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|------------------------|------------|
| Issuer: | Riigikogu |
| Type: | act |
| In force from: | 01.07.2021 |
| In force until: | In force |
| Translation published: | 15.09.2021 |

Prosecutor's Office Act

Passed 22.04.1998

RT I 1998, 41, 625

Entry into force 20.05.1998, in part 01.01.2001

Amended by the following acts

| Passed | Published | Entry into force |
|-------------------------------|----------------------|--|
| 25.11.1998 | RT I 1998, 110, 1812 | 31.12.1998 |
| 11.02.1999 | RT I 1999, 18, 303 | 24.02.1999 |
| 08.12.1999 | RT I 1999, 95, 839 | 01.01.2000 |
| 14.03.2000 | RT I 2000, 28, 167 | 16.04.2000 |
| 19.04.2000 | RT I 2000, 35, 222 | 01.07.2000 |
| 06.06.2001 | RT I 2001, 53, 315 | 30.06.2001 |
| 12.06.2002 | RT I 2002, 56, 350 | 01.09.2002 |
| 19.06.2002 | RT I 2002, 61, 375 | 01.08.2002 |
| 29.01.2003 | RT I 2003, 20, 116 | 10.03.2003 |
| 12.02.2003 | RT I 2003, 26, 159 | 21.03.2003 |
| 18.12.2003 | RT I 2003, 90, 601 | 01.01.2008 |
| 28.01.2004 | RT I 2004, 7, 40 | 01.03.2004 |
| 19.05.2004 | RT I 2004, 46, 329 | 01.07.2004, in part 01.01.2005 |
| 28.06.2004 | RT I 2004, 56, 403 | 01.03.2005 |
| consolidated text on paper RT | RT I 2004, 66, 457 | |
| 23.03.2005 | RT I 2005, 20, 127 | 24.04.2005 |
| 04.05.2005 | RT I 2005, 29, 212 | 05.06.2005 |
| 19.04.2006 | RT I 2006, 21, 160 | 25.05.2006, in part 01.01.2007 |
| 11.10.2006 | RT I 2006, 48, 357 | 18.11.2006 |
| 12.12.2007 | RT I 2008, 1, 3 | 14.01.2008 |
| 19.06.2008 | RT I 2008, 30, 191 | 01.07.2008 |
| 18.12.2008 | RT I 2009, 4, 26 | 26.01.2009 |
| 20.02.2009 | RT I 2009, 15, 93 | 01.03.2009 |
| 18.02.2009 | RT I 2009, 15, 94 | 10.03.2009, applied to persons in respect of whom a judgment of conviction enters into force after the entry into force of the Act. |
| 16.12.2009 | RT I 2010, 1, 2 | 01.01.2012, enters into force on the starting date of authority of XII composition of the Riigikogu, date of entry into force changed; amendment omitted [RT I, 28.12.2011, 1] |
| 08.12.2010 | RT I, 28.12.2010, 6 | 01.01.2012 |
| 09.02.2011 | RT I, 04.03.2011, 1 | 01.04.2011 |
| 16.02.2011 | RT I, 16.03.2011, 2 | 26.03.2011 |
| 07.12.2011 | RT I, 22.12.2011, 1 | 01.01.2013 |
| 07.12.2011 | RT I, 28.12.2011, 1 | 01.01.2012 |
| 06.06.2012 | RT I, 29.06.2012, 1 | 01.04.2013 |
| 06.06.2012 | RT I, 29.06.2012, 2 | 09.07.2012, in part 01.01.2013 |
| 13.06.2012 | RT I, 06.07.2012, 1 | 01.04.2013 |

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| 05.12.2012 | RT I, 21.12.2012, 1 | 01.03.2013 |
| 19.06.2014 | RT I, 29.06.2014, 109 | 01.07.2014, the titles of ministers replaced on the basis of subsection 107 ³ (4) of the Government of the Republic Act in the wording in force as of 1 July 2014. |
| 19.11.2014 | RT I, 13.12.2014, 1 | 01.01.2016, in part 01.01.2021; date of entry into force changed 01.07.2016 and in part 01.07.2021 [RT I, 17.12.2015, 1] |
| 18.02.2015 | RT I, 10.03.2015, 3 | 01.04.2015, throughout the Estonian text of the Act, except in Chapter 5, the words "prokuröri abi" have been replaced with the word "abiprokurör" in the appropriate case form. |
| 25.11.2015 | RT I, 17.12.2015, 1 | 20.12.2015, in part 01.07.2016 and 01.07.2021 |
| 01.06.2016 | RT I, 22.06.2016, 1 | 01.01.2018 |
| 06.12.2017 | RT I, 28.12.2017, 1 | 01.01.2018, in part 01.03.2018 |
| 14.06.2018 | RT I, 06.07.2018, 3 | 01.01.2020, in part 16.07.2018 |
| 20.02.2019 | RT I, 13.03.2019, 2 | 15.03.2019 |
| 04.12.2019 | RT I, 19.12.2019, 1 | 01.01.2020, in part 01.07.2021 |
| 20.05.2020 | RT I, 02.06.2020, 1 | 12.06.2020 |

Chapter 1 GENERAL PROVISIONS

§ 1. Prosecutor's office

(1) The prosecutor's office is a government agency within the area of government of the Ministry of Justice which participates in the planning of surveillance necessary to combat and detect criminal offences, directs pre-trial criminal procedure and ensures the legality and efficiency thereof, represents public prosecution in court and performs other duties assigned to the prosecutor's office by law.
[RT I 2004, 46, 329 – entry into force 01.07.2004]

(1¹) The prosecutor's office is independent in the performance of its functions arising from law, and it acts pursuant to this Act, other Acts, and legislation issued on the basis thereof.
[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

(2) The prosecutor's office is divided into the Office of the Prosecutor General and into district prosecutor's offices subordinate to it.

§ 2. Prosecutors

(1) Prosecutors are the prosecutors of the Office of the Prosecutor General and prosecutors of the district prosecutor's offices.

(2) Prosecutors shall be independent in the performance of their duties and act only pursuant to law and according to their conscience.
[RT I 2004, 7, 40 – entry into force 01.03.2004]

Chapter 2 ORGANISATION OF PROSECUTOR'S OFFICE

§ 3. Prosecutor General

(1) The Prosecutor General shall direct the prosecutor's office and perform other duties imposed on him or her by law.

(2) If the Prosecutor General is temporarily unable to perform his or her duties due to illness or other hindrance, the minister responsible for the area shall designate a substitute for him or her from among the prosecutors of the Office of the Prosecutor General.
[RT I 2004, 7, 40 – entry into force 01.03.2004]

§ 4. Office of Prosecutor General

(1) The prosecutors of the Office of the Prosecutor General shall ensure the legality and efficacy of pre-trial procedure, represent public prosecutions in the courts and perform other duties imposed on them by law.

(2) The prosecutors of the Office of the Prosecutor General are the Prosecutor General, the chief state prosecutors, state prosecutors and assistant prosecutors.

(3) The Office of the Prosecutor General may be divided into departments, which shall be approved by the minister responsible for the area. The Prosecutor General shall designate the state prosecutors and assistant prosecutors who belong to the departments.

[RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 4¹. Chief state prosecutors

(1) Chief state prosecutors direct the departments of the Office of the Prosecutor General and perform other duties imposed on them by law.

(2) Within their area of responsibility, chief state prosecutors have the right to issue orders to district prosecutor's offices.

(3) The Prosecutor General shall designate substitutes for chief state prosecutors from among the prosecutors of the Office of the Prosecutor General for the event of temporary inability of chief state prosecutors to perform their duties due to illness or other hindrance.

[RT I 2004, 7, 40 – entry into force 01.03.2004]

§ 5. District prosecutor's office

(1) The prosecutors of a district prosecutor's office shall ensure the legality and efficacy of pre-trial procedure, represent public prosecutions in the courts and perform other duties imposed on them by law.

