

State Legal Aid Act

Passed 28 June 2004

(RT¹ I 2004, 56, 403),

entered into force 1 March 2005.

Amended by the following Acts:

16.12.2009 entered into force 01.01.2010 - RT I 2009, 67, 460;

03.12.2008 entered into force 01.01.2010 - RT I 2009, 1, 1;

15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308

07.12.2006 entered into force 01.01.2007 - RT I 2006, 58, 439

13.12.2006 entered into force 01.02.2007 - RT I 2007, 2, 7

21.11.2007 entered into force 28.12.2007 - RT I 2007, 67, 413

10.12.2008 entered into force 01.01.2009 - RT I 2008, 59, 330

Chapter 1

General Provisions

§ 1. Scope of application of Act

This Act prescribes the categories of legal aid ensured by the state and the conditions and procedure for the receipt of such legal aid.

§ 2. Purpose of Act

The purpose of this Act is to ensure the timely and sufficient availability of competent and reliable legal services to all persons.

§ 3. Application of Administrative Procedure Act

The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117; 78, 527) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

§ 4. State legal aid

(1) State legal aid is the provision of legal services to a natural or legal person at the expense of the state on the bases and pursuant to the procedure provided for in this Act.

(2) Pursuant to this Act, state legal aid is granted to natural or legal persons in connection with proceedings in an Estonian court or administrative authority or in the protection of their interests in any other manner, if deciding thereon is within the competence of the Estonian court, unless otherwise provided for in Chapter 7 of this Act.

(3) The categories of state legal aid are:

- 1) appointed defence in criminal proceedings;
- 2) representing a person in pre-trial proceedings in a criminal matter and in court;
- 3) defending a person in extrajudicial proceedings in a misdemeanour matter and in court;
- 4) representing a person in pre-trial proceedings in a civil matter and in court;
- 5) representing a person in administrative court proceedings;
- 6) representing a person in administrative proceedings;
- 7) representing a person in enforcement proceedings;
- 7¹) representing a person in review procedure;

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

- 8) preparing legal documents;
- 9) providing other legal counselling to a person or representing a person in another manner.

§ 5. Provider of state legal aid

(1) State legal aid is provided by an advocate pursuant to the Bar Association Act (RT I 2001, 36, 201; 102, 676; 2002, 57, 357; 2003, 4, 22; 2004, 30, 208), taking account of the specifications provided for in this Act.

(2) The management of a law office shall ensure that explanations concerning the bases and procedure for the receipt of state legal aid prescribed in this Act are provided to persons who need state legal aid during the working hours of the law office without charge.

Chapter 2

Bases and Manners of Grant of State Legal Aid

§ 6. Persons entitled to receive state legal aid

(1) A natural person may receive state legal aid if the person is unable to pay for competent legal services due to his or her financial situation at the time the person is in need of legal aid or is able to pay for legal services only partially or in instalments or whose financial situation does not allow meeting basic subsistence needs after paying for legal services.

(1¹) State legal aid is granted to a natural person who, at the time of submission of the application for grant of state aid, has residence in the Republic of Estonia or another Member State of the European Union or is a citizen of the Republic of Estonia or another Member State of the European Union, except in the case specified in subsection (2) of this section. Determination of place of residence within the meaning of this Act shall be based on Article 59 of Council Regulation no. 44/2001/EC on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. Other natural persons shall be legal aid only if this arises from an international agreement.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

(2) In criminal proceedings, a suspect or accused who is a natural person who has not chosen a criminal defence counsel by agreement and in whose criminal matter the participation of a criminal defence counsel is required by law or who applies for the participation of a criminal defence counsel may receive state legal aid regardless of his or her financial situation. In court proceedings regarding a misdemeanour matter, a natural person subject to proceedings who has not chosen a defence counsel by agreement and in whose misdemeanour matter the participation of a defence counsel is required by law may receive state legal aid regardless of his or her financial situation.

(3) A non-profit association or foundation which is entered in the list of non-profit associations or foundations benefiting from income tax incentives or is equal thereto, which is insolvent and applies for state legal aid in the field of environmental protection or consumer protection, or there is other predominant public interest for the grant of state legal aid, may receive state legal aid on the bases and pursuant to the procedure prescribed in this Act to achieve the objectives specified in its articles of association in order to prevent possible damage to the rights of a large number of people which are protected by law.

(4) In criminal proceedings, an insolvent legal person who has not chosen a criminal defence

counsel by agreement and in whose criminal matter the participation of a criminal defence counsel is required by law or who applies for the participation of a criminal defence counsel may receive state legal aid as a suspect or accused. In court proceedings regarding a misdemeanour matter, an insolvent legal person who has not chosen a defence counsel by agreement and in whose misdemeanour matter the participation of a defence counsel is required by law may receive state legal aid as a person subject to proceedings.

(5) In review procedure, a natural person specified in subsection (1) of this section may receive state legal aid regardless of the type of the matter.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

§ 7. Bases for refusal to grant state legal aid

(1) State legal aid shall not be granted if:

- 1) the applicant is able to protect his or her rights himself or herself;
- 2) the applicant cannot have the right for the protection of which he or she is applying for state legal aid;
- 3) the applicant could bear the costs of legal services out of his or her existing property which can be sold without any major difficulties, except the assets specified in subsection 14 (2) of this Act;
- 4) the costs of legal services do not, presumably, exceed twice the applicant's average monthly income calculated on the basis of the average monthly income of the last four months preceding the submission of the application, from which taxes and compulsory insurance payments, amounts prescribed to fulfil a maintenance obligation arising from law and also reasonable housing and transport costs have been deducted;

(10.12.2008 entered into force 01.01.2009 - RT I 2008, 59, 330; 03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

5) the possibility of the applicant to protect his or her rights is clearly unlikely due to the circumstances;

6) state legal aid is applied for in order to file a claim for compensation for non-proprietary damage and there is no predominant public interest regarding the matter;

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

7) the dispute is related to the business activities of the applicant and does not damage his or

her rights which are unrelated to his or her business activities;

8) state legal aid is applied for to protect a trade mark, patent, utility model, industrial design or a layout-design of integrated circuits or another form of intellectual property, except rights arising from the Copyright Act (RT 1992, 49, 615; RT I 2000, 16, 109; 78, 497; 2001, 50, 289; 56, 335; 2002, 53, 336; 63, 387; 90, 521; 92, 527; 2004, 18, 131; 30, 208);

9) state legal aid is applied for in a matter in which the applicant clearly has joint interests with a person who is not entitled to receive state legal aid;

10) state legal aid is applied for to protect a right transferred to the applicant and there is reason to believe that the right was transferred to the applicant in order to receive state legal aid;

11) the provision of legal services is guaranteed for the applicant by a legal expenses insurance contract or on the basis of compulsory insurance;

12) the profit possibly received by the applicant upon adjudication of the matter is unreasonably small in comparison to the estimated cost of legal aid borne by the state.

