursement of training expenses**

(1) A police officer, a cadet or a person who has graduated from an institution of higher professional education for public defence in the specialty of the police or border guard shall be required to compensate for the direct expenses incurred by the state for his or her training or professional in-service training organised in a foreign state if he or she:

- 1) interrupted the studies or professional in-service training without good reason;
- 2) was released from service upon the entry into force of a judgment of conviction;
- 3) was released from service for a disciplinary offence;
- 4) was released from service on his or her own initiative;
- 5) was expelled from an institution of higher professional education for public defence in the specialty of the police or border guard due to backlog in studies without good reason or non-satisfactory student achievement or for a disciplinary offence;
- 6) does not enter into the police service after graduating from an institution of higher professional education for public defence in the specialty of the police or border guard or after completing professional in-service training.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(2) Training expenses shall not be compensated for by a police officer who:

- 1) after graduation from an educational institution has been in the police service during a period of time which equals the duration of the training period multiplied by 1.5 but not for less than three years;
- 2) after completion of professional in-service training specified in subsection (1) of this section has been in the police service during a period of time which equals the duration of the training period multiplied by 1.5 but not for less than one year;
- 3) is released from the police service on his or her own initiative due to his or her permanent incapacity for work or a need to care for a family member with permanent incapacity for work or disability;
- 4) has been appointed or assigned to another position and his or her police service relationship has been suspended under section 66 of this Act valid up to 31 December 2011 or under Division 4<sup>1</sup> of Chapter 5 of this Act valid as of 1 January 2012;

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

5) has not been appointed to a position of a police officer in connection with lack of a vacant position of a police officer in the Police and Border Guard Board, in an institution of higher professional education for public defence or in the Estonian Security Police.



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

(2<sup>1</sup>) Training expenses shall not be compensated for by a police officer, a cadet or a person who has graduated from an institution of higher professional education for public defence in the specialty of the police or border guard, who has continued his or her studies in an institution of higher professional education for public defence in another study programme of internal security or who has, after graduation, entered in the service in the Ministry of the Interior, the Ministry of Justice or the Ministry of Defence or in an authority within their area of government and has been in the service during a period of time which equals the duration of the training period multiplied by 1.5 but not for less than three years.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(3) The procedure for calculating and compensating for training expenses shall be established by the Minister of the Interior by a regulation.

(4) Section 27<sup>3</sup> of the Institutions of Professional Higher Education Act shall not be extended to a police officer, a cadet or a person who has graduated from an institution of higher professional education for public defence in the specialty of the police or border guard.

## **Division 6**

# **Wages, Additional Remuneration, Benefits and Compensations**

### **§ 70. Wages of police officer**

(1) The wages of a police officer shall be salary together with additional remuneration provided by law and additional remuneration paid pursuant to law.

(2) The salary of a police officer shall be a degree of wages together with service rank remuneration.

(3) The degree of wages of a police officer shall be the salary rate corresponding to the salary grade of a position.

	<b>Position</b>	<b>Salary grade</b>
1)	Director General of the Police and Border Guard Board, Director General of the Estonian Security Police	16–17
2)	Deputy Director General of the Police and Border Guard Board, Deputy Director General of the Estonian Security Police	15–16

3)	Position of a prefect, head of a structural unit of the Estonian Security Police, head of a bureau of the Police and Border Guard Board, head of an aviation group, and head of the structural unit training police officers of an institution of professional higher education for public defence	13–16
4)	Position of a head of a structural unit of a bureau of the Police and Border Guard Board and within an aviation group, head of a bureau of a prefecture, and head of a structural unit of a regional department of the Estonian Security Police	9–15
5)	Position of an executive officer specified in subsection 50 (1) of this Act	7–14
6)	Chief Specialist	9–15
7)	Leading Specialist	7–14
8)	Senior Specialist	3–9
9)	Junior Specialist	1–5

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

(4) A police officer shall be paid service rank remuneration according to the police officer's service rank.

(5) A police officer shall not be paid additional remuneration for years of service on the basis of section 37 of the Public Service Act.

(6) The Government of the Republic shall establish, by a regulation, for each following calendar year the salary rates corresponding to the salary grades of police officers, the bases for differentiation, the amount of the service rank remuneration and the bases for and the extent of the payment of additional remuneration to police officers.

(7) The wages of a police officer shall be determined by the Director General of the Police and Border Guard Board, the Director General of the Estonian Security Police or the rector of an institution of professional higher education for public defence by a directive.

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

(8) The wages of the Director General of the Police and Border Guard Board, the Director General of the Estonian Security Police, a Deputy Director General of the Police and Border Guard Board, a Deputy Director General of the Estonian Security Police and a prefect shall be determined by the Minister of the Interior.

## **§ 71. Medical surveillance of police officer and health care**

(1) The purposes of medical surveillance of a police officer are the discovery of health disorders arising from the service, reduction and prevention of health risks, and establishment of the absence of health disorders hindering the performance of obligations imposed on the police.

(2) The medical surveillance of a police officer, medical examination related to service and vaccination, also the medical surveillance of a person applying for employment in the police service or acceptance to studies in the specialty of a police officer shall be guaranteed from the state budget funds.

(3) The medical surveillance of a police officer shall be organised and the medical certificates shall be issued by an occupational health doctor, involving medical specialist, if necessary.

(4) The requirements for health of a police officer and the procedure for the medical surveillance and the content and form of the medical certificate shall be established by the Government of the Republic by a regulation.

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

## **§ 72. Compensation for travel expenses**

(1) The Police and Border Guard Board shall compensate to a police officer for the travel from the place of residence to the place of service and back if there is no public transport service with a reasonable time schedule from the applicant's place of residence to place of service and the police does not organise relevant transport.

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

(2) The terms and conditions and the extent of and the procedure for compensating travel expenses to a police officer shall be established by the Minister of the Interior by a regulation.

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

## **§ 73. Compensation upon transfer of police officer to another position**

(1) Upon a police officer's transfer or appointment to another position of a police officer if it brings about a change in his or her place of residence, the travel expenses and the costs of transport of property and the moving costs related to the relocation of the police officer and his or her family members shall be compensated for.

(2) The extent of and the procedure for compensating the costs specified in subsection (1) of this section shall be established by the Government of the Republic by a regulation.

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

#### **§ 74. Compensation for proprietary damage**

(1) Direct proprietary damage caused to a police officer or his or her family members due to the performance of the functions of a police officer shall be compensated for by the state. The damages shall be claimed from the person at fault by way of recourse.

(2) The terms and conditions of and the procedure for compensating for proprietary damage shall be established by the Government of the Republic by a regulation.

#### **§ 75. Compensation in case police officer is killed or incapacitated for work in connection with performance of his or her functions**

(1) If a police officer is killed as a result of an accident or use of violence with regard to him or her in connection with the performance of the main functions of the authority, the state shall pay his or her children, parents, widow or widower and other persons who were maintained by him or her pursuant to the Family Law Act a lump-sum compensation in a total amount equal to ten years' wages of the deceased.

(2) If a police officer is killed on the circumstances provided for in subsection (1) of this section, the state shall organise his or her funeral and incur the funeral expenses provided for in section 3 of the State Funeral Benefits Act.

(3) If a police officer is declared permanently incapacitated for work on the basis of the State Pension Insurance Act due to an injury or illness as a result of an accident or use of violence with regard to him or her in connection with the performance of functions arising from the main functions of the authority, the state shall pay a benefit to him or her. A benefit shall be paid, based on the extent of incapacity for work established by a first expert analysis of permanent incapacity for work carried out by the Social Insurance Board as follows (hereinafter *maximum benefit*):

1) in case of partial loss of capacity for work which did not result in release from the police service – up to his or her one year's wages;

2) in case of partial loss of capacity for work which resulted in release from the police service – up to his or her two years' wages;

3) in case of total loss of capacity for work – up to his or her seven years' wages.

(4) The benefit laid down in subsection (3) of this section shall be paid in parts. The amount of a part depends on the period of permanent loss of capacity for work determined in the decision of the first or repeated expert analysis.

(5) The total benefit shall not exceed the maximum benefit corresponding to the extent of the first permanent loss of capacity for work.

(6) If the extent of a person's loss of capacity for work changes, the further payment of the benefit shall be based on the benefit laid down in subsection (3) of this section corresponding to the permanent loss of capacity for work determined by a repeated expert analysis, taking account of the already paid benefit.