(2) The prosecutors of a district prosecutor's office are the chief prosecutor, senior prosecutors, specialised prosecutors, district prosecutors and assistant prosecutors.

(3) The location and territorial jurisdiction of a district prosecutor's office shall be established by a regulation of the Government of the Republic.

(4) A district prosecutor's office may be divided into departments, which shall be approved by the minister responsible for the area. A chief prosecutor shall appoint specialised prosecutors, district prosecutors and assistant prosecutors to departments. A chief prosecutor has the right to transfer a district prosecutor to another regional department within the same territorial jurisdiction without a public competition with his or her consent.

[RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 5¹. Number of prosecutors

The minister responsible for the area shall determine the number of prosecutors in the Office of the Prosecutor General and prosecutors in the district prosecutor's offices.

[RT I 2004, 7, 40 – entry into force 01.03.2004]

§ 5². Chief prosecutor

(1) Chief prosecutors direct district prosecutor's offices and perform other duties imposed on them by law.

(2) The Prosecutor General shall designate substitutes for chief prosecutors for the event of temporary inability of chief prosecutors to perform their duties due to illness or other hindrance.

[RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 6. Senior prosecutor

(1) Senior prosecutors direct the departments of district prosecutor's offices and perform other duties imposed on them by law.

(2) A chief prosecutor shall designate substitutes for senior prosecutors from among the prosecutors of district prosecutor's offices for the event of temporary inability of senior prosecutors to perform their duties due to illness or other hindrance.

[RT I 2004, 7, 40 – entry into force 01.03.2004]

§ 7. Assistant prosecutor

(1) Assistant prosecutors shall act under the supervision of the Prosecutor General, chief state prosecutor, chief prosecutor, state prosecutor, senior prosecutor, specialised prosecutor or district prosecutor.

(2) Assistant prosecutors may perform the duties imposed on prosecutors in court proceedings regarding criminal matters sent to court pursuant to the general procedure to the extent as to which higher ranking prosecutors have authorised them in specific criminal proceedings.
[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

(3) Assistant prosecutors shall not be members of the prosecutors' competition committee or prosecutors' disciplinary committee.
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

§ 7¹. European Prosecutor

(1) A European Prosecutor is a person appointed from Estonia to the European Public Prosecutor's Office pursuant to Article 16(3) of Council Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, pp 1-71).

(2) A European Prosecutor shall not belong to the Estonian prosecutors' service and is independent of the Estonian Prosecutor's Office in his or her activities.

(3) The provisions of this Act shall not apply to a European Prosecutor, unless otherwise provided by law.
[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

§ 7². European Delegated Prosecutor

(1) A European Delegated Prosecutor is a person appointed from Estonia to the European Public Prosecutor's Office pursuant to Article 17 of Council Regulation (EU) 2017/1939. In the performance of the functions pursuant to the Regulation, a European Delegated Prosecutor shall be outside the Estonian prosecutor's service and independent of the Estonian prosecutor's office in his or her activities.

(2) A European Delegated Prosecutor may perform the functions of a national prosecutor based on a decision of the Prosecutor General insofar this does not prevent him or her from performing any functions arising from Council Regulation (EU) 2017/1939.

(3) In the performance of any functions arising from Council Regulation (EU) 2017/1939, the provisions of this Act shall not apply to a European Delegated Prosecutor, unless otherwise provided by law. In the performance of the functions of a national prosecutor, all the provisions of this Act apply to a European Delegated Prosecutor.

(4) A Delegated Prosecutor appointed from Estonia shall be appointed a state prosecutor for the term of office of the Delegated Prosecutor.
[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

§ 8. Plan for division of duties

(1) After considering the opinion of the prosecutors of the Office of the Prosecutor General, the Prosecutor General shall determine their division of duties. A chief prosecutor shall determine the division of duties of prosecutors of a district prosecutor's office after considering the opinion of the prosecutors of the district prosecutor's office.

(2) Duties shall be divided according to type of criminal offence, offender or other general criteria. The procedure for the substitution of prosecutors shall also be determined in a plan for the division of duties.

(3) A plan for the division of duties may be amended only with compelling reason.
[RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 9. Supervisory control

(1) The Ministry of Justice shall exercise supervisory control over the prosecutor's office. The supervisory control over the prosecutor's office exercised by the Ministry of Justice does not extend to the activities of the prosecutor's office in planning of surveillance, pre-trial criminal proceedings and representing of public prosecution in court.
[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

(2) The Prosecutor General shall exercise supervisory control in the prosecutor's office, and chief prosecutors shall exercise supervisory control in district prosecutor's offices.
[RT I 2004, 7, 40 – entry into force 01.03.2004]

(3) Persons exercising supervisory control have the right to demand explanations and information from prosecutors under their supervisory control.

(4) No supervisory control shall be exercised pursuant to this section over a European Delegated Prosecutor, if his or her activities are connected to performance of the functions arising from Council Regulation (EU) 2017/1939.

[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

§ 10. Substitution

The Prosecutor General or a chief prosecutor may, with compelling reason, substitute for a subordinate prosecutor in criminal proceedings or impose such obligation on another subordinate prosecutor, who shall not be a subordinate of the person substituted. A substitution order shall be in writing, shall set out the extent to which one person substitutes for another and shall justify the need for substitution.

[RT I 2004, 7, 40 – entry into force 01.03.2004]

§ 11. Reporting

(1) The Prosecutor General shall submit a consolidated activity report of the prosecutor's office to the minister responsible for the area once a year. The term for submission of the reports and the requirements for the reports shall be established by a directive of the minister responsible for the area.

(2) The Prosecutor General shall present to the Constitutional Committee of the *Riigikogus* each year at the spring session of the *Riigikogus* overview of the performance of the duties imposed on the prosecutor's office by law during the previous calendar year.

(3) In addition to the regular reports specified in subsections (1) and (2) of this section, the Prosecutor General may submit to the Constitutional Committee of the *Riigikogus* reports concerning significant issues which have an extensive effect or need prompt settlement and which become known in the course of the activities of the prosecutor's office.

[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

§ 11¹. Administration department

(1) For the performance of administrative functions, an administration department may be formed in the prosecutor's office, which shall be approved by the minister responsible for the area.

(2) An administration department shall be directed by the director of administration.

[RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 12. Statutes of Prosecutor's Office

The minister responsible for the area shall approve the statutes of the prosecutor's office.

Chapter 3 PROSECUTORS' ASSEMBLY

§ 13. Prosecutors' Assembly

(1) The Prosecutors' Assembly is a meeting of all prosecutors, which shall be convened at least once a year.
[RT I 2005, 20, 127 – entry into force 24.04.2005]

(2) The Prosecutors' Assembly shall:

1) elect two prosecutors from district prosecutor's offices and one prosecutor from the Office of the Prosecutor General as members of the prosecutors' competition committee;
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

2) elect a total of two prosecutors from district prosecutor's offices, and two prosecutors from the Office of the Prosecutor General as members of the disciplinary committee;

2¹) elect a member of the professional suitability assessment committee of the Estonian Bar Association who is a Prosecutor and his or her alternate member;

[RT I, 10.03.2015, 3 – entry into force 01.04.2015]

3) approve the procedures of the Prosecutors' Assembly;

4) hear reports of the minister responsible for the area and the Prosecutor General concerning the activities of the prosecutor's offices;

5) consider issues concerning the activities of the prosecutor's offices and prosecutors' service and make proposals for the resolution thereof.

(3) The Prosecutor General shall convene the Prosecutors' Assembly and direct its activities.

Chapter 4 PROSECUTORS' SERVICE

Subchapter 1 General Provisions

§ 14. Application of Public Service Act in respect of prosecutors

The provisions of the Public Service Act apply to prosecutors' service unless otherwise provided by this Act.