(1¹) In addition to the basis for refusal specified in subsection (1), state legal aid shall also not be granted for review procedure if the grounds for review are not indicated in the application for state legal aid or if, based on the grounds for review indicated, it is evident that the applicant has obviously few opportunities to protect his or her rights or, if the term for submission of a petition for review has expired. The Supreme Court need not justify its refusal to grant state legal aid.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(2) The grant of state legal aid shall not be refused on a basis specified in subsection (1) of this section if state legal aid is applied for in the case specified in subsection 6 (2) of this Act. The grant of state legal aid shall not be refused on the basis of clauses (1) 1), 2), 5)–10) or 12) of this section if state legal aid is applied for in the case specified in subsection 6 (4) of this Act.

(3) State legal aid may be granted without the restriction provided for in clause (1) 1) of this section if the assistance of an advocate is clearly necessary for the correct adjudication of the matter in order to ensure the equality of the parties or due to the complexity of the matter.

§ 8. Manners of grant of state legal aid

State legal aid shall be granted in a manner as follows:

1) the grant of state legal aid without an obligation to compensate for the state legal aid fee and state legal aid costs;

- 2) the grant of state legal aid with an obligation to partially or fully compensate for the state legal aid fee and state legal aid costs in a single payment;
- 3) the grant of state legal aid with an obligation to partially or fully compensate for the state legal aid fee and state legal aid costs in instalments.

Chapter 3

Deciding Grant of State Legal Aid

§ 9. Application for state legal aid

- (1) The grant of state legal aid shall be decided on the basis of an application by a person.
- (2) A state fee for the submission of an application for state legal aids shall be paid pursuant to the rate provided for in the State Fees Act if state legal aid is applied for in extrajudicial proceedings and the person does not apply for state legal aid in criminal proceedings as a suspect.

(07.12.2006 entered into force 01.01.2007 - RT I 2006, 58, 439)

§ 10. Submission of application for state legal aid

- (1) An application for state legal aid in court proceedings as a party to a proceeding in civil, administrative or misdemeanour matters shall be submitted to the court conducting proceedings in the matter or the court whose jurisdiction would include conducting proceedings in the matter.

(2) (Repealed - 10.12.2008 entered into force 01.01.2009 - RT I 2008, 59, 330)

- (3) An application for state legal aid in the form of representation in pre-trial proceedings in a civil matter, in administrative proceedings or extrajudicial proceedings in a misdemeanour matter, preparation of a legal document or other legal counselling or representation shall be submitted to the county court of the applicant's residence or seat or of the presumed location of provision of legal services. If an applicant for state legal aid has no residence in Estonia, he or she may submit an application to the county court in the territorial jurisdiction of which he or she is staying.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

- (4) If the participation of a criminal defence counsel throughout a criminal proceeding is not required and a suspect has not chosen a counsel but requests the participation of a criminal defence counsel, the suspect shall submit an application for state legal aid to an investigative body or a

Prosecutor's Office.

(5) If a person applies for state legal aid as a victim in criminal proceedings, a civil defendant or a third party, the court conducting the proceedings or, in pre-trial proceedings in a criminal matter, the county court whose jurisdiction would include conducting proceedings in the given criminal matter shall decide on the provision of state legal aid to the person.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

(13.12.2006 entered into force 01.02.2007 - RT I 2007, 2, 7)

(5¹) If a person applies for state legal aid for review procedure, the Supreme Court shall decide on the provision of state legal aid to the person. An application for state legal aid may be submitted to the Supreme Court without the intermediation of an advocate.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(6) An application for state legal aid in the form of representation in enforcement proceedings shall be submitted to the court competent to process an appeal against the activities of a bailiff conducting enforcement proceedings.

(7) If an application is submitted to a court whose jurisdiction does not include deciding the grant of state legal aid in the given case, the court shall forward the application immediately according to its placement in jurisdiction and notify the applicant thereof.

(8) The court or another agency specified in subsections (1)-(6) of this section is also the authority competent to receive petitions for procedural assistance within the meaning of Article 14 of Council Directive 2003/8/EC to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes (OJ L 026, 31.01.2003, pp. 41–47). The petitioner shall not be requested to legalise or officially certify the petition in another manner.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

§ 11. Grant of state legal aid if defence counsel is required

(1) A suspect who is a natural person and in whose criminal matter the participation of a criminal defence counsel is required pursuant to § 45 of the Code of Criminal Procedure (RT I 2003, 27, 166; 83, 598; 88, 590; 2004, 46, 329) and who has not chosen a defence counsel by agreement is not required to submit an application to receive state legal aid in the criminal matter.

(2) In court proceedings regarding a misdemeanour matter, a natural person subject to

proceedings in whose misdemeanour matter the participation of a defence counsel is required pursuant to subsection 19 (3) of the Code of Misdemeanour Procedure (RT I 2002, 50, 313; 110, 654; 2003, 26, 156; 83, 557; 88, 590; 2004, 46, 329) and who has not chosen a defence counsel by agreement is not required to submit an application for state legal aid.

§ 12. Format of application and information contained in application

- (1) The following shall be set out in an application submitted to receive state legal aid:
 - 1) the name, address and personal identification code or, in the absence of the latter, the date of birth of the applicant, or the registry code of the applicant who is a legal person;
 - 2) a description of the problem for the resolution of which state legal aid is applied for;
 - 3) the category of state legal aid specified in subsection 4 (3) or § 34 of this Act, which is applied for;
 - 4) the reasons why state legal aid is necessary to protect the rights of the applicant;
 - 5) the extent of profit possibly received by the applicant upon adjudication of the matter;
 - 6) the name of the provider of state legal aid from whom the applicant wishes to receive legal services if the advocate has granted his or her consent to the applicant regarding provision of state legal aid to the applicant in the given matter;
 - 7) the language in which the applicant is able to communicate with the provider of state legal aid;
 - 8) (Repealed - 10.12.2008 entered into force 01.01.2009 - RT I 2008, 59, 330)
 - 9) other relevant information.
- (2) If an application is submitted in extrajudicial proceedings and the category of state legal aid specified in subsection 4 (3) of this Act which is applied for is not indicated in the application, the application is deemed to be submitted to receive state legal aid in the form of other legal counselling of the person.
- (3) The standard form of an application for state legal aid and a list of data to be contained therein shall be established by a regulation of the Minister of Justice, and the standard form of the application shall be freely accessible to everybody at the web page of the Ministry of Justice as well as in each court and advocate's law office.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

(4) In criminal proceedings, an application for the appointment of a criminal defence counsel submitted by a suspect who is a natural person shall set out at least the information specified in clauses (1) 1) and 7) of this section and a reference to the criminal matter in which participation of the criminal defence counsel is requested.