(7) If as a result of a repeated expert analysis a person is entitled to a benefit in a lesser amount than has been paid to him or her, the overpaid sum shall not be reclaimed from the person.

(8) If a person was no longer paid a benefit in connection with decrease in the permanent loss of capacity for work but his or her permanent loss of capacity for work has increased based on the decision of a repeated expert analysis, the period of payment of the benefit together with the period for which the benefit was not paid shall not be in total longer than the period which serves as the basis for the calculation of his or her maximum benefit.

(9) If the period of permanent loss of capacity for work determined by a repeated expert analysis begins in the calendar year following the first expert analysis, the wages which serve as the basis for the calculation of the benefit shall be adjusted by the consumer price index of the year when the loss of capacity for work was first determined. If the period of loss of capacity for work determined by a repeated expert analysis begins later, the wages which serve as the basis for the calculation of the benefit shall be adjusted by the consumer price indexes as of the year when the permanent loss of capacity for work was first determined until the year preceding the last expert analysis.

(10) A police officer who has suffered a bodily injury, which is accompanied by temporary loss of capacity for work, as a result of an accident or use of violence with regard to him or her in connection with the performance of functions arising from the main functions of the authority shall be paid by the state a lump-sum benefit in the amount of his or her one month's wages.

(11) The police officer's one month's wages shall be calculated based on the average wages, calculated on the basis of the Employment Contracts Act, of the month preceding the one when he or she was killed or injured.

(12) If a police officer has been injured or become ill as a result of an accident or use of violence with regard to him or her in connection with the performance of functions arising from the main functions of the authority, his or her medical treatment expenses and costs of medicinal products shall be borne by the state.

(13) The expenses specified in this section shall be covered by the state budget through the budget of the Ministry of the Interior.

(14) The procedure for the calculation and payment of the benefits and expenses provided for in this section and the extent thereof shall be established by the Government of the Republic by a regulation.

(15) The provisions of this section shall not be applied if the police officer has, upon becoming injured in connection with an accident or use of violence with regard to him or her in the performance of functions arising from the main functions of the authority:

1) committed an offence which is in a cause-and-effect relationship with the accident or use of violence with regard to the police officer or related to service in the police;

2) committed suicide or attempted suicide;

3) caused bodily harm to himself or herself which is not in a cause-and-effect relationship with the medical condition and did not result from unlawful behaviour of other persons.

(16) After the payment of benefit under this section, the state shall have the right of recourse in the amount paid as benefit with regard to the person at fault. In matters of recourse actions the state shall be represented by the Minister of the Interior or a person authorised by him or her.

## **Division 7**

### **Working and Rest Time of Police Officer**

#### **§ 76. Working time of police officer**

(1) The working and rest time of a police officer shall be determined on the basis of the Employment Contracts Act, taking account of the specifications provided for in this Act. Conditions concerning working and rest time more favourable for a police officer may be agreed on in a collective agreement.

(2) On board a water craft, the rest period of a police officer between working shifts within any 24 hour period may be divided into two parts, one of which shall be at least six hours long, provided working does not harm the health and safety of the police officer.

(3) The duration of a night shift shall be equal to a day shift.

(4) The working time of a police officer shall not exceed on the average 48 hours within the period of seven days per a recording period of up to four months.

(5) A police officer may be required to work outside the scheduled time only with his or her consent, except in the cases prescribed in section 77 of this Act.

(6) A service schedule shall be prepared for recording total working time for either the entire recording period or at least for each calendar month, and it shall be disclosed to the police officer five days prior to the beginning of the recording period or calendar month at the latest.

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

(7) In case of recording total working time, the successive rest time of a police officer within the period of fourteen days shall be at least 36 hours if it has been agreed on in a collective agreement.

### **§ 77. Overtime of police officer**

(1) A police officer shall be required to comply with the order of the head of the authority to work overtime, also on days off and public holidays, in the following cases:

- 1) in order to guarantee national security;
- 2) for the purposes of national defence;
- 3) in order to save a human life, perform rescue operations and search for persons;
- 4) in order to prevent a natural disaster, fire, accident or catastrophe or eliminate the consequences thereof;
- 5) in order to perform an urgent function which cannot be suspended or completed due to its particular nature;
- 6) in order to prevent and terminate a mass disorder;
- 7) in other cases provided by law.

(2) It shall not be permitted to require a police officer to work overtime more than eight hours a day. The duration of a shift including overtime shall not exceed 12 hours, except in cases the police officer was involved in guaranteeing national security. The maximum level of overtime for one police officer shall be 300 hours a calendar year, not including the overtime in the cases laid down in subsection (1) of this section.

### **§ 78. On-call time**

(1) On-call time is the time when a police officer shall be available for the performance of functions in an agreed location or shall be on board a water craft during the working cycle provided for in subsection 76 (2) of this Act for the performance of functions which cannot be postponed during his or her rest time.

(2) The on-call time of a police officer shall be up to 150 hours per month, and of a police officer serving on a water craft and a crew member of an aircraft and flight performance staff up to 200 hours per month.

(3) On-call time is not included in working time.

(4) Additional remuneration equal to at least ten per cent of the hourly wage rate of a police officer shall be paid to a police officer for on-call time.

(5) The remuneration for commencement of functions during on-call time and the bases for recording on-call time shall be agreed on in a collective agreement.

### **§ 79. Requiring police officer to work outside the work area of the structural unit of his or her position**

**[RT I, 29.12.2011, 1 – entry into force 01.01.2012]**

(1) The Director General of the Police and Border Guard Board and the Director General of the Estonian Security Police may require a police officer to work outside the work area of the structural unit of his or her position and outside his or her functions in the cases provided for in subsection 77 (1) of this Act.

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

(2) Requiring a police officer to work for one day on the basis specified in subsection (1) of this section shall not be deemed official travel and no daily allowance shall be paid to the police officer for the time spent en route and in the destination.

### **§ 80. Involvement of police officers and cadets of institution of higher professional education for public defence**

(1) The Director General of the Police and Border Guard Board shall have the right to involve in service the police officers and cadets of an institution of higher professional education for public defence with the consent of the head of the structural unit training police officers of the institution of higher professional education for public defence in the cases provided for in subsection 77 (1) of this Act.

(2) Involvement of police officers and cadets of an institution of higher professional education for public defence on the basis provided for in subsection (1) of this section shall not be deemed official travel.

### **§ 81. Holiday of police officer**

(1) The duration of the annual holiday of a police officer shall be 35 calendar days.

(2) Annual and other holiday shall be granted to a police officer on the bases of and pursuant to the procedure provided for in this Act and other Acts.

(3) In case of at least three years of police service, a police officer shall be granted one day of additional holiday for the third and each subsequent year, but not more than a total of ten calendar days.

(3<sup>1</sup>) A claim for the additional holiday specified in subsection (3) of this section shall expire within one year as of the end of the year of service for which the additional holiday is calculated. Expiry is suspended for the period when a police officer is on pregnancy and maternity leave,



adoptive parent leave and parental leave, as well as for when a police officer is undertaking military service or alternative service or when his or her service relationship in the police service has been suspended in connection with appointment to a position in another government authority or with assignment to a position of an official in an international organisation. Days of additional holiday which have not been used and which have not expired shall be compensated for in money upon resignation from the service.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(4) A holiday granted to a police officer for the length of police service need not be added to the annual holiday.

(5) Upon grant of additional holiday specified in this section, no additional holiday shall be granted on the basis of section 45 of the Public Service Act.

## **§ 82. Interruption and deferral of holiday of police officer**

(1) A holiday of a police officer, except for pregnancy and maternity leave, parental leave and adoptive parent leave, may be interrupted or deferred without his or her consent if the holiday of the police officer is interrupted and he or she is asked to return to service or his or her holiday is deferred in the cases specified in clauses 77 (1) 1), 2) and 6) of this Act.

(2) Holiday shall be interrupted or deferred by the head of the authority who granted the permission for a police officer to take the holiday. The decision on interruption or deferral of holiday shall be disclosed to the police officer against signature. The decision on interruption or deferral of holiday shall enter into force as of the disclosure thereof.

(3) The part of holiday which is not used due to interruption or deferral of holiday shall be granted during the same calendar year or by agreement with the executive officer:

1) shall be added to the holiday of the following calendar year or

2) shall be granted at another time during the following calendar year.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

## **Division 8**

### **Disciplinary Authority**

#### **§ 83. Disciplinary authority**

(1) Disciplinary authority is the right to apply incentives and disciplinary punishments.