Subchapter 2 Appointment to Office

§ 15. Requirements for prosecutors

(1) A citizen of the Republic of Estonia with active legal capacity who has attained at least 21 years of age may be appointed as a Prosecutor provided that he or she:

[RT I, 10.03.2015, 3 – entry into force 01.04.2015]

1) has acquired in the field of law at least an officially certified Master's degree, a corresponding qualification for the purposes of subsection 28 (2²) of the Republic of Estonia Education Act or a corresponding foreign qualification;

[RT I 2008, 30, 191 – entry into force 01.07.2008]

2) has proficiency of the Estonian language at the level C1 provided for by the Language Act or a corresponding level;

[RT I 2009, 4, 26 – entry into force 26.01.2009]

3) is of high moral character;

[RT I 2008, 1, 3 – entry into force 14.01.2008]

4) has the abilities and personal characteristics necessary for working as a prosecutor.

[RT I 2008, 1, 3 – entry into force 14.01.2008]

(1¹) [Repealed – RT I, 10.03.2015, 3 – entry into force 01.04.2015]

(2) The following shall not be appointed as a prosecutor:

1) a person in respect of whom a conviction for an intentionally committed criminal offence has entered into force;

2) a person who has been released from the public service for a disciplinary offence;

3) a person who has been disbarred from the Estonian Bar Association or expelled from the notarial profession;

4) a person who is a spouse, cohabitant or grandparent of the person who exercises direct control over the position of or of direct superior of a prosecutor, or who is a parent or a relative in descending line of the person exercising direct control over the position of or direct superior of a prosecutor or their spouse or cohabitant, including a child and grandchild. A parent is also deemed to include an adoptive parent and foster parent, and a relative in descending line is also deemed to include an adopted child and foster child. The specified restriction also applies to filling of the position of the person exercising direct control over the position of or direct superior of a prosecutor;

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

5) a person who due to his or her state of health is unable to work as a prosecutor. In the case of doubt, a medical committee shall determine the state of health of a person.

(3) A person who has been employed for one year as a prosecutor or for three years as a judge, police officer, sworn advocate or in another position which requires in-depth knowledge of penal law and procedure may be appointed as a district prosecutor.

[RT I, 21.12.2012, 1 – entry into force 01.03.2013]

(4) A person who is employed as a prosecutor, except an assistant prosecutor, before appointment to office may be appointed as a specialised prosecutor.

[RT I 2004, 46, 329 – entry into force 01.07.2004]

(5) A person who has been employed as a judge, prosecutor, police officer or sworn advocate for three years before appointment to office may be appointed as a chief prosecutor or senior prosecutor.

[RT I, 10.03.2015, 3 – entry into force 01.04.2015]

(6) A person who has been employed in a position which requires high qualification in law for at least two years may be appointed as a chief state prosecutor and a state prosecutor.

[RT I 2008, 1, 3 – entry into force 14.01.2008]

(7) [Repealed – RT I 2008, 1, 3 – entry into force 14.01.2008]

(8) A person who is an experienced and recognised lawyer may be appointed as the Prosecutor General.

§ 15¹. Scrutiny of background of persons applying for prosecutor's service

(1) A person who applies for prosecutor's service shall submit the following to the prosecutors' competition committee:

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

- 1) the form concerning personal data;
- 2) declaration of interests conforming to the requirements provided for in the Anti-corruption Act as at the first day of the month preceding the application.

[RT I, 29.06.2012, 1 – entry into force 01.04.2013]

(2) In the form concerning personal data, the applicant shall also indicate the given names, surnames, personal identification codes (in the absence of identification code, the date and place of birth) and details of the applicant's relatives and relatives by marriage (parents, sisters, brothers, children, spouse, former spouse).

(2¹) The data specified in subsection (2) of this section shall be stored five years as of application for prosecutor's service or five years after leaving the service.

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(3) The detailed composition and form of the questionnaire used to assess persons who apply for prosecutor's service shall be approved by the minister responsible for the area.

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(4) In order to verify the information submitted pursuant to the provisions of subsection (1) of this section, the Prosecutor General and officials of the prosecutor's office authorised by him or her have the right to:

[RT I, 29.06.2012, 1 – entry into force 01.04.2013]

- 1) address local government agencies, officials of local governments, legal persons and natural persons by inquiry concerning the personal data of a person applying for prosecutor's service;
- 2) interview the person indicated in the form concerning personal data, and with employers, representatives of educational institutions and other persons in order to ascertain the moral character and other personal characteristics of the person and if necessary, obtain a written explanation from the interviewed person with his or her permission;
- 3) ascertain whether the persons specified in subsection (2) of this section participate in a criminal proceeding as the suspect or the accused;

[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

- 4) examine the data obtained by surveillance activities.

[RT I, 29.06.2012, 2 – entry into force 01.01.2013]

(5) An agency or person who receives the inquiry specified in this section shall immediately answer the inquiry.

(6) The prosecutors' competition committee shall immediately inform a person applying for prosecutor's service of the scrutiny conducted with regard to his or her background and enable to examine the materials gathered in the process of the checks.

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

(7) If a person who applies for prosecutor's service intentionally presents incorrect data to the prosecutors' competition committee or conceals material information, such person is excluded from the competition by resolution of the prosecutors' competition committee.

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

(8) Prosecutor's offices may restrict the rights of persons who apply for prosecutor's service arising from Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88) if this is required in order to prevent, detect, proceed an offence or enforce a punishment, prevent any damage to the rights and freedoms of another person or data subjects, prevent endangering of national security or ensure maintenance of public order.

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(9) Pursuant to subsection (8) of this section, the following rights of data subject arising from Regulation (EU) 2016/679 of the European Parliament and of the Council may be restricted:

- 1) the right to know that their personal data are processed, including what personal data are processed, and the way, method, objective, legal basis, extent or cause of processing;
- 2) the right to know the recipients of their personal data and categories of personal data disclosed and information about whether their personal data are transmitted to foreign countries or international organizations;
- 3) the right to demand restrictions on processing of their personal data;
- 4) the right to object to processing of their personal data;

5) the right to know about breaches related to their personal data.
[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

§ 16. Appointment of prosecutors to office

(1) The Government of the Republic shall appoint the Prosecutor General to office on the proposal of the minister responsible for the area after considering the opinion of the Legal Affairs Committee of the *Riigikogu*.

(2) The minister responsible for the area shall appoint the chief state prosecutor, state prosecutor or chief prosecutor to office on the proposal of the Prosecutor General.
[RT I 2008, 1, 3 – entry into force 14.01.2008]

(3) The Prosecutor General shall appoint senior prosecutors to office on the proposal of chief prosecutors.

(4) [Repealed – RT I 2008, 1, 3 – entry into force 14.01.2008]

(5) The Prosecutor General shall appoint specialised prosecutors, district prosecutors and assistant prosecutors to office on the proposal of the prosecutors' competition committee.
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

(6) A person may be appointed as the Prosecutor General or a chief prosecutor if he or she gives written consent for such appointment.

(7) A person shall not be appointed as a prosecutor if he or she does not meet the requirements for prosecutors. A decision not to appoint a person as a prosecutor shall be justified.
[RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 16¹. Transfer of prosecutors

(1) The minister responsible for the area has the right to transfer, without a public competition, a chief state prosecutor, chief prosecutor or state prosecutor on the basis of his or her written application to a position of a lower prosecutor to be filled by way of public competition.

(2) The Prosecutor General has the right to transfer, without a public competition, a senior prosecutor, specialised prosecutor or district prosecutor on the basis of his or her written application to a position of a lower prosecutor to be filled by way of public competition.

(3) The Prosecutor General has the right to transfer a specialised prosecutor, district prosecutor or assistant prosecutor to the same position in another prosecutor's office without a public competition with his or her consent.

(4) If a prosecutor is transferred from one service area to another, the expenses arising from change of residence may be compensated to the prosecutor within two months after moving to the new service area.

(5) The procedure for compensation for expenses specified in subsection (4) of this section shall be established by a regulation of the minister responsible for the area.
[RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 17. Prosecutors' term of office

(1) The Prosecutor General and a chief prosecutor shall be appointed to office for a term of five years.