(5) An application for state legal aid shall be submitted in Estonian. An application may also be submitted in English if legal aid is applied for by a natural person who has residence in another Member State of the European Union, is a citizen of another Member State of the European Union, or is a legal person whose seat is in another Member State of the European Union. An application submitted to the court in any other language shall be returned to the applicant.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

§ 13. Documents appended to application

(1) An applicant who is a natural person shall append a correctly completed notice concerning his or her financial situation which is signed by the applicant and, if possible, other evidence pertaining to his or her financial situation to an application for state legal aid. A suspect in criminal proceeding who applies for the appointment of a criminal defence counsel need not append a notice concerning his or her financial situation.

(2) If a person's residence is not in Estonia, he or she shall append a notice concerning the income of the person and members of his or her family during the last three years from the competent authorities of the person's state of residence to an application. If the notice cannot be submitted for reasons independent of the applicant, the grant of state legal aid may be decided without the notice.

(3) A notice concerning the financial situation of an applicant for state legal aid shall be submitted in writing in Estonian. Under the conditions provided for in subsection 12 (5) of this Act, the notice may also be submitted in English.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

(4) A list of information contained in a notice concerning the financial situation of an applicant and the standard form of the notice shall be established by a regulation of the Minister of Justice. The standard form shall be freely accessible to everybody at the web page of the Ministry of Justice as well as in each court and advocate's law office. The Minister of Justice may also establish requirements for the documents which provide the grounds for the application to be submitted by an applicant.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

(5) An applicant who is a legal person shall append to an application for state legal aid a copy of the memorandum of association or foundation resolution and the registered articles of association, a copy of the registry card and a copy of the approved preceding annual report which are submitted to the register and comply with the requirements of law.

(6) If an advocate has granted his or her consent to the applicant for state legal aid regarding provision of state legal aid to the applicant in the given matter and the applicant wishes to receive legal services from the advocate, the consent of the applicant shall be appended to the application or the application shall be submitted through the corresponding law office.

§ 14. Assessment of financial situation of applicant

(1) Upon assessing the financial situation of an applicant, his or her assets and income and the assets and income of family members who live together with the applicant, the number of persons maintained by the applicant, reasonable housing expenses and other relevant circumstances shall be taken into consideration.

(2) Upon assessing the financial situation of an applicant, property belonging to the applicant which, pursuant to law, cannot be subject to a claim for payment shall not be taken into consideration. Housing or a necessary vehicle belonging to the applicant which is used daily by him or her and family members who live together with the applicant shall not be taken into consideration if the number and value of the housing and vehicles equitably correlate to the size, driving needs and income of the family.

(3) If an applicant applies for state legal aid to file a claim against a family member who lives together with him or her, neither the income of the said family member nor assets belonging to him or her shall be taken into consideration upon assessing the financial situation of the applicant.

(4) The Tax and Customs Board shall submit, at the request of a court, a notice concerning the income of an applicant for state legal aid and members of his or her family during the last year or a notice concerning the lack of information on the income of an applicant for state legal aid and members of his or her family. The format of the notice shall be established by a regulation of the Minister of Finance.

(5) A court may request information concerning the financial situation or solvency of an applicant for state legal aid and of family members who live together with him or her from the applicant or other persons or agencies, including credit institutions. An inquiry must be responded

to within the term set by the court.

(6) If an applicant fails to submit certified data concerning his or her personal status or financial situation, fails to reply to posed questions or gives incomplete replies, the court shall refuse to grant the person state aid to the extent of the application which is not grounded.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

§ 15. Deciding grant of state legal aid

(1) An application for state legal aid submitted in the course of court proceedings shall be adjudicated by a ruling of a court conducting the proceedings pursuant to the procedure prescribed in the Court Procedure Act.

(2) A county or administrative court shall decide the grant of state legal aid on the basis of an application submitted in extrajudicial proceedings in a manner prescribed in § 8 of this Act pursuant to the procedure for proceedings on petition provided for in the Code of Civil Procedure. In court, issues relating to state legal aid may be resolved by assistant judges.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

(3) The grant of state legal aid to a suspect or accused in criminal proceedings shall be decided by an investigative body or Prosecutor's Office who issues a ruling to that effect. Upon appointment of a criminal defence counsel in criminal proceedings in all cases and in misdemeanour proceedings if the participation of a defence counsel is required, state legal aid shall be granted to an applicant without determining the manner prescribed in § 8 of this Act and the state legal aid fee and state legal aid costs shall be compensated for pursuant to the procedure prescribed in the Code of Criminal Procedure.

(4) If necessary, a court, Prosecutor's Office or investigative body shall set a term for the provision of state legal aid.

(5) A judgment or ruling on the grant of state legal aid shall determine the manner of grant of state legal aid according to § 8 of this Act and the compensation obligation of the recipient of state legal aid according to § 16 of this Act. A copy of the judgment or ruling shall be sent to the Estonian Bar Association, the Ministry of Finance or an authority within the area of government of the Ministry of Finance which is specified by the Minister of Finance pursuant to the procedure established by a regulation of the Minister of Justice.

(16.12.2009 entered into force 01.01.2010 - [RT I 2009, 67, 460](#))

(6) Investigative bodies and Prosecutors' Offices shall submit, by 1 April every year, reports on

the grant of state legal aid in the previous year to the Minister of Justice. The standard format for reports shall be approved by a regulation of the Minister of Justice.

(7) If an application for state legal aid was forwarded to a court or another agency by an agency of another Member State of the European Union which is competent to forward applications for legal aid, a copy of the ruling made concerning the application for legal aid shall also be sent to such agency.