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

(2) An executive officer shall not have a right to restrict the disciplinary authority of an executive officer subordinate to him or her.

(3) The incentives awarded to and disciplinary punishments imposed on a police officer shall be entered in the service record.

## **§ 84. Incentives**

(1) The following incentives shall be applied to a police officer for long-time impeccable service and for outstanding performance of service-related functions or civil duty:

1) grant of a letter of appreciation;

2) grant of a monetary award;

2<sup>1</sup>) grant of a certificate of honour;

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

3) grant of a valuable gift;

4) grant of an inscribed weapon;

5) award of a honorary decoration of the police.

(2) The classes, description and procedure for bestowal of honorary decorations of the police shall be established by the Minister of the Interior by a regulation.

(3) The incentives specified in subsection (1) of this section shall also be applied to public servants of the Police and Border Guard Board and the Estonian Security Police who are not police officers.

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

(4) As an exception, the incentives provided for in subsection (1) of this section may also be applied with regard to those persons who have not been specified in subsections (1) and (3) of this section.

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

## **§ 85. Right to apply incentive**

(1) The Director General of the Police and Border Guard Board and the Director General of the Estonian Security Police shall have the right to apply an incentive to a police officer and to a person specified in subsection 84 (3) of this Act.

(2) The head of an institution of higher professional education for public defence shall have the right to apply an incentive under this Act only to a police officer.

(3) The Minister of the Interior shall have the right to apply an incentive to every police officer and to a person specified in subsection 84 (3) of this Act.

(4) Only the Minister of the Interior shall have the right to apply the incentive specified in clause 84 (1) 4) of this Act.

(5) The right to apply the incentive specified in clause 84 (1) 5) of this Act shall be provided for by the regulation of the Minister of the Interior issued on the basis of subsection 84 (2) of this Act.

(6) The Director General of the Police and Border Guard Board and the Director General of the Estonian Security Police may authorise, by a directive, the head of a structural unit of the authority to apply an incentive to a police officer and to a person specified in subsection 84 (3) of this Act, by determining in the directive the extent of the application of the incentive.

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

## **§ 86. Disciplinary offences of police officer**

Disciplinary offences of a police officer are:

- 1) wrongful non-performance or unsatisfactory performance of functions;
- 2) wrongful causing of damage to the property of an administrative agency or wrongful causing of danger of such damage;
- 3) an indecent act – a wrongful act which is in conflict with generally recognised moral standards or ethical standards set for officials, or which discredits an official or administrative agency, regardless of whether the act is committed in or out of service.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

## **§ 87. Disciplinary liability of police officer**

(1) A police officer who has committed a disciplinary offence shall bear disciplinary liability therefor, meaning the imposition of a disciplinary punishment on him or her in correspondence with the nature and gravity of the offence committed by him or her.

(2) Only a disciplinary punishment provided for in this Act may be imposed on a police officer for a disciplinary offence.

(3) Only one disciplinary punishment may be imposed for each disciplinary offence.

## **§ 88. Disciplinary punishments**

Disciplinary punishments imposed on a police officer are:

- 1) a reprimand;
- 2) a fine of up to ten times his or her daily wages;
- 3) reduction of salary by 10 to 50 per cent for up to three months;
- 4) demotion in service rank by one service rank for one year;
- 5) release from the service on the basis of section 118 of the Public Service Act.

## **§ 89. Right to impose disciplinary punishment**

(1) The right to impose a disciplinary punishment on a police officer shall lie with the person authorised to appoint the police officer to office.

(2) The person specified in section 56 of this Act shall have the right to impose the disciplinary punishment specified in clause 4) of section 88 of this Act.

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

(3) The Minister of the Interior shall have the right to impose a disciplinary punishment on all police officers.

## **§ 90. Purpose of disciplinary proceedings**

(1) The purpose of disciplinary proceedings is to detect a disciplinary offence expeditiously and fully, ascertain the offender and the reasons for the offence. In the event of an accident or illness, the purpose of disciplinary proceedings is to document the circumstances related to the accident or illness.

(2) The first document in which an act with elements of an offence is described shall serve as the basis for the commencement of disciplinary proceedings.

(3) The provisions of the Employees Disciplinary Punishments Act shall apply to the terms of imposition of a disciplinary punishment on police officers.

## **§ 91. Commencement of disciplinary proceedings**

(1) Disciplinary proceedings may be commenced if:

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

1) evident become circumstances which indicate that an act with elements of a disciplinary offence has been committed;

2) an accident or illness has occurred as a result of which the right to payment of a benefit pursuant to the procedure provided for in this Act may arise.

(2) The following shall have the right to commence disciplinary proceedings with regard to subordinate police officers:

1) the Minister of the Interior;

2) the Director General of the Police and Border Guard Board;

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

3) the head of the structural unit training police officers of an institution of higher professional education for public defence.

(3) The Director General of the Estonian Security Police or a Deputy Director General of the Estonian Security Police determined by him or her shall have the right to commence disciplinary proceedings with regard to police officers of the Estonian Security Police.

## **§ 92. Disciplinary proceedings**

(1) Disciplinary proceedings shall be commenced by a directive whereby the person to conduct and the term for conducting the disciplinary proceedings shall be determined. The directive shall be immediately disclosed to the police officer against whom the disciplinary proceedings were commenced.

(2) The person conducting the disciplinary proceedings shall have the right to request explanations about and gather evidence on the disciplinary offence. It is mandatory to request an explanation from the police officer against whom the disciplinary proceedings were commenced.

(3) Upon conclusion of the disciplinary proceedings, the person conducting the proceedings shall prepare a summary of the disciplinary proceedings in which at least the following shall be noted upon the ascertainment of the disciplinary offence and the person who committed it:

1) given name and surname, position and service rank of the police officer who committed the disciplinary offence;

2) description and time and place of the commission of the disciplinary offence;

3) evidence in proof of the commission of the disciplinary offence;

4) reference to the Act providing disciplinary liability and to the provision which the police officer violated by the described act.

(4) The summary of the disciplinary proceedings shall be signed by the person who conducted the proceedings, it shall be immediately forwarded to the executive officer who commenced the disciplinary proceedings and introduced to the police officer against whom the disciplinary proceedings were conducted.

## **Division 9**

### **Release from Police Service**

#### **§ 93. General procedure for release from police service**

In addition to the bases for release from service provided for in the Public Service Act, a police officer shall be released from the police service pursuant to the procedure provided for in sections 94–97 of this Act.

#### **§ 94. Release from police service due to lay-offs**

(1) A police officer shall be released from the police service due to lay-offs on the bases provided for in the Public Service Act.

(2) In case of lay-offs, above all a police officer who represents pursuant to law other public servants shall have a preferential right to remain in the service, followed by a police officer who has an impeccable career record and better performance indicators and whose position is on the regular staff.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(3) In case of an impeccable career record and equal performance indicators, a police officer who has been employed in the police service for a longer period or who has dependants shall be preferred.

(4) If the number of positions of police officers is reduced or the Police and Border Guard Board or an institution of higher professional education for public defence is reorganised, the person authorised to appoint a given police officer to office shall have the right to relocate officers by releasing from the service, due to lay-offs, a person whose position is retained and by appointing to this position another police officer whose position is made redundant. Such relocation shall be permitted only if the level of the professional qualification and the performance indicators of a police officer to be relocated are comparably better than the corresponding indicators of a police officer who is laid off.

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

#### **§ 95. Release from office of police officers appointed to office for a specified term due to expiry of term of service**

An official appointed to office for a specified term on the basis of clauses 44 (2) 1) and 2) of this Act shall be released from position due to the expiry of the term of service, and shall be, by an official specified in section 43 of this Act:

- 1) reappointed with his or her written consent to the current position for a new term of office;
- 2) appointed with his or her written consent to another position;
- 3) released from the police service.

### **§ 96. Release from police service due to specified age limit**

(1) A police officer may serve in the police service until he or she attains the following specified age limit:

- 1) as a specialist until the attainment of the age of 55 years;
- 2) as an executive officer until the attainment of the age of 60 years.

(2) A police officer shall be released from the police service on the first working day of the month following the month of the attainment of the specified age limit set out in subsection (1) of this section.

(3) The Director General of the Police and Border Guard Board or the Director General of the Estonian Security Police may extend the period of service of a police officer for one year at a time until he or she attains the pensionable age provided for in section 7 of the State Pension Insurance Act. In such case, the police officer shall be released from service when he or she attains the general pensionable age.