(2) A chief state prosecutor, state prosecutor, senior prosecutor, specialised prosecutor and assistant prosecutor shall be appointed to office for an unspecified term.

(3) A substitute state prosecutor, specialised prosecutor, district prosecutor or assistant prosecutor shall be appointed to office for a specified term until the return to or release from office of the person substituted. A substitute state prosecutor, specialised prosecutor, district prosecutor or assistant prosecutor may, with his or her consent, be appointed to a vacant position of the same or a lower prosecutor for an unspecified term during the substitution and one year after the end of the substitution without a public competition.
[RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 18. Public competition

(1) A specialised prosecutor, district prosecutor and assistant prosecutor shall be appointed to office on the basis of a public competition.
[RT I 2008, 1, 3 – entry into force 14.01.2008]

(2) The Prosecutor General authorised to appoint prosecutors to office shall announce a public competition for the position of a specialised prosecutor, district prosecutor and assistant prosecutor in the official publication *Ametlikud Teadaanded*. Applicants shall be given at least two weeks after the date of publication of the notice for submission of their applications.

[RT I 2008, 1, 3 – entry into force 14.01.2008]

(3) The Prosecutor General, chief state prosecutors, state prosecutors, chief prosecutors and senior prosecutors may be appointed to office without a public competition.

[RT I 2008, 1, 3 – entry into force 14.01.2008]

(4) [Repealed – RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 19. Assessment of participants in public competition

(1) The prosecutors' competition committee shall assess the suitability of an applicant for a position.

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

(2) If a prosecutor applies for a vacant position, the prosecutor to whom the applicant is directly subordinate shall present a reasoned opinion on the applicant to the prosecutors' competition committee.

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

§ 20. [Repealed – RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 21. [Repealed – RT I 2004, 46, 329 – entry into force 01.07.2004]

Subchapter 3 Benefits Related to Office and Guarantees of Independence

§ 22. Salary

(1) The salary of the Prosecutor General is provided for in the High-Ranking State Public Servants Salaries Act.

(2) The salary of prosecutors, except for the Prosecutor General and assistant prosecutor, shall be determined as a percentage of the salary of the Chief of the Prosecutor General as follows:

- 1) chief state prosecutor – the salary is 95 percent of the salary of the Prosecutor General;
- 2) chief prosecutor – the salary is 90 percent of the salary of the Prosecutor General;
- 3) state prosecutor – the salary is 80 percent of the salary of the Prosecutor General;
- 4) senior prosecutor – the salary is 75 percent of the salary of the Prosecutor General;
- 5) specialised prosecutor – the salary is 75 percent of the salary of the Prosecutor General;
- 6) district prosecutor – the salary is 70 percent of the salary of the Prosecutor General.

(3) The salary of an assistant prosecutor may not exceed the salary of a district prosecutor and be less than 60 percent of the salary of a district prosecutor after a probationary period.

(4) The Prosecutor General may increase the salary of the prosecutors appointed or transferred to the Ida-Viru county Viru District Prosecutor's Office by up to 1000 euros for the term of up to four years.

(5) The amount of the salary prescribed in subsection (4) of this section shall be decided by the Prosecutor General separately in the case of each prosecutor appointed or transferred.

(6) The Prosecutor General, being guided by the principles provided for in the Public Service Act, may determine a performance pay to a prosecutor as a variable salary on the basis of established criteria for a specific job or a period, a bonus for exceptional service achievements or additional remuneration for the performance of supplementary service duties. No variable salary shall be paid to the Prosecutor General.

(7) The basis for determining a performance pay is the assessment given to the work results of the prosecutor.

(8) The basis for determination of a performance pay may also be the assessment given to the work of the agency or any structural entity thereof which takes into consideration the collective contribution to the upon achievement of the objectives of the agency. The performance of the agency or any structural entity thereof upon achievement of the objectives shall be assessed by the Prosecutor General.

(9) Supplementary service duties shall be deemed to include the service duties entrusted to a prosecutor by the Prosecutor General, prosecutor's direct superior or head of structural entity but not specified in the division of duties.

(10) The terms and conditions of and procedure for payment of prosecutors' variable salaries and the grounds for formation of the salaries of assistant prosecutors shall be established in the salary guide for prosecutor's offices. The salary guide shall be established by a directive of the minister responsible for the area.

[RT I, 28.12.2017, 1 – entry into force 01.01.2018]

§ 22¹. Prosecutor's holiday

(1) Prosecutors have the right to receive an annual holiday.

(2) A prosecutor's holiday lasts 35 calendar days.
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

(3) [Repealed – RT I, 06.07.2012, 1 – entry into force 01.04.2013]

(4) The Prosecutor General shall approve the holiday schedule of prosecutors in the Office of the Prosecutor General and a chief prosecutor shall approve the holiday schedule of prosecutors in a district prosecutor's office.

(5) The Prosecutor General and a chief prosecutor may, based on the interests of work management, establish restrictions on the length of holiday and time of holiday taken at a time. In such case, the duration of one continuous part of holiday must be at least 14 calendar days and, at the request of the prosecutor, 21 calendar days. The duration of other parts of the holiday may be shorter.
[RT I 2004, 46, 329 – entry into force 01.01.2005]

§ 22². On-call time

(1) On-call time is the time during which a prosecutor shall be available outside of working time for the performance of unforeseeable or urgent duties.

(2) On-call time specified in subsection (1) is considered part of rest time. Upon implementation of on-call time, the provisions of § 48 the Employment Contracts Act shall not apply to a prosecutor.

(3) Additional remuneration of up to ten per cent of the prosecutor's salary shall be paid for on-call time. The procedure for and cases of payment of additional remuneration shall be established by a regulation of the minister responsible for the area.

(4) The duration of on-call time shall not exceed 250 hours per month without the consent of the prosecutor.

(5) The portion of on-call time during which the prosecutor performs his or her duties is considered his or her working time. In such case the requirement provided for in §§ 51 and 52 of the Employment Contracts Act concerning consecutive rest periods shall not apply to the prosecutor.
[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

§ 22³. Representation expenses of Prosecutor General

The Prosecutor General shall be paid 20 percent of his or her salary on monthly basis for representation expenses.
[RT I, 28.12.2017, 1 – entry into force 01.01.2018]

§ 23. [Repealed – RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 23¹. Application of incentive

The Prosecutor General shall apply incentives with regard to prosecutors.
[RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 24. Compensation for proprietary damage

The state shall compensate a prosecutor and his or her family members for any proprietary damage which they suffer during the performance of the duties of the prosecutor.

§ 25. Prosecutor's old-age pension

[Repealed – RT I, 06.07.2018, 3 – entry into force 01.01.2020]

§ 26. Prosecutors' pension for incapacity for work

[Repealed – RT I, 13.12.2014, 1 – entry into force 01.07.2016 (entry into force changed to - RT I, 17.12.2015, 1)]

§ 26¹. Allowance upon attack against prosecutor

[Repealed – RT I, 13.12.2014, 1 – entry into force 01.07.2016 (entry into force changed to - RT I, 17.12.2015, 1)]

§ 27. [Repealed – RT I 2001, 53, 315 – entry into force 30.06.2001]

Subchapter 4 Duties

§ 28. Obligation of professional secrecy

A prosecutor shall not disclose information which becomes known to him or her in connection with the performance of his or her duties if this may prejudice the administration of justice. The obligation of professional secrecy has an unspecified term.

§ 29. Duty to supervise

(1) Prosecutors are required to supervise trainees on the orders of the Prosecutor General or chief prosecutors.

(2) No prosecutor shall be required to supervise more than one trainee at a time.

[RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 30. Restrictions on activities

(1) A prosecutor shall not be a member of a political party.

(2) The Prosecutor General shall not be in any elected or appointed office outside his or her official duties. The Prosecutor General shall immediately inform the minister responsible for the area in writing if he or she acts or intends to act outside his or her official duties based on a contract of employment or contract for provision of services as an undertaking or a general partner in a general or limited partnership or a member of the management or controlling body of a legal person. Official duties for the purposes of this section have the meaning assigned to them in the Anti-corruption Act.