(8) Appeals may be filed against a ruling on grant of or refusal to grant state legal aid pursuant to the procedure provided by Acts regulating court proceedings.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

§ 16. Determining compensation obligation of recipient of state legal aid

(1) If state legal aid is granted to a person together with an obligation to partially or fully compensate for the state legal aid fee and state legal aid costs, the person's compensation obligation shall be determined as a proportion or, if possible, as a specific amount and it shall be decided whether compensation shall be paid in a single payment or in instalments.

(2) A court shall determine the scope of the compensation obligation of a recipient of state legal aid and the procedure for compensation on the basis of the circumstances specified in subsections 14 (1)-(3) or 13 (5) of this Act, taking account of the nature of the matter, the category of state legal aid applied for and the estimated time of providing state legal aid.

(3) If state legal aid is granted to a person together with an obligation to compensate for the state legal aid fee and state legal aid costs in a single payment, the court shall, if possible, also determine the due date for compensation.

(4) If state legal aid is granted to a person together with an obligation to compensate for the state legal aid fee and state legal aid costs in instalments, the court shall, if possible, also determine the size of the instalments and the due dates for the payment thereof.

(5) Upon grant of state legal aid together with an obligation to fully or partially compensate for the state legal aid fee and state legal aid costs in a single payment or in instalments, a court may require a recipient of state legal aid to pay an advance payment for the full or partial performance of his or her compensation obligation. Upon failure to pay the advance payment, state legal aid shall not be granted to the person.

§ 17. Continuity of state legal aid

(1) A person who has received state legal aid retains the right to receive state legal aid if the matter is transferred to another category of state legal aid prescribed in subsection 4 (3) of this Act and the advocate appointed earlier shall continue to provide state legal aid to the person, except in the case prescribed in subsection (2) of this section. A court, Prosecutor's Office or investigative body who has decided on the grant of state legal aid may, on the basis of the request of an advocate providing state legal aid or on its own initiative, at any time reassess pursuant to the procedure prescribed in this Act whether the bases for the grant of state legal aid to an applicant which are prescribed in this Act continue to exist and, if the bases for the grant of state legal aid cease to exist, terminate the grant of state legal aid to the person.

(2) If state legal aid has been granted to a person in criminal proceedings and the criminal proceedings are terminated due to absence of the elements of a criminal offence in the matter and misdemeanour proceedings are commenced instead, the person shall, in order to continue to receive state legal aid, submit an application for state legal aid pursuant to the procedure prescribed in this Act within ten days according to subsection 10 (3) of this Act. Until the court adjudicates the request of the person, the advocate appointed earlier shall continue to provide state legal aid to the person in the matter.

(3) A person who has received state legal aid in court proceedings as a party to a proceeding has the right to receive state legal aid also in proceedings regarding appeal against a ruling in the same matter or in enforcement proceedings.

(4) A court conducting proceedings or a court competent to process an appeal against the activities of a bailiff conducting enforcement proceedings may, on its own initiative, in all stages of proceedings reassess pursuant to the procedure prescribed in this Act whether the bases for the grant of state legal aid to an applicant which are prescribed in this Act continue to exist and, if the bases for the grant of state legal aid cease to exist, terminate the grant of state legal aid to the person.

The court shall however verify the existence of the prerequisites for the grant of state legal aid if legal aid is requested for representation in enforcement proceedings later than within one year after the entry into force of the decision made in the matter.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

(5) In the event of a reassessment prescribed in subsections (1) and (4) of this section, a court has the right to demand, if necessary, that a recipient of state legal aid submit a new notice concerning his or her financial situation and request information concerning the financial situation or solvency of the recipient of state legal aid and of his or her family members from the Tax and Customs Board, credit institutions and other persons or agencies.

(6) If the grant of state legal aid is terminated on the basis of subsections (1) and (4) of this section, an advocate who has provided state legal aid is released from the obligation to grant state legal aid and the court shall determine, on the basis of the application of the advocate, the amount of the state legal aid fee for the advocate and the extent of compensation for state legal aid costs. At the same time, the court shall determine the obligation of the recipient of state legal aid to fully or partially compensate for the amount paid to the advocate pursuant to the procedure prescribed in § 25 of this Act.

(7) A court or another competent agency may suspend payment of the instalments ordered by way of state legal aid or alter the amount and the term for payment of the instalments pursuant to the procedure provided for in § 188 of the Code of Civil Procedure. Termination of grant of procedural assistance shall be based on § 189 of the Code of Civil Procedure.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

§ 18. Appointment of provider of state legal aid

(1) The Bar Association shall appoint an advocate who provides state legal aid immediately upon receipt of an application from a court, Prosecutor's Office or investigative body. A court, Prosecutor's Office or investigative body shall submit the abovementioned application to the Bar Association pursuant to the procedure established by a regulation of the Minister of Justice. The advocate appointed by the Bar Association shall assume the obligation to immediately provide state legal aid and to organise his or her activity such that it would be possible for him or her to participate in procedural acts in time.

(16.12.2009 entered into force 01.01.2010 - [RT I 2009, 67, 460](#))

(2) A court, Prosecutor's Office or investigative body does not have the right to agree with an advocate upon the provision of state legal aid or to appoint an advocate who provides state legal aid.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(3) Upon the provision of state legal aid, the authorisation of an advocate for the representing or for the protection of the recipient of state legal aid shall be certified by the confirmation of the advocate that he or she has been appointed to provide state legal aid. In the case of doubt, confirmation concerning the appointment of the advocate may be required from the Bar Association.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

§ 19. Refusal of advocate to provide state legal aid

(1) If an advocate commences the provision of legal services pursuant to the procedure of state legal aid, he or she shall continue the provision of legal services until final adjudication of the matter unless otherwise provided by law. If a recipient of state legal aid applies for the protection of an interest which is in conflict with law or, if the alleged claim of a recipient of state legal aid is not based on law or, if there is no procedural possibility to protect the rights and interests of a recipient of state legal aid, the provision of state legal aid is restricted to substantiation of the abovementioned circumstances in writing to the recipient of state legal aid by the advocate.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(2) An advocate shall not provide state legal aid to a person and is required to refuse to provide legal services or immediately terminate the provision of legal services already commenced upon the occurrence of circumstances specified in § 44 of the Bar Association Act and also if his or her interests or the interests of his or her spouse or close relative or a close relative of his or her spouse in the same matter are contrary to the interests of the recipient of state legal aid.