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

### **§ 97. Compensation paid upon release from police service**

(1) Upon release from the police service due to the liquidation of an administrative agency or lay-off of a police officer, compensation shall be paid to the police officer according to the length of his or her police service as follows:

- 1) less than three years – two months' salary;
- 2) three to five years – three months' salary;
- 3) five to ten years – five months' salary;
- 4) more than ten years – ten months' salary.

(2) If a person, released from the police service due to lay-off or the liquidation of an administrative agency, is appointed to office in the Police and Border Guard Board or in the Estonian Security Police before the end of the period for which compensation was paid to him or her pursuant to subsection (1) of this section, he or she shall return the received compensation to the extent corresponding to the period of time by which he or she is reappointed to office in the Police and Border Guard Board or in the Estonian Security Police in the position of a police officer earlier as compared to the period of time which serves as the basis for payment of the compensation.

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

(3) A police officer who has the right to receive compensation for the same period of time on several legal bases upon release from the police service shall be paid only one type of compensation, i.e. the one which is most favourable to him or her.

## **§ 98. Formalities of release from service**

(1) Release from service shall take place by way of a directive.

(2) The directive shall meet the requirements set for administrative documents and shall contain at least the following information:

1) the name of the authority;

2) the given name and surname of the person who is released;

3) the service rank;

4) the title of the position from which the official is released;

5) the date of the release from service;

6) the basis for release with reference to the section, subsection and clause of the applicable Act;

7) the amount of compensation to be paid to the police officer if the release brings about the payment of compensation;

8) the length of police service.

(3) A copy of the directive on release from service shall be issued to the police officer who was released from service. If the directive on release from service contains a state secret, classified information of foreign states or other information not to be disclosed, the police officer shall be issued an extract of the part of the directive which is not secret.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]



(4) Upon release for a disciplinary offence, the directive on release shall also include information listed in subsection 11(2) of the Employees Disciplinary Punishments Act.

## **Division 10**

### **Pension Insurance of Police Officer and of Family Members and Dependants thereof**

#### **§ 99. Classes of pension**

(1) The classes of state pension of a police officer and his or her family members are:

- 1) superannuated pension;
- 2) pension for incapacity for work;
- 3) survivor's pension.

(2) The pension insurance of a police officer and his or her family members is subject to the provisions of the State Pension Insurance Act, taking account of the specifications provided for in this Act.

(3) A police officer who is entitled to several of the state pensions provided for in this Act or other Acts concurrently shall be granted one class of state pension of his or her choice.

(4) The pension of a police officer shall not be increased on the basis of section 57 of the Public Service Act.

#### **§ 100. Basis for calculation of amount of pension**

(1) The salary which serves as the basis for calculation of the amount of pension of a police officer (hereinafter *salary for calculating pension*) shall be:

- 1) the salary rate corresponding to the salary grade of his or her last position or his or her most favourable salary rate, from the last five years of service, of a position in which he or she served for at least 12 consecutive months, and
- 2) the service rank remuneration determined on the basis of the service rank at the time of the grant of pension.

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

(2) If the most favourable salary rate of a position chosen pursuant to clause (1) 1) of this section falls within a period of time prior to the entry into force of this Act, the pension shall be

calculated on the basis of the last valid Police Service Act or Border Guard Service Act, depending on whether the police officer was in the police service or in the border guard service.

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

(3) If an official who was released from the border guard service in connection with appointment to office in another government authority or international organisation retires on the pension of a police officer from service in that government authority or international organisation, in connection with appointment to which he or she was released from the border guard service, and his or her rank of a border guard official has not been brought into conformity with the service rank of a police officer, his or her rank of a border guard official shall be deemed to be in conformity with the relevant service rank of a police officer provided for in subsection 112 (1) of this Act.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(4) If an official who was released from the police service in connection with appointment to office in a government authority or international organisation retires on the pension of a police officer from service in that government authority or international organisation, in connection with appointment to which he or she was released from the police service, and his or her title of office of a police officer has not been brought into conformity with the service rank of a police officer provided for in this Act, his or her title of office of a police officer shall be deemed to be in conformity with the relevant service rank of a police officer provided for in subsections 116 (1) and (2) of this Act.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(5) In the cases provided for in subsections (3) and (4) of this section, the service rank remuneration of the police officer's service rank corresponding to his or her title of office of a police officer or rank of a border guard official shall be deemed an element of the salary which serves as the basis for calculating the official's police pension instead of the service rank remuneration specified in clause (1) 2) of this section.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

## **§ 101. Superannuated pension**

(1) A police officer whose length of police service is at least 20 years, five consecutive years of which precede immediately the attainment of the pension qualifying age, shall have the right to a superannuated pension when he or she attains 55 years of age.

(2) The amount of the pension of a police officer whose length of police service is at least 20 years shall be 50 per cent of his or her salary for calculating pension.

(3) The amount of the pension of a police officer shall be increased, for each year by which the length of the police service exceeds the length of the police service provided for in subsection (2)

of this section, by 2.5 per cent of his or her salary for calculating pension. The maximum amount for the superannuated pension shall be 75 per cent of the salary for calculating pension.

(4) The amount of the superannuated pension of the Director General of the Police and Border Guard Board and of the Director General of the Estonian Security Police shall be, regardless of his or her general length of police service or age, 75 per cent of his or her salary for calculating pension as of the day his or her second full term of office expires.

(5) The right to the superannuated pension provided for in this section shall not arise for a person who has been released from the police service:

1) upon the entry into force of a judgment of conviction if it imposed on the person a punishment for an intentionally committed criminal offence;

2) for a disciplinary offence.

(6) A person who has been convicted of an offence provided for in Chapter 15 or Division 2 of Chapter 17 of the Penal Code for which the Penal Code prescribes imprisonment of at least up to five years shall forfeit the right to the superannuated pension provided for in this section.

(7) If a person was paid a superannuated pension provided for in this section, the payment of the pension shall be terminated as of the month following the month when the court judgment entered into force. If a person forfeits the right to the superannuated pension provided for in this section, he or she maintains the right to request pension on general bases.

(8) The court shall be obligated, within ten working days as of the entry into force of the court judgment, to inform the Social Insurance Board of the fact in connection with which the person forfeits the right to the superannuated pension provided for in this section.

## **§ 102. Pension for incapacity for work**

(1) A police officer who is totally or partially incapacitated for work due to an illness or injury as a result of the performance of his or her functions arising from the main functions of the authority or of combating of a criminal offence shall have the right to a pension for incapacity for work of a police officer as of the time provided for in section 104 of this Act.

(2) A person who is totally or partially incapacitated for work as a result of an illness which appeared within three months after his or her release from the police service shall have the right to a pension for incapacity for work of a police officer as of the time provided for in section 104 of this Act if the illness was caused by the performance of his or her functions.

(3) The percentage and time of and reasons for loss of capacity for work of a police officer shall be established pursuant to the procedure provided for in the State Pension Insurance Act.

(4) In case of total and permanent incapacity for work, the amount of pension for incapacity for work of a police officer shall be equal to 80 per cent of his or her salary for calculating pension.

In case of partial and permanent loss of capacity for work, the amount of pension for incapacity for work of a police officer shall be equal to the percentage of his or her salary for calculating pension, but not more than 80 per cent. A pension for incapacity for work of a police officer shall not be granted to a person if the percentage of the loss of his or her capacity for work is less than 40.

(5) If, by the date a police officer is declared incapacitated for work, the length of his or her police service meets the requirement for the grant of a superannuated pension, a pension for incapacity for work of a police officer shall, at his or her request, be granted to him or her in the amount of the superannuated pension.

(6) When a person receiving a pension for incapacity for work of a police officer attains a pensionable age provided for in section 7 of the State Pension Insurance Act, the person shall continue to receive such pension during his or her lifetime.

### **§ 103. Survivor's pension of police officer**

(1) If a police officer is killed as a result of an accident or use of violence in connection with the performance of the functions arising from the main functions of the authority, the family members who were maintained by him or her, and persons equal to such family members, shall have the right to a survivor's pension. A child, parent and widow or widower of the police officer shall have the right to a survivor's pension regardless of whether or not the pension claimant was maintained by the provider.