(3) The minister responsible for the area prohibits the Prosecutor General by an administrative act from engaging in full or in part in the ancillary activities specified in subsection (1) of this section, if the volume of labour spent on the ancillary activities or the nature thereof hinders regular performance of his or her duties or if the ancillary activity brings about a breach of duties.

[RT I, 29.06.2012, 1 – entry into force 01.04.2013]

Subchapter 5 Disciplinary Liability

§ 31. Disciplinary offences and disciplinary penalties

(1) A disciplinary penalty may be imposed on a prosecutor for a disciplinary offence.

(2) Disciplinary offences are:

- 1) wrongful non-performance or unsatisfactory performance of duties;
- 2) indecent act – a wrongful act which is in conflict with the generally recognised moral standards or which discredits the prosecutor or the prosecutor's office, regardless of whether such act is committed in the performance of duties or not.

(3) Disciplinary penalties are:

- 1) reprimand;
- 2) [Repealed – RT I, 06.07.2012, 1 – entry into force 01.04.2013]
- 3) reduction of salary by up to 30% for up to one year;
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]
- 4) release from service.
[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

§ 32. Initiation of disciplinary proceedings

(1) Disciplinary proceedings shall be initiated if elements of a disciplinary offence become evident. An interested person may submit an application for the initiation of disciplinary proceedings. An application for the initiation of disciplinary proceedings shall be submitted within six months after the date on which the person submitting the application became or should have become aware of the circumstances on which the application was based.

(2) Disciplinary proceedings shall be initiated at the request of an interested person or on their own initiative by:

- 1) the minister responsible for the area against the Prosecutor General, chief state prosecutor or chief prosecutor;
- 2) the Prosecutor General against all prosecutors;
- 3) a chief prosecutor against the prosecutors of a district prosecutor's office subordinate to him or her.

(3) In the case specified in subsection (2) 1) of this section, the minister responsible for the area may determine upon initiation of the disciplinary proceedings that the Minister of Justice shall hear the disciplinary offence.

[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

§ 32¹. Disciplinary liability of European Delegated Prosecutor

(1) Disciplinary proceedings may be conducted with respect to a European Delegated Prosecutor.

(2) If the need to initiate disciplinary proceedings is related to performance by a European Delegated Prosecutor of the functions of a national prosecutor, the Prosecutor General shall inform the European Chief Prosecutor before initiating the proceedings.

(3) If the need to initiate disciplinary proceedings is related to performance of the functions by a European Delegated Prosecutor arising from Council Regulation (EU) 2017/1939, there must be a consent of the European Chief Prosecutor for initiation of disciplinary proceedings, including in the case the disciplinary proceedings are initiated after removal of the European Delegated Prosecutor from the European Public Prosecutor's Office.

[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

§ 33. Preliminary processing of disciplinary offence

(1) A person who initiates disciplinary proceedings shall conduct the preliminary processing of the disciplinary offence. The minister responsible for the area may assign the task of conducting the preliminary processing of disciplinary proceedings initiated by the Minister of Justice against a chief state prosecutor or a chief prosecutor to the Prosecutor General.

(2) A person who conducts the preliminary processing of a disciplinary offence may gather evidence and demand explanations which are necessary to adjudicate the disciplinary matter. It is compulsory to demand explanations from the prosecutor against whom disciplinary proceedings are initiated.

(3) The person conducting the preliminary processing of a disciplinary offence may assign the task of gathering evidence and demanding explanations to a prosecutor designated by such person. The task cannot be assigned to a prosecutor who is a member of the prosecutors' disciplinary committee, a prosecutor against whom the disciplinary proceeding is initiated or prosecutors subordinate to him or her.

[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

§ 34. Suspension of prosecutor

(1) A person who conducts preliminary processing of a disciplinary offence may suspend the prosecutor for the time of the disciplinary proceedings.

(2) Suspension shall be formalised in an administrative act.

(3) A prosecutor shall be paid 60 percent of his or her average salary for the last six months during the period when the prosecutor is suspended on the basis of subsection (1) of this section, but not less than the minimum salary established on the basis of subsection 29 (5) of the Employment Contracts Act. If the guilt of a prosecutor is not proved to the extent which would result in release from service and he or she is not punished under disciplinary procedure by release from service, the outstanding salary shall be paid to him or her retroactively.

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

§ 35. Disciplinary charge

(1) If, in the course of preliminary processing of a disciplinary offence, all the necessary evidence and explanations have been collected, a person who conducts the preliminary processing of the disciplinary offence or a prosecutor designated thereby shall prepare a disciplinary charge.

(2) A disciplinary charge is a written document, which shall set out:

- 1) the given name, surname and title of the prosecutor charged with a disciplinary offence;
- 2) the description and time of commission of the offence;
- 3) the evidence proving commission of the offence;
- 4) the person conducting the preliminary processing of the disciplinary offence and the name and position of the person who prepared the charge;
- 5) the date and place of preparation of the charge.

(3) The person conducting the preliminary processing of the disciplinary offence shall submit the disciplinary charge to the disciplinary committee or in the case specified in subsection 32 (3) of this Act to the minister responsible for the area.

(4) A disciplinary charge shall not be brought and a disciplinary proceeding shall be terminated if more than three years have passed from the commission of the disciplinary offence.
[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

§ 36. Hearing of disciplinary offence

(1) The prosecutors' disciplinary committee or in the cases specified in subsection 32 (3) of this Act the minister responsible for the area shall hear a prosecutor's disciplinary offence.

(2) If it is necessary to gather supplementary evidence, the person hearing the disciplinary offence shall defer the hearing of the disciplinary offence, determine the time and place of the next session and assign the task of gathering supplementary evidence to the person conducting the preliminary processing of the disciplinary offence or the person who prepared the charge.

(3) The disciplinary committee shall comprise two prosecutors of the Office of the Prosecutor General, two prosecutors from district prosecutor's offices and one judge elected by the Court *en banc*. The disciplinary committee shall be elected for three years. The disciplinary committee shall elect the chairman of the disciplinary committee from among its members who are prosecutors.

(4) The minister responsible for the area shall establish the procedures of the disciplinary committee by a regulation.
[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

§ 37. Preparation for session of disciplinary committee

(1) The chairman of the disciplinary committee or in the cases specified in subsection 32 (3) of this Act the minister responsible for the area shall determine the time and place of the session of the disciplinary committee.

(2) The person who conducts the preliminary processing of the disciplinary offence and the person having prepared the charge and the prosecutor charged shall be invited to the session. In the case an assistant prosecutor is charged with a disciplinary offence, his or her supervising prosecutor shall also be invited to the session of the disciplinary committee.
[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

§ 38. Right to examine disciplinary charge materials

(1) The prosecutor charged with a disciplinary offence shall be given the disciplinary charge at least three days before the session of the disciplinary committee is held.

(2) The prosecutor charged with a disciplinary offence has the right to examine the materials of the disciplinary charge. The materials of a disciplinary charge brought against an assistant prosecutor may also be examined by his or her supervising prosecutor.
[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

§ 39. Session of disciplinary committee

(1) The disciplinary committee shall consider a disciplinary offence in a closed session.

(2) The disciplinary committee has the capacity to exercise will if at least three members of the disciplinary committee, including the chairman, participate in the session.

(3) The chairman of the disciplinary committee shall chair sessions of the disciplinary committee.

(4) A member of the disciplinary committee cannot participate in the consideration of the disciplinary charge brought against him or her.
[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

§ 40. Decision of disciplinary committee upon hearing of disciplinary offences

(1) By a decision of the disciplinary committee, a proposal to impose or not to impose a disciplinary penalty shall be made to the minister responsible for the area or the Prosecutor General, or the disciplinary proceeding shall be terminated if there was no disciplinary offence.