(3) An advocate may, with the consent of the Board of the Bar Association, terminate the provision of state legal aid on the bases prescribed in subsection 44 (5) of the Bar Association Act or if he or she is exempt from the obligation to maintain a professional secret pursuant to the procedure provided for in subsection 45 (5) of the Bar Association Act. If the recipient of state legal aid is not at fault for termination of the provision of state legal aid or, if the participation of an advocate in the proceedings is required by law, the Board of the Bar Association shall appoint immediately a new advocate who provides state legal aid.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(4) If an advocate terminates the provision of legal services on the bases of subsection (2) of this section and he or she was aware or should have been aware of the circumstances which preclude provision of legal services at the time of commencing provision of the legal services, he or she shall not be paid a fee for the provision of state legal aid.

(5) If an advocate terminates the provision of legal services on the basis of subsection (3) of this section, he or she shall be paid a fee for work performed in the provision of state legal aid. The said fee shall be included in the compensation obligation of the recipient of state legal aid. A recipient of state legal aid shall not be released from compensating for the state legal aid fee and state legal aid costs related to the provision of legal services terminated on the basis of subsection (3) of this section.

§ 20. Change of provider of state legal aid

(1) Upon agreement of an advocate providing state legal aid and the recipient of state legal aid, legal services in the same matter may be provided to the person by another advocate who grants his or her consent for the transfer of the obligation to provide state legal aid to him or her. A new provider of state legal aid shall be appointed on the basis of the application of the court, Prosecutor's Office or investigative body pursuant to the procedure prescribed in § 18 of this Act. In such case, the court, Prosecutor's Office or investigative body shall decide the amount of the state legal aid fee and state legal aid costs which shall be compensated to the former provider of state legal aid.

(16.12.2009 entered into force 01.01.2010 - [RT I 2009, 67, 460](#))

(2) If, arising from this Act, a provider of state legal aid is unable to continue to provide legal services to a recipient of state legal aid, the provider of state legal aid shall submit an application for the appointment of a new provider of state legal aid to a court, Prosecutor's Office or investigative body. A new provider of state legal aid shall be appointed pursuant to the procedure prescribed in § 18 of this Act.

(16.12.2009 entered into force 01.01.2010 - [RT I 2009, 67, 460](#))

(3) Upon exclusion of an advocate providing state legal aid from the Bar Association or his or her disbarment or upon suspension of the professional activities or long-term incapacity for work or the death of the advocate, and in other cases provided by law, the Bar Association shall appoint a new provider of state legal aid on the basis of an application of the former provider of state legal aid, the recipient of state legal aid, a court, Prosecutor's Office or investigative body or on its own initiative pursuant to the procedure prescribed in § 18 of this Act.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(3¹) The court shall, at the request of the recipient of legal aid or on its own initiative, remove an advocate from the provision of state legal aid by a ruling if the advocate has shown himself or herself to be incompetent or negligent. In advance, the court may request submission of explanations from the recipient of state legal aid and the advocate. The court shall forward the ruling concerning the removal of an advocate from the provision of state legal aid to the Bar Association for the commencement of proceedings of the court of honour and, if necessary, for the appointment of a new provider of state legal aid.

(10.12.2008 entered into force 01.01.2009 - RT I 2008, 59, 330; 03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(4) If a provider of state legal aid is changed, a new provider of state legal aid shall continue the provision of legal services to a person from where the former provider of state legal aid finished. A state legal aid fee shall be paid to the former provider of state legal aid according to work performed and the state legal aid costs borne thereby shall be compensated for.

Chapter 4

Payment of State Legal Aid Fee to Advocate and Compensation for State Legal Aid Costs

§ 21. State legal aid fee and state legal aid costs

- (1) State legal aid fee is the fee paid to an advocate for the provision of state legal aid.
- (2) State legal aid costs are the necessary costs incurred by an advocate or the management of a law office in the provision of the state legal aid by the advocate.
- (3) The bases for the calculation of fees payable for the provision of state legal aid, the procedure for the payment and the amount of such fees, and the extent of and procedure for compensation for costs related to the provision of state legal aid (hereinafter the procedure for fees and costs) shall be established by the Board of the Bar Association for each budgetary year taking into consideration the amount of funds allocated for such purpose from the state budget and an estimate of the volume of state legal aid. The Board of the Bar Association may alter the bases for the calculation of fees payable for the provision of state legal aid, the procedure for the payment, the amount of fees and the extent of and procedure for compensation for costs during a budgetary year. The Board of the Bar Association shall establish the amount of fees and the extent of compensation for costs so that state legal aid would be ensured until the end of the budgetary year. The Bar Association is required to ensure appropriate and uninterrupted provision of state legal aid even if the funds allocated from the state budget are insufficient to cover the costs until the end of the budgetary year.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(3¹) The Board of the Bar Association shall publish the bases for the calculation of fees payable for the provision of state legal aid, the procedure for the payment and the amount of such fees, and the extent of and procedure for compensation for costs related to the provision of state legal aid on the website of the Bar Association not later than fifteen days before entry into force thereof. The Board of the Bar Association shall forward the abovementioned procedure and the amount of the fees also to the courts and the central authorities of the investigative bodies and the Prosecutor's

Office.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(3²) If the state budget is not passed by the beginning of the budgetary year, the Ministry of Justice shall allocate one twelfth of the relevant expenses in the budget for the previous year to the Bar Association for covering state legal aid fee and state legal aid costs each month until the state budget is passed.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(4) The requirement to maintain the confidentiality of persons who request an advocate to provide legal services and of the amount of the fee paid for the legal services which is prescribed in subsection 45 (1) of the Bar Association Act does not apply to the state legal aid fee.