(2) Family members who have the right to a survivor's pension and persons equal to such family members are:

1) a child, brother, sister or grandchild who is under 18 years of age (or who is under 24 years of age and is a student enrolled in full-time study at a secondary school or vocational educational institution or a student enrolled in full-time study or due to medical reasons in other form of study at a university or institution of professional higher education) or who is older if he or she was declared permanently incapacitated for work before he or she attained 18 years of age (or in the case of a student enrolled in daytime study or full-time study, before he or she attained 24 years of age). A brother, sister or grandchild shall have the right to the pension if he or she does not have parents with capacity for work;

[RT I 2010, 41, 240 – entry into force 01.09.2010]

2) a parent who is of pensionable age or permanently incapacitated for work, or a widow or widower who is of pensionable age or permanently incapacitated for work and whose marriage to the provider had a duration of at least five years;

3) a divorced spouse if he or she attained pensionable age or was declared permanently incapacitated for work before the divorce;

4) one of the parents, or the widow, widower or guardian who is not employed and is raising the provider's child, brother, sister or grandchild who is under 18 years of age in his or her family.

(3) A stepchild, stepbrother, stepsister and foster-child who do not receive support from their parents, and also a step-parent shall have the right to receive a survivor's pension in the same amount as the provider's own child, brother, sister or parent.

(4) On the basis of this Act, a survivor's pension shall also be granted if a court has declared the provider, who is a police officer, dead.

(5) Upon the remarriage of a widow, widower or divorced spouse, the payment of the survivor's pension granted to him or her upon the death of his or her spouse or the declaration of his or her spouse dead shall be terminated as of the month following the month of the remarriage.

(6) The amount of a survivor's pension shall be calculated as a percentage of the salary for calculating pension of the police officer, and it shall be 35 per cent in case of one dependant with the right to a survivor's pension, 55 per cent in case of two dependants with the right to a survivor's pension and 75 per cent in case of three or more dependants with the right to a survivor's pension.

#### **§ 104. Grant of pension**

(1) A pension shall be granted as of the date on which the right to a pension of the corresponding class arises, as follows:

1) in case of applying for a superannuated pension – the date of the attainment of the pensionable age provided by law or release from the police service;

2) in case of applying for a pension for incapacity for work – the date of determination of the degree of permanent incapacity for work or release from the police service;

3) in case of applying for a survivor's pension – the date of the police officer's death.

(2) A pension shall be granted as of the date specified in subsection (1) of this section if an application for the grant of the pensions provided for in clauses (1) 1) and 2) of this section has been submitted within three months as of the time when the right to that pension arose, and an application for the grant of the pension provided for in clause (1) 3) of this section has been submitted within 12 months as of the time when the right to that pension arose.

(3) If the application for the grant of a pension has been submitted after the expiry of a term provided for in subsection (2) of this section, the pension shall be granted as of the date of submission of the application.

#### **§ 105. Term for grant of pension**

(1) A superannuated pension shall be granted for life.

(2) A pension for incapacity for work shall be granted for the period during which a police officer is declared partially or totally incapacitated for work.

(3) A survivor's pension shall be granted for the period during which the person meets the requirements provided for in section 103 of this Act.

### **§ 106. Recalculation of pension**

(1) Upon a change in the salary rate, service rank remuneration or the percentage of the loss of capacity for work which served as the basis for calculating the pension of the police officer, pension shall be recalculated, except for the pension specified in subsection 100(2), in subsections 114(7) and (8) and in subsections 117(7) and (8).

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

(2) The pension of a police officer shall be paid in the altered amount as of the first day of the month following the month in which the salary rate, service rank remuneration or the percentage of the loss of capacity for work which served as the basis for calculating the pension was changed, as result of which the pension was recalculated.

(3) A person who receives a pension shall be required, within ten working days, to notify his or her local pension office of all circumstances which bring about the recalculation of his or her pension, unless otherwise provided for in this Act.

(4) The Police and Border Guard Board shall notify the Social Insurance Board in writing of a change in the salary rate or service rank remuneration which served as the basis for the calculation of the amount of the pension, without requiring the person receiving a pension to submit an application to that effect.

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

### **§ 107. Payment of pension**

(1) A pension provided for in this Act shall be paid from state budget funds through the budget of the Ministry of the Interior.

(2) A person who receives a superannuated pension or pension for incapacity for work shall be paid the pension in full, regardless of the amount of income he or she receives.

(3) A superannuated pension shall not be paid during service in the Defence Forces, police service or prosecutors' service. A person who continues working in any other profession or position shall be paid the pension of a police officer in full, regardless of the amount of income.

(4) A survivor's pension shall not be paid to any person specified in section 103 of this Act if the person is employed. A survivor's pension shall be paid to a minor regardless of the amount of his or her income.

## **§ 108. Bases for calculation of length of police service**

(1) The length of the police service shall include:

- 1) the period of service in the position of a police officer;
- 2) the period of service as a specialised diplomat if it was immediately preceded or followed by service in the position of a police officer;
- 3) the period of service which was organised on the basis of sections 18<sup>1</sup> and 52 of the Police Service Act;
- 4) the period of service which was organised on the basis of section 35 of the Border Guard Service Act;
- 5) the period of service on the basis of section 66 of this Act valid until 31 December 2011 and on the basis of Division 4<sup>1</sup> of Chapter 5 of this Act valid as of 1 January 2012 if it was followed by service in the position of a police officer or retirement on a police officer's pension;

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

- 6) the period of study in an institution of higher professional education for public defence in the specialty of the police, pre-trial investigation or border guard if it was followed by service in the position of a police officer;
- 7) the period of active service in the Defence Forces of the Republic of Estonia if it was followed by service in the position of a police officer.

(2) Period of service as a prosecutor after 1 July 2004 shall be included in the length of the police service and it shall grant the right to superannuated pension provided for in this Act if the length of the police service prior to the period of prosecutor's service is at least five years.

(3) Regarding a person who was in the border guard service on the basis of the Border Guard Service Act before the entry into force of this Act and who has been appointed to office as a police officer immediately upon the entry into force of and on the basis of this Act, the length of the border guard service calculated on the basis of section 42 of the Border Guard Service Act as at 31 December 2009 shall be included in the length of the police service.

(4) Regarding a person who was in the police service on the basis of the Police Service Act before the entry into force of this Act and who has been appointed to office as a police officer immediately upon the entry into force of and on the basis of this Act, the length of the police service calculated on the basis of subsections 21<sup>2</sup> (1) to (4) of the Police Service Act as at 31 December 2009 shall be included in the length of the police service.

(5) The length of service of a person, who has been appointed to office as a police officer under this Act and who was released from the border guard service or police service before 1 January

2010, calculated on the basis of section 42 of the Border Guard Service Act or on the basis of subsections 21<sup>2</sup> (1) to (4) of the Police Service Act shall be included in the length of the police service. The length of service shall be calculated as at the date of release from the last service.

(6) The length of the police service shall include the period of service as a police officer or as a preliminary investigator or senior preliminary investigation official of the National Pre-Trial Investigation Board of the Republic of Estonia from 1 March 1991 until 1 September 1994 multiplied by three by way of preferential arrangement.

(7) The length of the police service shall be calculated in years and months. Upon calculating the amount of pension, the length of the police service of at least six months shall be rounded up to a full year and the length of the police service of less than six months shall be ignored.

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

## **Chapter 6**

### **IMPLEMENTATION OF ACT**

#### **Division 1**

#### **General Provisions**

##### **§ 109. Taking of oath of police officer**

The oath of a police officer shall not be taken by persons who, prior to appointment to office on the basis of this Act, have taken the oath of office while in the police service or border guard service.

##### **§ 110. Creation of positions of police officers**

(1) The positions of police officers which do not coincide with the titles of office established in sections 48–50 of this Act and with their service ranks shall be determined in the structure and staff of the Police and Border Guard Board and the Estonian Security Police based on sections 48–50.

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

(2) The positions of the police officers of an institution of higher professional education for public service, except for the position of the head of the structural unit training police officers of an institution of higher professional education for public defence and the service ranks approved therefor shall be established by the Minister of the Interior.