(2) The disciplinary committee shall make a decision by a simple majority of the members of the disciplinary committee participating in the session. If the votes are divided equally, the chairman of the disciplinary committee shall cast the deciding vote.

[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

§ 41. Decision of minister responsible for the area upon hearing of disciplinary offences

(1) In the case specified in subsection 32 (3) of this Act, the minister responsible for the area shall impose a disciplinary penalty or decide not to impose a disciplinary penalty or terminate the disciplinary proceeding if there was no disciplinary offence. In the case of a decision to release the Prosecutor General from service as a disciplinary penalty, the minister responsible for the area shall make such proposal to the Government of the Republic and shall not impose a disciplinary penalty himself or herself.

(2) The minister responsible for the area shall make the decision alone.

[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

§ 42. Imposition and contestation of disciplinary penalty

(1) The following persons have the right to impose disciplinary penalties on a prosecutor:

1) the minister responsible for the area to a prosecutor appointed to office by the Government of the Republic or the Ministry of Justices;

2) the Prosecutor General on the proposal of the prosecutors' disciplinary committee on all prosecutors.

(2) The Prosecutor General does not have the right to impose release from the service as a penalty to prosecutors appointed to office by the minister responsible for the area.

(3) The imposition of disciplinary penalties or the making of the proposal specified in subsection 41 (2) of this Act shall take place within one month after making of the decision.

(4) The Government of the Republic shall decide the release of the Prosecutor General from service as a disciplinary penalty on the proposal of the minister responsible for the area within one month after considering the opinion of the Legal Affairs Committee of the *Riigikogu*.

(5) Imposing of a disciplinary penalty may be contested in an administrative court.

[RT I, 16.03.2011, 2 – entry into force 26.03.2011]

Subchapter 6 Organisation of competition, development and assessment

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

§ 43. Prosecutors' competition committee

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

(1) The prosecutors' competition committee shall evaluate persons applying for the position of prosecutor if the position is filled by way of a public competition.

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

(2) The prosecutors' competition committee shall comprise the Prosecutor General, one prosecutor from the Office of the Prosecutor General, two prosecutors from district prosecutor's offices, one judge elected by the Court *en banc*, a jurist designated by the Dean of the Law Faculty of the University of Tartu and an official of the Ministry of Justice designated by the minister responsible for the area. The term of authority of the members of the prosecutors' competition committee, excluding the Prosecutor General and an official of the Ministry of Justice, shall be three years.

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

(3) The Prosecutor General shall be the chairman of the prosecutors' competition committee.

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

(4) The prosecutors' competition committee has a quorum if at least five members of the committee, including the chairman, participate in the session.

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

(5) The Office of the Prosecutor General shall manage the operations of the prosecutors' competition committee.

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

(6) Members of the prosecutors' competition committee must not disclose any circumstances or information which they became aware of in connection with the activities of the completion committee, including any personal data. The obligation to maintain confidentiality has an unspecified term.

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

§ 44. Requirements for organisation of competition

The minister responsible for the area shall establish the requirements for organisation of competition.
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

§ 44¹. Prosecutor's performance assessment interview

A performance assessment interview is held by a prosecutor's direct superior with a prosecutor immediately subordinate to him or her on the bases and pursuant to the procedure provided for in the Public Service Act.
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

Subchapter 7 Release from Service

§ 45. Release from service at own request

A prosecutor may be released from service at his or her own request.

§ 46. [Repealed – RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 47. Release from service due to age

A prosecutor may be released from service when he or she attains 65 years of age.

§ 48. Release from service due to bankruptcy

A prosecutor shall be released from service if he or she is declared bankrupt.

§ 49. Release from service for disciplinary offence

A prosecutor shall be released from service for a disciplinary offence pursuant to the procedure provided for in Subchapter 5 of this Act.

§ 50. Release of Prosecutor General or chief prosecutor from service due to expiry of term of office

(1) Upon expiry of the term of office of the Prosecutor General or a chief prosecutor, the minister responsible for the area shall release him or her from office and appoint him or her as a state prosecutor, specialised prosecutor or district prosecutor without a public competition.

(2) The Prosecutor General and chief prosecutors may be reappointed to office for a new term of office.

(3) The Prosecutor General and chief prosecutors may be appointed to a position provided for in subsection (1) of this section or reappointed to office, with their written consent.

(4) If the Prosecutor General or a chief prosecutor does not consent to be appointed to a position provided for in subsection (1) of this section or if there is no vacant position, he or she shall be released from service.

[RT I 2004, 7, 40 – entry into force 01.03.2004]

§ 51. [Repealed – RT I 2004, 46, 329 – entry into force 01.07.2004]

Subchapter 8 Engagement of Prosecutors in Performance of Administrative Duties or in Provision of Education in Institutions of Applied Higher Education for Public Defence, Transfer to Supreme Court or their Appointment to European Public Prosecutor's Office

[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

§ 52. Appointment of prosecutors to positions foreseen on the staff of Office of the Prosecutor General, Ministry of Justice, Supreme Court or European Public Prosecutor's Office

[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

(1) The Prosecutor General may appoint a prosecutor, with his or her consent, to a position on the staff of the Office of the Prosecutor General in order to perform the duties relating to international judicial cooperation.

(2) After hearing the opinion of the Prosecutor General, a Prosecutor may be transferred, with his or her consent, to the Supreme Court or appointed him without competition to a position on the staff of the Ministry of Justice for performance of the duties of administration of prosecutor's offices or duties relating to international judicial cooperation.

[RT I, 10.03.2015, 3 – entry into force 01.04.2015]

(3) Upon appointing a prosecutor to a position on the staff of the Ministry of Justice, the Supreme Court or the Office of Prosecutor General, the Prosecutor shall retain the benefits related to office prescribed in his or her current position.

[RT I, 10.03.2015, 3 – entry into force 01.04.2015]

(4) A Prosecutor who has been employed in the Ministry of Justice, the Supreme Court or the Office of Prosecutor General on the bases specified in subsection (1) or (2) of this section has the right to return to his or her previous position without public competition by giving at least one month's advance notice.

[RT I, 10.03.2015, 3 – entry into force 01.04.2015]

(4¹) In the case a prosecutor is appointed a European Chief Prosecutor, his or her service relationship with the prosecutor's office shall terminate.

[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

(4²) In the case a prosecutor is appointed a European Prosecutor, his or her service relationship with the prosecutor's office shall be suspended.

[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

(4³) If a prosecutor who worked as a European Prosecutor wants to return to the prosecutors' service or if a European Delegated Prosecutor wants to return to his or her former position, he or she shall have the right to resume his or her former position without a competition, if this position is vacant, except in the case the person was released from the position with the European Public Prosecutor's Office in connection with commitment of a wrongful act or due to his or her permanent inability to perform his or her functions according to Article 16(5) or Article 17(3) of Council Regulation (EU) 2017/1939.

[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

(4⁴) A European Prosecutor or a European Delegated Prosecutor shall give notice to the Prosecutor General in writing of his or her wish to return:

- 1) at the latest one month before regular expiry of the term of office with the European Public Prosecutor's Office;
- 2) at the latest one month after early termination of the term of office with the European Public Prosecutor's Office.

[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

(4⁵) Upon failure to notify in due time of the wish to return specified in subsection (4⁴) of this section, it shall be considered that the prosecutor does not want to return to the same prosecutor's office.

[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

(4⁶) If a European Prosecutor or a European Delegated Prosecutor cannot return after the expiry of his or her term of office with the European Public Prosecutor's Office to his or her former position, the Prosecutor General may appoint the person, with his or her consent, a lower level prosecutor or a prosecutor with another prosecutor's office. If the salary paid to the prosecutor in his or her new position is lower compared to the salary which he or she would have received upon returning to the former position, he or she shall continue to receive higher salary for six months.

[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

(5) The period of service in the Ministry of Justice, the Supreme Court, the European Public Prosecutor's Office or the Office of the Prosecutor General shall be included in the period of service of a prosecutor in the former position.