§ 22. Determination of amount of state legal aid fee and extent of compensation for state legal aid costs

(1) In order to determine the amount of the state legal aid fee and the extent of compensation for the state legal aid costs, the advocate shall submit an application to the court, Prosecutor's Office or investigative body who decided to grant state legal aid, which shall set out:

- 1) the fee payable and the necessary costs incurred subject to compensation on the basis of the procedure for fees and costs specified in subsection 21 (3) of this Act together with calculation, taking account of the provisions of subsection (5);
- 2) the justified acts performed in the course of the provision of state legal aid, the justified time spent for the performance of the acts, the date of performance of each act and the time of commencement and completion of an act if the state legal aid fee is calculated as an hourly fee;
- 3) the justified acts performed in the course of the provision of state legal aid and the date of performance of each act if the state legal aid fee is calculated as a flat fee;
- 4) the grounds for the time spent, the acts performed and the necessity and justification of the costs incurred.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(2) The documents certifying the costs incurred by the advocate or the management of the law office shall be appended to the application if the court, investigative body or Prosecutor's Office cannot verify the incurred costs by electronic means.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(3) An advocate shall submit an application provided for in subsection (1) of this section at the end of each procedural act in the pre-trial proceedings of matters concerning offences and at the end of the proceedings in each court instance or at least three months after adjudication of an application submitted for determining the amount of the state legal aid fee and the extent of compensation for state legal aid costs. If state legal aid is provided in enforcement proceedings, upon preparation of a legal document, legal counselling of a person or representation of a person in any other way, the application shall be submitted after termination of the provision of legal aid.

(16.12.2009 entered into force 01.01.2010 - [RT I 2009, 67, 460](#))

(4) The format of applications provided for in subsection (1) of this section shall be established by the Board of the Bar Association. An advocate shall submit an application specified in subsection (1) of this section by electronic means. The Minister of Justice may establish specific requirements and procedure for the applications and the submission thereof by electronic means.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(5) The use of the format of applications and compliance with the procedure for the submission thereof is mandatory for advocates. An application shall not be reviewed if a standard application is not submitted for determining the amount of the state legal aid fee and the extent of compensation for the state legal aid costs, the application does not set out all the information required pursuant to subsection (1) of this section or the application is not submitted pursuant to the established procedure.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(6) The amount of the state legal aid fee and the extent of compensation for the state legal aid costs shall be determined on the basis of the procedure for fees and costs specified in subsection 21 (3) of this Act which was in force at the time of the performance of the act which is the basis for the payment of the corresponding fee or the compensation for the costs unless otherwise established by the Board of the Bar Association.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(7) A court, Prosecutor's Office or investigative body who decided on the grant of state legal aid shall verify whether the application submitted by an advocate is correct and justified and shall determine on the basis of the application of the advocate the justified time spent for the provision of state legal aid, the justified acts performed for the provision of state legal aid and the justified fee payable to the advocate for the provision of state legal aid and the necessary costs incurred upon the provision of state legal aid subject to compensation. The aforementioned shall be determined on the basis of an application of the advocate at the end of the pre-trial proceedings of matters and at the

end of the proceedings in each court instance or at least three months after adjudication of an application submitted for determining the amount of the state legal aid fee and the extent of compensation for state legal aid costs In order to determine the information provided in this subsection, a court, investigative body or Prosecutor's Office may request additional clarifications or documents from the advocate.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

§ 23. Procedure for determination of state legal aid fee and state legal aid costs

(1) If state legal aid is granted in the course of court proceedings, a court conducting the proceedings shall determine the state legal aid fee and state legal aid costs in a judgment made in the matter or a ruling on termination of the proceedings, or the state legal aid fee and state legal aid costs shall be determined pursuant to the procedure for the determination of procedural expenses prescribed in the Code of Civil Procedure.

(2) In extrajudicial proceedings, a county court or an administrative court shall determine the state legal aid fee and state legal aid costs pursuant to the procedure for the determination of procedural expenses prescribed in the Code of Civil Procedure.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

(3) An investigative body or Prosecutor's Office shall determine the state legal aid fee and state legal aid costs pursuant to the procedure prescribed in the Code of Criminal Procedure.

§ 24. Payment of state legal aid fee and state legal aid costs

(1) The Bar Association shall organise payment of the state legal aid fee and state legal aid costs to an advocate who has provided state legal aid on the basis of a decision or an order of an investigative body or a Prosecutor's Office. In the case of doubt, the Board of the Bar Association is required to verify whether the state legal aid fee and state legal aid costs are justified. In order to assess whether the state legal aid fee and state legal aid costs are justified, the Bar Association has the right to demand explanations from the advocate, the recipient of state legal aid, the court, the investigative body, the Prosecutor's Office and to examine the records of the matter. A decision or an order of an investigative body or Prosecutor's Office does not release an advocate from liability for the submission of false or clearly unjustified information in an application for determining the amount of the state legal aid fee and the extent of compensation for the state legal aid costs.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(2) An advocate shall not request remuneration for the provision of state legal aid from a person to whom he or she provided legal services in the given matter.

Chapter 5

Compensation for State Legal Aid Fee and State Legal Aid Costs

§ 25. Compensation for state legal aid fee and state legal aid costs

(1) After termination of the provision of legal services to a person a court shall, pursuant to the procedure prescribed in § 23 of this Act, determine the obligation of the recipient of state legal aid to fully or partially compensate to the state for the fee and costs paid to the advocate to the justified and necessary extent thereof.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(2) Upon deciding on the grant of state legal aid, a court shall determine the exact scope of the compensation obligation of a recipient of state legal aid and a detailed procedure for the compensation, taking account of the scope of the compensation obligation determined according to § 16 of this Act and the procedure for compensation and the advance payment required of him or her.

(3) In the case of significant changes in the financial situation or solvency of a recipient of state legal aid, a court may, at the request of the recipient of state legal aid or the Ministry of Finance or a governmental authority within its area of government, amend the scope of the compensation obligation of the recipient of state legal aid or the procedure for compensation determined before the provision of legal services, taking account of the circumstances specified in subsections 14 (1)- (3) or 13 (5) of this Act.

(4) A person who has received state legal aid in criminal and misdemeanour proceedings shall compensate for the state legal aid fee and state legal aid costs pursuant to the procedure prescribed in the Code of Criminal Procedure.

§ 26. Collection of state legal aid fee and state legal aid costs

(1) A court shall send a judgment or ruling to collect the state legal aid fee and state legal aid costs from a person to an authority within the area of government of the Ministry of Justice which is specified by the Minister of Justice.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

(2) A person who has received state legal aid and who is obligated to compensate for the state legal aid fee and state legal aid costs on the basis of this Act or a person who has been ordered to cover the legal aid costs by a court because the party in whose favour a judgment was made received state legal aid shall comply with the decision within the term prescribed therein. If the decision does not set out the term for compliance with the decision, the decision shall be complied with within fifteen days as of the entry into force thereof.

(3) An authority within the area of government of the Ministry of Justice which is specified by the Minister of Justice may forward the decision specified in subsection (1) of this section for enforcement if the obligated person has failed to comply with the decision within the term prescribed in the decision or, if there is no term, within fifteen days after the entry into force of the decision.