##### **§ 111. [Repealed – RT I 2009, 62, 405 – entry into force 01.01.2010]**



## Division 2

# Transfer of Border Guard Officials Serving Under Border Guard Service Act into Police Service According to Police and Border Guard Act

### § 112. Bringing of border guard ranks into conformity with service ranks

(1) The border guard rank of a border guard official appointed to position of a police officer under this Act shall be counted as service rank as follows:

Border guard rank	Service rank	Service rank of a police officer appointed to office on water crafts
1) Border Guard Private	Junior Constable	
2) Border Guard Corporal, Senior Seaman	Junior Constable	
3) Border Guard Junior Sergeant	Constable	Senior Seaman
4) Border Guard Sergeant	Constable	Senior Seaman
5) Border Guard Senior Sergeant	Senior Constable	Warrant Officer
6) Border Guard Junior Warrant Officer	Senior Constable	Warrant Officer
7) Border Guard Warrant Officer	Senior Constable	Warrant Officer
8) Border Guard Senior Warrant Officer	Chief Constable	Senior Warrant Officer
9) Border Guard Staff Warrant Officer, Chief Warrant Officer	Chief Constable	Chief Warrant Officer
10) Border Guard Ensign	Superintendent	
11) Border Guard Second Lieutenant	Police Lieutenant	
12) Border Guard Lieutenant	Police Lieutenant	
13) Border Guard Captain	Police Captain	
14) Border Guard Major	Police Major	
15) Border Guard Lieutenant Colonel	Police Lieutenant Colonel	
16) Border Guard Colonel	Police Colonel	
17) Border Guard Brigadier General	Inspector General of Police	
18) Border Guard Major General	Police General	

(2) The bringing of border guard ranks into conformity with service ranks on the bases provided for in subsection (1) of this section shall be arranged by the Minister of the Interior.

(3) Up to 1 September 2015, the prefix of the service ranks of police officers who have the professional qualification of a border guard official shall be “border guard” and in case of service ranks with prefixes, the prefix “border guard” shall be used instead of the prefix “police”.

### **§ 112<sup>1</sup>. Renaming of service rank of Senior Seaman as service rank of Junior Warrant Officer**

The service rank of Senior Seaman of a police officer in service shall be renamed the service rank of Junior Warrant Officer.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

### **§ 113. Implementation of requirements for education and qualification**

(1) The requirements for the level of education and qualification of a police officer laid down in this Act shall be extended as of 1 September 2015 to border guard officials who were in the border guard service prior to the entry into force of this Act.

(2) The requirement for vocational education shall not extend to border guard officials who were in the border guard service prior to the entry into force of this Act and who have a secondary education and who have the professional qualification required in the position or who will acquire it by 1 September 2015.

(3) A police officer who has failed to acquire the relevant education and qualification by the term provided for in subsections (1) and (2) of this section shall be transferred to a position corresponding to his or her education and qualification or in case of lack thereof, he or she shall be released from the police service.

### **§ 114. Implementation of sections 100, 101 and 106 of this Act with regard to officials who have been in service on the basis of the Border Guard Service Act**

(1) The right to a superannuated pension provided for in this Act shall arise at the age of 55 years for a police officer:

1) who was in the border guard service on the basis of the Border Guard Service Act when this Act entered into force;

2) who has been appointed to office as a police officer directly upon the entry into force of this Act; and

3) whose length of police service provided for in this Act is at least 20 years or whose general pension qualifying period is at least 25 years, of which the length of the police service provided for in this Act is at least 12 years and six months.

(2) An official who has been released from the border guard service prior to the entry into force of this Act in connection with appointment to office in another government authority or international organisation shall have the right to a superannuated pension provided for in this Act at the age of 55 years if his or her length of police service provided for in this Act is at least 20 years or if his or her general pension qualifying period is at least 25 years, of which the length of the police service provided for in this Act is at least 12 years and six months, and at the time of retirement he or she is in the position of a police officer or serving in that government authority or international organisation in connection with appointment to which he or she was released from the border guard service.

(3) The right to a superannuated pension provided for in this Act shall arise at the age of 50 years for a police officer:

1) who was in the border guard service on the basis of the Border Guard Service Act when this Act entered into force;

2) who has been appointed to office as a police officer directly upon the entry into force of this Act; and

3) whose length of police service was at least 20 years or whose general pension qualifying period was at least 25 years, of which the length of the border guard service was at least 12 years and six months, by 1 July 2007.

(4) An official who has been released from the border guard service prior to the entry into force of this Act in connection with appointment to office in another government authority or international organisation shall have the right to a superannuated pension provided for in this Act at the age of 50 years if his or her length of border guard service was at least 20 years or if his or her general pension qualifying period was at least 25 years, of which the length of the border guard service was at least 12 years and six months, by 1 July 2007, and at the time of retirement he or she is in the position of a police officer or serving in that government authority or international organisation in connection with appointment to which he or she was released from the border guard service.

(5) The amount of the superannuated pension of a police officer specified in subsections (1) to (4) of this section shall be 30 per cent of his or her salary for calculating pension if the calculations of his or her pension qualifying period are based on a general pension qualifying period of at least 25 years, of which the length of the police service provided for in this Act is at least 12 years and six months.

(6) The amount of the pension of a police officer shall be increased, for each year by which the length of the police service exceeds the length of the police service provided in subsections (1) to

(4) of this section, by 2.5 per cent of his or her salary for calculating pension. The maximum amount for the superannuated pension shall be 75 per cent of the salary for calculating pension.

(7) The pension of a border guard official which has been determined on the basis of the Border Guard Service Act is not subject to recalculation on the basis of the Police and Border Guard Act. The pensions of border guard officials determined on the basis of the Border Guard Service Act are subject to indexation, as of the year 2010, by 1 April of each calendar year by a pension index approved by the Government of the Republic on the basis of section 26 of the State Pension Insurance Act.

(8) For a person who has been released from the border guard service prior to the entry into force of the Police and Border Guard Act and for whom, by the date of release from the service, the right to a pension of a border guard official had arisen on the basis of the Border Guard Service Act but to whom pension has not been granted yet shall be granted a pension of a border guard official on the basis of the Border Guard Service Act valid on the date of release from the service.

(9) The right to a superannuated pension of a police officer specified in subsections (1) to (4) of this section shall not depend on the uninterrupted length of the police service directly preceding the attainment of the pension qualifying age.

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

### **§ 115. Calculation of period of service for service rank**

The period of service for a rank of a border guard official appointed to a position of a police officer on the basis of this Act shall be calculated as of the date of the directive granting the last military rank or border guard rank.

## **Division 3**

# **Transfer of Police Officers Serving Under the Police Service Act to the Police Service Pursuant to the Police and Border Guard Act**

### **§ 116. Bringing of titles of office of police officers into conformity with service ranks**

(1) Upon appointment to a position of a police officer, the current title of office of a police officer shall be counted as service rank as follows:

A police officer's title of office provided for in the Police Service Act		A police officer's service rank provided for in this Act
1)	Junior Constable	Junior Constable, Constable,

		Senior Constable
2)	Constable	Constable, Senior Constable, Chief Constable
3)	Police Inspector	Inspector, Senior Inspector, Chief Inspector
4)	Senior Constable	Senior Constable, Chief Constable, Superintendent
5)	Senior Police Inspector	Senior Inspector, Chief Inspector, Superintendent
6)	Leading Constable	Chief Constable, Superintendent, Senior Superintendent
7)	Leading Police Inspector	Chief Inspector, Superintendent, Senior Superintendent
8)	Superintendent	Superintendent, Senior Superintendent, Police Lieutenant
9)	Senior Superintendent	Senior Superintendent, Police Lieutenant, Police Captain
10)	Chief Superintendent	Police Lieutenant, Police Captain, Police Major
11)	Police Counsellor	Police Captain, Police Major
12)	Police Chief	Police Major, Police Lieutenant Colonel
12)	Police Prefect, Director of the Central Criminal Police, Director of the Personal Protection Service, Deputy Police Chief, Head of the Police College	Police Major, Police Lieutenant Colonel, Police Colonel
14)	National Police Commissioner	Police Colonel

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(2) Upon appointment to a position of a police officer of the Estonian Security Police, the current title of office of a police officer of the Estonian Security Police shall be counted as service rank as follows:

Title of office of a police officer of the Estonian Security	Service rank of a police
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Police provided for in the Police Service Act		officer of the Estonian Security Police provided for in this Act
1)	Junior Assistant	Junior Assistant, Assistant, Senior Assistant
2)	Assistant	Assistant, Senior Assistant, Chief Assistant
3)	Senior Assistant	Senior Assistant, Chief Assistant, Superintendent
4)	Leading Assistant	Chief Assistant, Superintendent, Senior Superintendent
5)	Superintendent	Superintendent, Senior Superintendent, Police Lieutenant
6)	Police Counsellor	Police Lieutenant, Police Captain
7)	Chief Superintendent	Police Lieutenant, Police Captain, Police Major
8)	Deputy Police Chief	Police Lieutenant, Police Captain, Police Major
9)	Police Chief	Police Major, Police Lieutenant Colonel, Police Colonel
10)	Deputy Director General of the Estonian Security Police	Police Lieutenant Colonel, Police Colonel
11)	Director General of the Estonian Security Police	Police Colonel

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(3) The procedure for bringing of the titles of office provided for in subsections (1) and (2) of this section into conformity with service ranks shall be established by the Minister of the Interior by a regulation.