[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

§ 52¹. Engagement of prosecutors in provision of education in institutions of applied higher education for public defence

If a prosecutor is elected or employed as a teacher of an institution of applied higher education for public defence, the service relationship of the prosecutor in his or her position shall be suspended for the time of employment as a teacher. The time of employment as a teacher shall be included the period of service in the previous position. If the time of employment as a teacher is terminated, the prosecutor has the right to return to his or her previous position.

[RT I 2003, 20, 116 – entry into force 10.03.2003]

§ 52². Engagement of prosecutors in activities of international organisations and participation as experts in international civil missions

(1) With the consent of the Prosecutor General, a prosecutor may be employed by an international organisation in a position relating to international judicial cooperation or administration of justice and participate as an expert in an international civil mission. The service relationship of the prosecutor in his or her position shall be suspended for the time of employment in an international organisation and participation in an international civil mission.

(2) Within four years after suspension of a service relationship, a prosecutor has the right to return to his or her previous position without a public competition.

(3) The period of service in an international organisation and participation in an international civil mission shall be included in the period of service of a prosecutor in the previous position.

[RT I, 04.03.2011, 1 – entry into force 01.04.2011]

Chapter 5 IMPLEMENTING PROVISIONS

§ 53. Appointment of prosecutors to office

(1) Prosecutors who are in office on the date of entry into force of this Act shall be appointed by the minister responsible for the area:

- 1) a county or city prosecutor as a senior county or city prosecutor;
- 2) a deputy county or city prosecutor as a county or city prosecutor;
- 3) an assistant county or city prosecutor as a county or city prosecutor if he or she has completed an academic higher education in law specified in subsection 15 (1) of this Act;
- 4) an assistant county or city prosecutor as an assistant prosecutor if he or she does not meet the requirement specified in clause 3) of this subsection;
- 5) a prosecutor-designate as an assistant prosecutor.

(2) Assistant prosecutors appointed to office pursuant to clause (1) 4) of this section are not required to undergo a clerkship or probationary period. Assistant Prosecutors appointed to office pursuant to clause (1) 5) of this section shall undergo a clerkship. The period of employment as a prosecutor-designate shall be included in the clerkship period.

(3) The Government of the Republic shall appoint the Prosecutor General to office on the proposal of the minister responsible for the area within one month after the entry into force of this Act. Until the appointment of the Prosecutor General to office, his or her duties shall be performed by the state prosecutor or acting state prosecutor who is in office on the date of entry into force of this Act.

(4) The minister responsible for the area shall appoint state prosecutors to office on the basis of a public competition on the proposal of the evaluation committee within one year after the entry into force of this Act. Until the appointment of state prosecutors to office, the duties of state prosecutors shall be performed by the prosecutors who are in office in the Office of the Prosecutor General on the date of entry into force of this Act.

(5) If a deputy state prosecutor or a prosecutor of the Office of the Prosecutor General who is in office on the date of entry into force of this Act is not appointed as the Prosecutor General or a state prosecutor, the minister responsible for the area shall transfer the prosecutor, with his or her consent, to a vacant position of prosecutor in a county or city prosecutor's office without a public competition. If a prosecutor does not give his or her consent, the minister responsible for the area shall release him or her from service due to redundancy.

(6) The minister responsible for the area shall appoint all the senior county and city prosecutors to office on the proposal of the prosecutors' competition and evaluation committee for the term provided for in subsection 17 (2) of this Act, within one year after the entry into force of this Act. If a current senior county or city prosecutor who was appointed to office pursuant to clause (1) 1) of this section is not appointed as a senior county or city prosecutor, the minister responsible for the area shall transfer the prosecutor, with his or her consent, to a vacant position of prosecutor in a county or city prosecutor's office without a public competition. If a prosecutor does not give his or her consent, the minister responsible for the area shall release him or her from service due to redundancy.

(7) The minister responsible for the area shall appoint prosecutors to vacant positions of prosecutor in county and city prosecutor's offices on the basis of a public competition and on the proposal of the evaluation committee, within one year after the entry into force of this Act.

(8) Subsections 15 (3) to (5) of this Act do not apply to the appointments to office provided for in this section.

(9) The period of service of a prosecutor in a position of prosecutor prior to appointment to office pursuant to this section shall be included in his or her period of service in the new position within the meaning of § 15 of this Act.

[RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 53¹. Appointment to office of county or city senior prosecutors and county or city prosecutors

(1) County or city senior prosecutors appointed to office prior to 1 March 2004 shall be appointed by the Prosecutor General, upon expiry of their term of office, as senior prosecutors, specialised prosecutors or district prosecutors.

(2) County or city prosecutors appointed to office prior to 1 March 2004 shall be appointed by the Prosecutor General as district prosecutors.

[RT I 2004, 7, 40 – entry into force 01.03.2004]

§ 53². Term of authority of and specifications for appointment to office of assistant prosecutors

[Repealed – RT I, 10.03.2015, 3 – entry into force 01.04.2015]

§ 53³. Specifications for appointment to office of assistant prosecutors

The Prosecutor General shall appoint assistant prosecutors [*prokuröri abi*] appointed to office before 1 April 2015 to office as assistant prosecutors [*abiprokurör*], if the person met the requirements established for assistant prosecutors at the time of his or her appointment to office.

[RT I, 10.03.2015, 3 – entry into force 01.04.2015]

§ 54. Prosecutor's salary in Office of Prosecutor General

(1) A state prosecutor or acting state prosecutor specified in the second sentence of subsection 53 (3) of this Act shall receive the salary of the Prosecutor General during the time he or she performs the duties of the Prosecutor General.

(2) A deputy state prosecutor specified in the second sentence of subsection 53 (4) of this Act shall receive the salary of a prosecutor who directs a department of the Office of the Prosecutor General during the time he or she performs the duties of a state prosecutor.

(3) The salary of a prosecutor of the Office of the Prosecutor General specified in the second sentence of subsection 53 (4) of this Act during the time he or she performs the duties of a state prosecutor shall be the salary rate specified in subsection 22 (1) multiplied by 1.15.

§ 54¹. Compensation of difference in wages

(1) If a prosecutor's basic salary together with individual additional remuneration calculated on the basis of the salary conditions in force for the prosecutor's office as of 1 March 2004 is lower than his or her former salary, including additional remuneration paid for years of service, academic degree, proficiency in foreign languages and processing state secrets or classified media, the prosecutor shall be compensated for the difference in wages by way of additional payments to be made during one year after the transfer of the prosecutor's office to the new salary conditions.

(2) The additional payments provided in subsection (1) of this section shall be made unless the prosecutor is transferred to another position with a different level of complexity.

[RT I 2004, 7, 40 – entry into force 01.03.2004]

§ 55. Convention of first Prosecutors' Assembly

(1) The Prosecutor General shall convene the first Prosecutors' Assembly within one month after appointment to office.

(2) The first Prosecutors' Assembly shall elect the members of the prosecutors' competition committee and of the disciplinary committee from among the prosecutors.

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

(3) As long as the representative body of judges has not elected a member of the prosecutors' competition committee or the disciplinary committee from among the judges, the Board of the Association of Judges shall do so.

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

(4) The member of the disciplinary committee and the member of the prosecutors' competition committee who are state prosecutors shall be elected after the appointment of state prosecutors to office.

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

§ 56. [Repealed – RT I 2006, 21, 160 – entry into force 25.05.2006]

§ 57. Specifications for application of subsection 15 (1) of this Act

Persons who have completed an academic higher education in law in a university in private law may be appointed as prosecutors if they have completed such higher education on the basis of an accredited curriculum.

§ 57¹. Specifications for application of subsection 17 (2) of this Act

(1) Within two years after 1 March 2004, senior prosecutors shall be appointed for office for a term of three years.

(2) Senior prosecutors appointed to office pursuant to the procedure provided in subsection (1) of this section shall be appointed by the Prosecutor General, upon expiry of their term of office, as senior prosecutors, district prosecutors or specialised prosecutors.