(03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))

§ 27. Release from obligation to compensate for state legal aid fee and state legal aid costs

(1) A recipient of state legal aid need not compensate for the state legal aid fee and state legal aid costs and an advance payment paid for the performance of the compensation obligation shall be returned to him or her if:

- 1) in the adjudication of a civil matter, the payment of legal costs in full or in part is ordered by the opposing party, to the extent in which the legal costs are borne by the opposing party;
- 2) an administrative court satisfies the person's appeal in full or in part, to the extent in which the appeal is satisfied;
- 3) an administrative court terminates proceedings in a matter on the basis of clause 24 (1) 3) of the Code of Administrative Court Procedure (RT I 1999, 31, 425; 33, correction notice; 40, correction notice; 96, 846; 2000, 51, 321; 2001, 53, 313; 58, 355; 2002, 29, 174; 50, 313; 53, 336; 62, 376; 2003, 13, 67; 23, 140; 2004, 46, 329);
- 4) an administrative authority satisfies the person's challenge in full or in part, to the extent in which the challenge is satisfied.

(2) A person who has received state legal aid in criminal and misdemeanour proceedings is released from the obligation to compensate for the state legal aid fee and state legal aid costs on the bases and pursuant to the procedure prescribed in Chapter 7 of the Code of Criminal Procedure and § 23 and subsection 38 (1) of the Code of Misdemeanour Procedure.

(3) A recipient of state legal aid shall not be released from the obligation to compensate for the state legal aid fee and state legal aid costs on the conditions prescribed in subsection (1) of this section to the extent in which the fee paid to the advocate and the necessary costs compensated to the advocate were caused by the failure of the recipient of state legal aid to appear, without a legal impediment, when summoned by the court or administrative authority or failure of the recipient of state legal aid to comply with a demand of the court or administrative authority if appearing or compliance with the demand is mandatory pursuant to law.

§ 28. Compensation obligation upon improvement of financial situation

(1) If a recipient of state legal aid was fully or partially released from compensation for the state legal aid fee and state legal aid costs, except on the bases prescribed in subsections 27 (1) or (2) of this Act, and his or her financial situation or solvency improves significantly during five years after termination of the provision of state legal aid, a court who decided on the grant of state legal aid shall, on the basis of an application of the Ministry of Finance or an authority within the area of government of the Ministry of Finance which is specified by the Minister of Finance, require that the person compensate for the state legal aid fee and state legal aid costs in a single payment or in instalments.

(2) Compensation for a state legal aid fee and state legal aid costs shall not be required if the estimated costs of collection exceed or equal the collectable amount or more than three years have passed since the claim for the compensation of the state legal aid fee and state legal aid costs fell due.

(3) The Ministry of Finance or an authority within the area of government of the Ministry of Finance which is specified by the Minister of Finance have the right to request supplementary evidence or information from persons who received state legal aid and credit institutions concerning the improvement of their financial situation or solvency within five years after termination of the provision of state legal aid. An inquiry must be responded to within a reasonable term determined by the Ministry of Finance or an authority within the area of government of the Ministry of Finance which is specified by the Minister of Finance.

§ 29. Compensation obligation upon submission of false information

(1) A court who decided on the grant of state legal aid shall, on the basis of an application of the Ministry of Finance or an authority within the area of government of the Ministry of Finance which is specified by the Minister of Finance, order payment of the state legal aid fee and state legal aid

costs in full extent from a person who has knowingly submitted false information upon application for state legal aid and who, upon submission of correct information, would not have been fully or partially released from the obligation to compensate for the state legal aid fee and state legal aid costs.

(2) Besides the state legal aid fee and state legal aid costs, the court shall order that the person who submitted false information pay an interest of 6 per cent per year on the amount of the state legal aid fee and state legal aid costs still unpaid calculated as of the payment of the fee and compensation for the costs to the provider of state legal aid.

Chapter 6

Financing of and Supervision over State Legal Aid

§ 30. Principles of financing state legal aid

(1) The provision of state legal aid is financed from funds allocated therefor from the state budget.

(2) The state shall ensure that sufficient funds are allocated for the provision of state legal aid.

(3) The Bar Association shall ensure that funds prescribed for the provision of state legal aid are kept separate from the other assets of the Bar Association.

§ 31. Support of activities of non-profit organisations

(1) Within the limits of the funds prescribed in the state budget, the state shall support non-profit associations or foundations if their activities are important to improve the accessibility of general legal counselling and they can ensure the grant of quality legal aid to persons requiring the aid.

(21.11.2007 entered into force 28.12.2007 - RT I 2007, 67, 413)

(2) A non-profit association or foundation applying for support shall submit an application for the receipt of support to the Ministry of Justice. An overview of the activities of the non-profit association or foundation during the last two years and a detailed project regarding use of the support applied for shall be appended to the application. The specific conditions and procedure for application for the support may be established by a regulation of the Minister of Justice.

§ 32. Reporting and supervision over activities of Bar Association

- (1) The Bar Association shall submit to the Ministry of Justice, not later than by 1 April each year, an overview of the provision of state legal aid in the previous year and payment of the state legal aid fee and state legal aid costs to advocates.
 - (2) The specific conditions for the use of funds allocated for the provision of state legal aid may be established by a regulation of the Minister of Justice
 - (3) The Ministry of Finance or an authority within the area of government of the Ministry of Finance which is specified by the Minister of Finance shall submit to the Ministry of Justice, not later than by 1 April each year, an overview of the state legal aid fee and state legal aid costs ordered from persons with the compensation obligation. The procedure for the submission of overviews shall be approved by a regulation of the Minister of Justice.
 - (4) Upon exercising supervision over the proper performance of functions arising from this Act by the Bar Association, the Ministry of Justice has the right to:
 - 1) receive documents from the Bar Association concerning the use of funds allocated for the provision of state legal aid and the payment of state legal aid fees and state legal aid costs;
 - 2) carry out inspection of the economic activities of the Bar Association in order to verify the expediency and purposefulness of use of money allocated for the provision of state legal aid;
- (03.12.2008 entered into force 01.01.2010 - [RT I 2009, 1, 1](#))
- 3) receive other information from the Bar Association necessary for supervision over the legality and efficiency of the use of funds allocated for the provision of state legal aid.