(4) The titles of office of police officers specified in clauses (1) 1) to 7) and in clauses (2) 1) to 4) of this section shall be brought into conformity, by 1 April 2011 at the latest, with service ranks which differ from the service ranks, entered into force on 1 January 2010, specified in the aforesaid provisions. The titles of office of a police officer shall be brought into conformity with the service ranks retroactively from 1 January 2010.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

## **§ 116<sup>1</sup>. Implementation of requirements for professional qualification**

The requirements for the professional qualification of a police officer provided for in section 59 of this Act and arising therefrom shall be implemented as of 1 September 2015, except for the provisions of Division 2 of Chapter 6 which shall be implemented as of the entry into force of the Act.

[RT I, 22.03.2011, 1 – entry into force 01.01.2012]

### **§ 117. Implementation of sections 100, 101, 106 and 107 of this Act with regard to officials who have been in the service on the basis of the Police Service Act**

(1) The right to a superannuated pension provided for in this Act shall arise at the age of 50 years for a police officer:

- 1) who was in the police service on the basis of the Police Service Act when this Act entered into force;
- 2) who has been appointed to office as a police officer directly upon the entry into force and on the basis of this Act; and
- 3) whose length of police service provided for in this Act is at least 20 years.

(2) An official who has been released from the police service prior to the entry into force of this Act in connection with appointment to office in another government authority or international organisation shall have the right to a superannuated pension provided for in this Act at the age of 50 years if, by the time of retirement, his or her length of police service provided for in this Act is at least 20 years and at the time of retirement he or she is in the position of a police officer or serving in that government authority or international organisation in connection with appointment to which he or she was released from the police service.

(3) The right to a superannuated pension provided for in this Act shall arise at the age of 55 years for a police officer:

- 1) who was in the police service on the basis of the Police Service Act when this Act entered into force;
- 2) who has been appointed to office as a police officer directly upon the entry into force and on the basis of this Act;
- 3) who is released from the service on the basis of this Act due to age, state of health or lay-off of staff; and
- 4) who has attained the age of 55 years by the date of release from the service and whose general number of years of pensionable service or accumulation period is at least 25 years, of which the length of the police service provided for in this Act is 12 years and six months.

(4) An official who has been released from the police service prior to the entry into force of this Act in connection with appointment to office in another government authority or international organisation shall have the right to a superannuated pension provided for in this Act at the age of 55 years if:

1) he or she is released from the service due to age, state of health or lay-off of staff;

2) he or she has attained the age of 55 years by the date of release from the service and his or her general years of pensionable service or accumulation period is at least 25 years, of which the length of the police service provided for in this Act is 12 years and six months; and

3) at the time of retirement he or she is in the position of a police officer or serving in that government authority or international organisation in connection with appointment to which he or she was released from the police service or his or her police service relationship was suspended.

(5) The amount of the superannuated pension of a police officer specified in subsections (3) and (4) of this section shall be 30 per cent of his or her salary for calculating pension.

(6) The amount of the pension of a police officer shall be increased, for each year by which the length of the police service exceeds the length of the police service provided for in subsections (1) to (4) of this section, by 2.5 per cent of his or her salary for calculating pension. The maximum amount for the superannuated pension shall be 75 per cent of his or her salary for calculating pension.

(7) The pension of a police officer which has been granted on the basis of the Police Service Act is not subject to recalculation on the basis of the Police and Border Guard Act. The pensions of police officers granted on the basis of the Police Service Act are subject to indexation, as of the year 2010, by 1 April of each calendar year by a pension index approved by the Government of the Republic on the basis of section 26 of the State Pension Insurance Act.

(8) For a person who has been released from the police service prior to the entry into force of the Police and Border Guard Act and for whom, by the date of release from the service, the right to a pension of a police officer had arisen on the basis of the Police Service Act but to whom pension has not been granted yet shall be granted a pension of a police officer on the basis of the Police Service Act valid on the date of release from the service.

(9) The right to a superannuated pension of a police officer specified in subsections (1) to (4) of this section shall not depend on the uninterrupted length of the police service directly preceding the attainment of the pension qualifying age.

10) The first sentence of subsection 107 (3) of this Act shall not be applied to those persons in the service of the Defence Forces or in the prosecutor's service who have obtained the right to a pension of a police officer on the basis of the Police Service Act.

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



## **§ 118. Calculation of period of service for service rank**

Upon the bringing of the positions of police officers into conformity with service ranks on the basis of section 116 of this Act, the period of service for the service rank of a police officer shall be calculated as of the earliest date of appointment to a position with the official rank which corresponds to his or her last position.

## **Division 4**

### **Transitional Provisions. Amendment of Other Acts. Entry into Force of Act**

#### **§ 119. Transitional provisions upon implementation of subsection 5(1) of this Act**

(1) Up to the entry into force of subsection 5 (1) of this Act on 1 January 2012, a prefecture shall be a local authority, having executive powers, of the Police and Border Guard Board. A prefecture shall be a police authority up to the entry into force of subsection 5 (1) of this Act.

(2) Up to the entry into force of subsection 5 (1) of this Act on 1 January 2012, the competence of the Police and Border Guard Board shall include the management and development of the police and the performance of the functions assigned to the police to the extent provided for in the statutes.

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

(3) Up to the entry into force of subsection 5 (1) of this Act on 1 January 2012, a prefecture shall perform in its jurisdiction those functions assigned to the police which do not belong to the competence of the Police and Border Guard Board.

(3<sup>1</sup>) A prefecture as a police authority may perform the functions of the Police and Border Guard Board in the cases and pursuant to the procedure established by a law, regulation, directive of the Minister of the Interior and a directive of the Director General of the Police and Border Guard Board until 1 January 2012. In the performance of the functions, a prefecture shall have the rights and obligations of the Police and Border Guard Board.

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

(3<sup>2</sup>) The Government of the Republic may issue a regulation, the Minister of the Interior may issue a regulation and a directive, and the Director General of the Police and Border Guard Board may issue a directive for assigning the competence to perform the functions of the Police and Border Guard Board arising from the law to a prefecture.

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

(4) [Repealed – RT I 2009, 62, 405 – entry into force 01.01.2010]

(5) Up to the entry into force of subsection 5 (1) of this Act on 1 January 2012, the data specified in subsection 42 (5) of this Act shall be collected by the police authority of the person's place of residence.

(6) Up to the entry into force of subsection 5 (1) of this Act on 1 January 2012, the head of a bureau of a prefecture and the head of a division of a prefecture shall be appointed to office by the Director General of the Police and Border Guard Board. Other executive officers and specialists of a prefecture shall be appointed to office by the prefect.

### **§ 119<sup>1</sup>. Implementation of section 81 of this Act**

(1) A police officer whose days of additional holiday granted on the basis of this Act prove to be less than the days of additional holiday granted on the basis of the Public Service Act shall be granted additional holiday on the basis of the Public Service Act, and section 81 of this Act shall not be applied to him or her.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

(2) A claim for the additional holiday specified in subsection 81(3) of this Act shall expire within one year as of the end of the year of service for which the additional holiday is calculated. Expiry is suspended for the period when a police officer is on pregnancy and maternity leave, adoptive parent leave and parental leave, as well as for when a police officer is undertaking military service or alternative service or when his or her service relationship in the police service has been suspended in connection with appointment to a position in another government authority or with assignment to a position of an official in an international organisation. Days of additional holiday which have not been used and which have not expired shall be compensated for in money upon resignation from the service.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

### **§ 119<sup>2</sup>. Specifications of appointment to office**

(1) A police officer who has been released, prior to the entry into force of this Act, from the police service in a police authority under section 18<sup>1</sup> or section 52 of the Police Service Act in connection with appointment to a position of an official in another government authority or international organisation shall be appointed, in case of release from the service in another government authority or international organisation, with his or her consent to a position in a police authority which corresponds to the position from which he or she was released in connection with appointment to a position in another government authority or international organisation, except in the case he or she does not meet the requirements set for the position.