[RT I 2004, 7, 40 – entry into force 01.03.2004]

§ 58. Specifications for application of § 22 of this Act

(1) Within ten years after the entry into force of this Act, the Government of the Republic may increase the salary of prosecutors employed in some regions by up to one quarter.

[RT I 2009, 15, 93 – entry into force 01.03.2009]

(2) As of 01 March 2009 until 31 December 2010, the salary of a prosecutor may be determined for a term shorter than one year and the salary determined may be lower than the salary of the previous period.

[RT I 2009, 15, 93 – entry into force 01.03.2009]

§ 58¹. Specifications for application of subsection 22¹(2) of this Act

Assistant prosecutors shall continue to have an annual holiday of 42 calendar days and other prosecutors an annual holiday of 49 calendar days for two years as of 1 April 2013 in the case they are in service as at 1 April 2013 either as assistant prosecutors or other prosecutors.

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

§ 59. Specifications for application of §§ 25 and 26 of this Act

[Repealed – RT I, 06.07.2018, 3 – entry into force 01.01.2020]

§ 59¹. [Repealed – RT I 2001, 53, 315 – entry into force 30.06.2001]

§ 59². Specifications for application of § 52 of this Act

The first European Delegated Prosecutor appointed from Estonia shall have the right, within three years after the appointment, to return to his or her former position without a public competition.

[RT I, 02.06.2020, 1 – entry into force 12.06.2020]

§ 60. [Repealed – RT I 2000, 28, 167 – entry into force 16.04.2000]

§ 60¹. Prosecutors' work ability allowance

(1) Prosecutors who are paid a work ability allowance as at 1 July 2021 continue to receive the payments thereof without any assessment of their work ability.

(2) Prosecutors' work ability allowances shall be indexed each year by 1 April by the pension index approved by the Government of the Republic on the basis of § 26 of the State Pension Insurance Act.

(3) Prosecutors have the right to choose whether they are paid a work ability allowance on the basis of this Act or a work ability allowance based on the Work ability Allowance Act.

(4) Prosecutors' work ability allowance shall be paid from the state budget.

(5) The provisions of the State Pension Insurance Act apply to payment of prosecutor's work ability allowance, taking into account the specifications of this Act.

[RT I, 19.12.2019, 1 – entry into force 01.07.2021]

§ 60². Right to prosecutors' pension for incapacity for work

(1) A prosecutor who has been established to have a permanent loss of work ability on the basis of the State Pension Insurance Act before 1 July 2016 shall be entitled to apply for a pension for incapacity for work, which shall be determined on the basis of § 26 of the version of this Act in force until 1 July 2016.

[RT I, 17.12.2015, 1 – entry into force 01.07.2016]

(2) A prosecutor who receives a pension for incapacity for work on the basis of § 26 of the version of the Prosecutor's Office Act in force until 1 July 2016 shall continue to receive, after the expiry of the term of permanent incapacity for work determined by an examination for establishing permanent incapacity for work, the pension for incapacity for work in the former amount without assessment of work ability.

[RT I, 17.12.2015, 1 – entry into force 01.07.2016]

(3) When a person receiving a prosecutor's pension for incapacity for work attains the pensionable age provided for in § 7 of the State Pension Insurance Act, payment of the old-age pension shall continue, at his or her request, in the amount of the previous pension for incapacity for work.

(4) Prosecutors' pension for incapacity for work and prosecutor's old-age pension in the amount of pension for incapacity for work, except for pension calculated on the basis of the salary rate of the current year, shall be indexed each year by 1 April by the pension index approved by the Government of the Republic on the basis of § 26 of the State Pension Insurance Act.

(5) Prosecutors' pension for incapacity for work shall be paid from the state budget.

[RT I, 19.12.2019, 1 – entry into force 01.01.2020]

(6) The provisions of the State Pension Insurance Act apply to payment of prosecutor's pension for incapacity for work, taking into account the specifications of this Act.

[RT I, 19.12.2019, 1 – entry into force 01.01.2020]

§ 60³. Right to prosecutors' old-age pension

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

(1) The following persons who have attained the pensionable age provided for in § 7 of the State Pension Insurance Act shall have the right to grant of prosecutor's old-age pension:

- 1) who worked as a prosecutor at the time of entry into force of the Prosecutor's Office Act or after the entry into force of the Act and who have worked as a prosecutor for at least 25 years by 1 January 2020;
- 2) who worked as a prosecutor at the time of entry into force of the Prosecutor's Office Act or after the entry into force of the Act and have worked as a prosecutor for at least 15 years by 1 January 2020 and before that as a judge or a police officer for at least ten years;
- 3) who hold the office of a prosecutor as at 31 December 2019 or whose length of service by the time of attaining the pensionable age is the period which is required for grant of prosecutors' old-age pension provided for in clause 1) or 2) of this subsection.

(2) The period of employment as a preliminary investigator of a prosecutor's office shall be included in the period of employment as a prosecutor.

(3) The amount of a prosecutor's old-age pension is 65 per cent of the salary rate corresponding to his or her most recent position, or of the most favourable salary corresponding to his or her position earned during the last five year of his or her service, provided that he or she served in that position for at least 12 consecutive months, established by the Salaries of Higher State Servants Act or on the basis of § 22 of this Act, without considering the increase of the salary due to working in a specific area. The salary in this amount which was in force on the day of release of the prosecutor from the prosecutor's service shall be taken as the basis for calculation of the pension. When the most favourable salary is chosen, the calculation shall be based on the salary which was in force on the day of transfer of the prosecutor.

(4) A prosecutor's old-age pension, except for pension calculated on the basis of the salary of the current year, shall be indexed by 1 April of each current year by the highest salary rate index specified in § 2¹ of the Salaries of Higher State Servants Act.

(5) The part of a prosecutor's old-age pension which exceeds the old-age pension calculated pursuant to the State Pension Insurance Act shall be paid from the state budget.

[RT I, 19.12.2019, 1 – entry into force 01.01.2020]

(6) A prosecutor's old-age pension shall not be paid during the period of employment as a prosecutor. If a retired prosecutor is employed elsewhere, he or she shall receive the prosecutor's old-age pension in full regardless of the amount of the earnings.

(7) The provisions of the State Pension Insurance Act apply to prosecutor's old-age pension, unless otherwise provided for in this Act.

(8) A prosecutor's old-age pension shall not be granted or paid to a person who has been released from service due to the entry into force of a judgment of conviction for an intentionally committed criminal offence.

(9) A person convicted for an offence provided for in Chapter 15 or Subchapter 2 of Chapter 17 of the Penal Code, for which the Penal Code prescribes at least up to five years' imprisonment, and in respect of whom a judgment of conviction entered into force after 10 March 2009, loses the right to a prosecutor's old-age pension provided for in this section.

(10) If a person was paid the procurator's old-age pension provided for in this section, the payment of the pension shall be terminated as of the month following the month of entry into force of the judgment. In the case of losing the right to a prosecutor's old-age pension provided for in this section, the person retains the right to apply for a pension pursuant to the State Pension Insurance Act.

(11) The court is required to notify the Social Insurance Board within ten working days as of the entry into force of the court judgment in writing of the fact in connection with which the person loses the right to the prosecutor's old-age pension provided for in this section.

[RT I, 06.07.2018, 3 – entry into force 01.01.2020]

§ 61. Oath

Until 31 December 2000, persons applying for the position of prosecutor who have not yet taken an oath shall take a written oath.

§ 62.–§ 66.[Omitted from this text.]

§ 67. Entry into force of Act

(1) This Act enters into force on the day following publication in the Riigi Teataja.

(2) [Repealed – RT I 2003, 26, 159 – entry into force 21.03.2003]

(3) Prosecutors of the county and city prosecutor's offices shall begin to perform the duties which before the entry into force of this Act were performed by the prosecutors who were employed by the Office of the Prosecutor General, within one year after the entry into force of this Act.