Chapter 7

International Legal Aid

§ 33. Grant of state legal aid in connection with proceedings regarding civil matter in court of member state of European Union and other body resolving disputes

- (1) An Estonian citizen or a person staying in Estonia on the basis of a residence permit who complies with the requirements of subsection 6 (1) of this Act may receive the state legal aid prescribed in clauses 4 (3) 4), 7)–9) in connection with proceedings regarding his or her civil matter in a court of a member state of the European Union and other body resolving disputes until legal aid is applied for from a competent body of the corresponding member state of the European Union.

(2) If state legal aid is granted in disputes specified in subsection (1) of this section, this Act applies taking account of the specifications provided for in this Chapter.

(3) An application for the receipt of state legal aid on the basis of subsection (1) of this section shall be submitted to Harju county court.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

(4) An application and the documents appended thereto may be submitted in Estonian or in English.

§ 34. Translation assistance in connection with proceedings regarding civil matter in court of member state of European Union and other body resolving disputes

(1) In addition to state legal aid prescribed in § 33 of this Act, an Estonian citizen or a person staying in Estonia on the basis of a residence permit, who complies with the requirements of subsection 6 (1) of this Act may receive translation assistance upon application for legal aid in disputes specified in subsection 33 (1) of this Act in a member state of the European Union where the competence of a court or another body resolving disputes includes the adjudication of his or her civil matter.

(2) The translation assistance specified in subsection (1) of this section means the translation of an application for legal aid submitted to a body processing applications for legal aid in a member state of the European Union and the necessary documents justifying the application and appended thereto into a foreign language in which the relevant bodies of the corresponding Member State process the applications for legal aid.

§ 35. Forwarding of applications for legal aid

(1) In order to receive state legal aid in connection with proceedings regarding a civil matter in a court of a member state of the European Union and other body resolving disputes, an application may be submitted to a competent body of the European Union or at the intermediation of Harju County Court. The provisions of § 193 of the Code of Civil Procedure apply to the forwarding of applications for state legal aid at the intermediation of Harju County Court;

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

(2) (Repealed - 15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

(3) (Repealed - 15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

- (4) (Repealed - 15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)
- (5) (Repealed - 15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)
- (6) (Repealed - 15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

§ 36. State legal aid in enforcement proceedings regarding official document of foreign state

- (1) A person specified in subsection 6 (1) of this Act may receive state legal aid specified in clause 4 (3) 7) of this Act pursuant to the procedure prescribed in this Act in connection with enforcement in Estonia of an official document of a foreign state which is recognised in Estonia.
- (2) An application for the receipt of state legal aid on the basis of subsection (1) of this section shall be submitted according to subsection 10 (3) of this Act.
- (3) An application and the documents appended thereto may be submitted in Estonian or in English.

§ 37. Grant of state legal aid for having recourse to European Court of Human Rights

- (1) An Estonian citizen or a person staying in Estonia on the basis of a residence permit who complies with the requirements of subsection 6 (1) of this Act may, pursuant to the procedure prescribed in this Act, receive state legal aid for filing an appeal with the European Court of Human Rights until the possibility to apply for legal aid from the European Court of Human Rights arises if the alleged violation of the Convention for the Protection of Human Rights and Fundamental Freedoms (RT II 1996, 11/12, 34; 2000, 11, 57) or Additional Protocols belonging thereto and binding on Estonia has been committed by the Estonian state and the appeal of the person is based thereon.
- (2) An application for the receipt of state legal aid on the basis of subsection (1) of this section shall be submitted according to subsection 10 (3) of this Act.
- (3) A county court shall refuse to grant state legal aid pursuant to subsection (1) of this section if the court finds that the filed appeal would not be acceptable according to Article 35 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

(15.06.2005 entered into force 01.01.2006 - RT I 2005, 39, 308)

Implementation of Act

§ 38. Application of Act to undertakings whose area of activity includes provision of legal services

- (1) A person who complies with the requirements of subsection 23 (1) of the Bar Association Act, regarding whom the circumstances specified in clauses 27 (1) 1)-3) and 5)-7) of the Bar Association Act do not exist and who after completion of the national curriculum of academic legal studies and immediately prior to joining the Bar Association has provided, for at least three consecutive years, legal services as a sole proprietor or through a company whose areas of activity includes the provision of legal services and in which he or she is a shareholder or a unit-holder shall be admitted to the Bar Association as a sworn advocate's senior clerk, if he or she has passed the examination of a sworn advocate's senior clerk. An application to be admitted to the Bar Association on the basis of this section shall be submitted to the Board of the Bar Association not later than by 1 September 2005.
- (2) A person admitted to the Bar Association according to this section may provide legal services and act as the management of a law office on the same bases with a sworn advocate.
- (3) A person specified in subsection (1) of this section who has passed the examination of a senior clerk of a sworn advocate shall lose the right to provide legal services and act as the management of a law office, if he or she does not pass the examination of a sworn advocate within two years as of joining the Bar Association. The examination of a sworn advocate cannot be passed before one year has passed after admitting the person as a member of the Bar Association as a sworn advocate's senior clerk.
- (4) A person who has become a member of the Bar Association pursuant to subsection (1) of this section shall, not later than within two months after becoming a member of the Bar Association, submit to the registrar of the commercial register an application for the transformation of a company through which the person provides legal services into a company of advocates. The provisions of subsection 54 (1) of the Bar Association Act apply to the company being transformed as of 1 January 2007. A sworn advocate's senior clerk who has become a member of the Bar Association pursuant to subsection (1) of this section is deemed to be equal to a sworn advocate within the meaning of § 54 of the Bar Association Act.
- (5) A person who applies for admission to the Bar Association pursuant to subsection (1) of this section shall, within six months after becoming a member of the Bar Association, bring its activities into compliance with § 82¹ of the Bar Association Act.

(6) The provisions of § 48 of the Bar Association Act concerning the professional liability insurance of advocates apply to a person who acts as the management of a law office and has become a member of the Bar Association pursuant to this section as of 1 January 2006.

(7) State fees are not charged for entry in the commercial register of the amendments made on the basis of this section.

§§ 39 - 48 (omitted from this text)

§ 49. Entry into force of Act

(1) This Act enters into force on 1 March 2005.

(2) Sections 33-35 of this Act enter into force on 30 November 2004, except in the part where state legal aid is applied for in extrajudicial proceedings. This Act applies to application for state legal aid in extrajudicial proceedings in international disputes as of 30 May 2006.

¹ RT = *Riigi Teataja* = *State Gazette*

² Ametlikud Teadaanded = *Official Notices*