(2) A police officer who has been released, prior to the entry into force of this Act, from the police service in the Estonian Security Police under section 18<sup>1</sup> or section 52 of the Police Service Act or under section 15<sup>1</sup> of the Security Authorities Act in connection with appointment to a position of an official in another government authority or international organisation shall be appointed, in case of release from the service in another government authority or international

organisation, with his or her consent to a position in the Estonian Security Police which corresponds to the position from which he or she was released in connection with appointment to a position in another government authority or international organisation, except in the case he or she does not meet the requirements set for the position.

(3) A border guard official who has been released, prior to the entry into force of this Act, from the border guard service under section 35 of the Border Guard Service Act in connection with appointment to a position of an official in another government authority or international organisation shall be appointed, in case of release from the service in another government authority or international organisation, with his or her consent to a position in a police authority which corresponds to the position from which he or she was released in connection with appointment to a position in another government authority or international organisation, except in the case he or she does not meet the requirements set for the position.

(4) A police officer who has been transferred or appointed, prior to the entry into force of this Act, under section 18 of the Police Service Act to a position of a police officer of the Police College shall be appointed, upon the expiry of the term, with his or her consent to a position in a police authority or the Estonian Security Police, respectively, which corresponds to his or her position prior to the transfer or appointment to a position of a police officer of the Police College, except in the case he or she does not meet the requirements set for the position.

(5) A border guard official who has been transferred or appointed, prior to the entry into force of this Act, under section 34 of the Border Guard Service Act to a position of a border guard official of an educational institution of the border guard shall be appointed, upon the expiry of the term, with his or her consent to a position in a police authority which corresponds to his or her position prior to the transfer or appointment to a position of a border guard official of an educational institution of the border guard, except in the case he or she does not meet the requirements set for the position.

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

### **§ 119<sup>3</sup>. Extension of term of service**

The term of service of an official appointed to office for a specified term in another government authority or international organisation under section 18<sup>1</sup> or section 52 of the Police Service Act, under section 35 of the Border Guard Service Act or under section 15<sup>1</sup> of the Security Authorities Act prior to the entry into force of this Act may be extended after the expiry of the original term of service by up to three years at a time.

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

### **§ 119<sup>4</sup>. Counting of rank of former police officer and border guard rank of former border guard official as service rank**

(1) If a person who has been in the police service or border guard service prior to the entry into force of this Act is employed in the police service, his or her last title of office of a police officer

or his or her last border guard rank shall be counted as a service rank on the same conditions and pursuant to the same procedure as prescribed for police officers specified in section 116 of this Act and for border guard officials specified in section 112 of this Act, but not as a service rank higher than what is prescribed by the service rank of the position.

(2) If a former border guard official who is employed in the police service does not have a border guard rank but has a military rank, then his or her military rank may be counted as a border guard rank on the basis of section 84 of the previously valid Border Guard Service Act and thereafter the border guard rank may be counted as a service rank based on subsection (1) of this section.

(3) Regarding a person specified in subsection (1) of this section who is appointed to a position of a Leading Specialist, his or her service rank may be counted as a service rank of a Senior Superintendent or Police Lieutenant but not higher than what is prescribed by the service rank of the position if the person has professional higher education or other higher education and he or she has completed professional in-service training and his or her previous professional or service experience is a significant benefit in the new position.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

### **§ 119<sup>5</sup>. Implementation of subsection 81 (3<sup>1</sup>) and subsection 119<sup>1</sup> (2) of this Act**

A claim, specified in subsection 81 (3<sup>1</sup>) and subsection 119<sup>1</sup> (2) of this Act, for additional holiday earned and unused prior to 1 January 2011 shall expire on 31 December 2013.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

### **§ 119<sup>6</sup>. Expiry of unused annual and additional holiday upon suspension of service relationship of police officer**

The expiry of annual and additional holidays of a police officer whose police service relationship has been suspended prior to 1 January 2011 in connection with appointment to a position in another government authority or assignment to a position of an official in an international organisation shall be suspended for the duration of the suspension of his or her service relationship.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

### **§ 119<sup>7</sup>. Organisation of retroactively bringing into conformity of service ranks of police officer**

(1) In the case of bringing the title of office of a police officer specified in clauses 116 (1) 1) to 7) and in clauses 116 (2) 1) to 4) of this Act into conformity with a service rank which is higher than the lowest service rank corresponding to that position of a police officer and if his or her title of office of a police officer has been brought into conformity with the service rank retroactively, service rank remuneration or other remuneration paid on the basis of that service

rank shall not be paid retroactively but as of the date of bringing of the title of office into conformity with the higher service rank.

(2) Upon the bringing of the titles of office of police officers specified in clauses 116 (1) 1) to 7) and in clauses 116 (2) 1) to 4) of this Act into conformity with service ranks retroactively as of 1 January 2010, the already granted pensions of police officers shall be recalculated as of the entry into force of this provision. The pension shall not be recalculated for the period of time from 1 January 2010 until the entry into force of this provision. The relevant authorities shall present within three months as of the entry into force of this provision to the Social Insurance Board information regarding those pensioners whose service ranks were changed retroactively as of 1 January 2010.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

### **§ 119<sup>8</sup>. Implementation of changes in service ranks and positions**

(1) All operations and administrative acts necessary for the implementation of sections 35, 48–67 and 67<sup>1</sup>–67<sup>11</sup>, clauses 69 (2) 4) and 5), subsection 70 (3), clause 108 (1) 5) and subsection 110 (1) of this Act shall be performed and issued according to the competence provided for in the Act by the Minister of the Interior, the Director General of the Police and Border Guard Board, the Director General of the Estonian Security Police and the rector of an institution of higher professional education for public defence as of 1 April 2011.

(2) The competence to transfer a police officer from police authority to another shall lie with the Director General of the Police and Border Guard Board.

(3) For the implementation of sections 35, 48–67 and 67<sup>1</sup>–67<sup>11</sup>, clauses 69 (2) 4) and 5), subsection 70 (3), clause 108 (1) 5) and subsection 110 (1) of this Act, the persons specified in subsection (1) of this section shall have the right to change the title of office of a position of a police officer and its place in the structure and the place of the position in the group of positions if the service rank of the police officer's current position corresponds to one of the service ranks of the new position and the new position is equal to the police officer's current position in the list provided for in subsection 48 (2) of this Act or is lower by one rank. The said changes shall not give rise to any significant changes in the objective or main functions of the position or bring about decrease in the wages paid to the police officer or the salary rate specified for him or her.

(4) For the implementation of sections 35, 48–67 and 67<sup>1</sup>–67<sup>11</sup>, clauses 69 (2) 4) and 5), subsection 70 (3), clause 108 (1) 5) and subsection 110 (1) of this Act, a person specified in subsection (1) of this Act shall have the right to transfer a police officer without his or her consent to such a position, one service rank of which corresponds to his or her service rank of a police officer, but not to a position which is lower by more than one rank from the police officer's current position in the list provided for in subsection 48 (2) of this Act if this does not bring about a change in his or her place of residence.

(5) If a change specified in subsection (3) of this section brings about a significant change in the objective or main functions of the position or brings about a decrease in the wages paid to the

police officer, the police officer may be transferred to another position with his or her consent or in the manner provided for in subsection (4) of this section.

(6) The person having the right to transfer shall be required to inform a police officer about his or her transfer to another position without his or her consent in writing at least one month in advance.

(7) The current wages shall be retained for a police officer transferred without his or her consent in the manner provided for in subsection (4) of this section if the wages in the new position are less than the current wages.

(8) If as a result of a change on the basis of subsection (3) of this section or a transfer without a consent on the basis of subsection (4) of this section the requirements set for the position change, as a result of which the police officer does not meet the new requirements set for the position, these shall not be applied with regard to a police officer who, prior to the change specified in subsection (3) or transfer without a consent in the manner provided for in subsection (4), met the requirements set for his or her position.

[RT I, 22.03.2011, 1 – entry into force 01.04.2011]

**§ 120.** [Omitted from this text.]

### **§ 121. Entry into force of Act**

(1) This Act shall enter into force on 1 January 2010.

(2) The procedure for the implementation of this Act shall be provided for in the Implementing Act.

(3) Section 120 of this Act shall enter into force on 1 July 2009.

(4) Subsection 5 (1) of this Act shall enter into force on 1 January 2012.