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- 8 July 2003 [shall come into force from 6 August 2003];
- 22 April 2004 [shall come into force from 15 May 2004];
- 16 June 2005 [shall come into force from 1 July 2005];
- 24 November 2005 [shall come into force from 27 December 2005];
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- 25 January 2007 [shall come into force from 22 February 2007];
- 21 June 2007 [shall come into force from 19 July 2007];
- 13 December 2007 [shall come into force from 12 January 2008];
- 20 December 2007 [shall come into force from 23 January 2008];
- 8 May 2008 [shall come into force from 6 June 2008];
- 26 February 2009 [shall come into force from 1 April 2009];
- 22 April 2010 [shall come into force from 1 July 2010];
- 20 January 2011 [shall come into force from 4 February 2011];
- 26 May 2011 [shall come into force from 16 June 2011].

If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima*<sup>1</sup> has adopted and  
the President has proclaimed the following Law:

## Immigration Law

### Chapter I General Provisions

#### Section 1.

(1) The following terms are used in this Law:

- 1) **foreigner** – a person who is not a Latvian citizen or non-citizen of Latvia;
- 2) **travel document** – a personal identification document which, in accordance with international agreements binding upon the Republic of Latvia, this Law and other regulatory enactments, grants the right to its holder to cross the State border of the Republic of Latvia;
- 2<sup>1</sup>) **European Union Blue Card** – a temporary residence permit, which is issued in the Republic of Latvia to a highly qualified foreigner who is employed and, for an agreed remuneration, performs specific work under the management of the employer in the Republic of Latvia, as well as has acquired a higher education in a study programme, the length of which in the relevant specialty or in the sector specified in the work agreement is at least three years;
- 3) **invitation** – a document approved by the Office of Citizenship and Migration Affairs (hereinafter – Office), in which an inviter undertakes the obligations specified in this Law in relation to the foreigner whom he or she has invited to reside in the Republic of Latvia (with a visa);
- 4) **voluntary return decision** – an administrative act, in which the fact of illegal stay of a foreigner has been substantiated and the foreigner has been imposed an obligation to voluntarily leave the territory of the European Union Member States within a specified period of time and return to the country of his or her citizenship, third country, from which he or she entered, or a third country, which he or she has the right to enter;

<sup>1</sup> The Parliament of the Republic of Latvia

5) **sponsorship** – a document approved by the Office, in which the inviter undertakes the obligations specified in this Law in relation to the foreigner whom he or she has invited to reside in the Republic of Latvia (with a residence permit);

5<sup>1</sup>) **competent State institution** – Security Police, Constitution Protection Bureau, State Police or an institution of the relevant competence abroad;

5<sup>2</sup>) **removal order** – an administrative deed, in which the fact of illegal stay of a foreigner is justified and forced removal of the foreigner from the territory of European Union Member States to his or her country of citizenship, the third country, from which he or she has entered, or the third country, which he or she has the right to enter, is determined;

6) **country of residence** – the country of citizenship of a foreigner, the foreigner's previous country of permanent place of residence, or a country which has issued a residence permit to a foreigner;

6<sup>1</sup>) **illegal stay** – staying of a foreigner in the Republic of Latvia, which does not conform to the staying conditions specified in Article 5 of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community code on the rules governing the movement of persons across borders (Schengen Borders Code) (hereinafter – Regulation (EC) No 562/2006 of 15 March 2006) or Sections 4 and 4.<sup>1</sup> of this Law;

7) **carrier** – a merchant whose commercial activities are related to the carriage of persons by sea, air or road transport;

8) **norms of international law** – international agreements, international common law and general principles of international law binding on the Republic of Latvia;

8<sup>1</sup>) **written request** – a document certified in accordance with the procedures specified by the Cabinet, in which an inviter undertakes the obligations specified in this Law in relation to the foreigner invited by him or her to reside in the Republic of Latvia (with a visa);

9) **inviter** – a natural or legal person that invites a foreigner;

10) **residence permit** – a document which gives a foreigner the right to reside in the Republic of Latvia for a specified time period or permanently;

11) **visa** – a specific standard sticker in a travel document. It shall certify that a person has requested an authorisation to enter and reside in the Republic of Latvia or in any Schengen Agreement Member State, or in several Schengen Agreement Member States or cross their territory in transit, and that the institution, which has issued the visa in accordance with the competence thereof, does not see any obstacle to the fact that the person enters and resides in the Republic of Latvia or in any Schengen Agreement Member State, or in several Schengen Agreement Member States during the period of time indicated in the visa and for the number of times indicated therein. The visa itself does not give the right to enter the Republic of Latvia or any of Schengen Agreement Member States;

12) **Union citizen** – a foreigner who has the citizenship of any of the European Union Member States, Member State of the European Economic Area or the Swiss Confederation;

13) **Schengen Agreement** – the Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders;

14) **Schengen Convention** – Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders;

14<sup>1</sup>) **third country** – any state, excluding a European Union Member State, a European Economic Area State and the Swiss Confederation;

15) **local border traffic permit** – in accordance with Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the

provisions of the Schengen Convention, a document of certain sample which is issued to an inhabitant of a border area of a foreign state and which entitles him or her to cross the external land border and reside in the border area of the Republic of Latvia.

(2) The term “border area” used in this Law shall comply with the term used in Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention.

*[20 December 2007; 22 April 2010; 26 May 2011]*

## **Section 2.**

The purpose of this Law is to determine the procedures for the entry, residence, transit, exit and detention of foreigners, as well as the procedures by which foreigners are kept under temporary custody in the Republic of Latvia and returned from it in order to ensure the implementation of migration policy conforming with the norms of international law and the State interests of Latvia.

## **Section 2.<sup>1</sup>**

(1) The conditions of Section 4, Paragraphs three, five, six, eight and nine, Section 5, Paragraph three, Sections 10 and 11, Section 13, Paragraphs two and four, Sections 14, 15, 16, 17, Section 18, Paragraph two, Sections 20, 21, Section 46, Paragraph five, Sections 50.<sup>4</sup>, 50.<sup>5</sup>, Section 51, Paragraph five, Sections 52, 53, 54, 54.<sup>1</sup>, 55, 56, 57, 58, 59, 59.<sup>1</sup>, 59.<sup>2</sup>, 59.<sup>3</sup>, 59.<sup>4</sup>, 59.<sup>5</sup>, 60, Section 61, Paragraph one, Sections 65.<sup>1</sup>, 65.<sup>2</sup>, 65.<sup>3</sup>, 65.<sup>4</sup>, 65.<sup>5</sup>, 66, 67 and 70 of this Law shall apply to Union citizens and their family members.

(2) The procedures by which Union citizens and their family members enter and reside in the Republic of Latvia, as well as residence restrictions for these persons shall be determined by the Cabinet.

*[26 May 2011]*

## **Section 3.**

(1) The entry and residence of foreigners in the Republic of Latvia shall be documented and controlled by the Office, State Border Guard, diplomatic and consular representations of the Republic of Latvia (thereinafter – representations) and the Consular Department of the Ministry of Foreign Affairs (hereinafter – Consular Department) in accordance with their competence.

(2) Officials of the Office and State Border Guard authorised by the Minister for the Interior have the right to draw up an administrative violation report regarding violations of the procedures for the entry and residence of foreigners.

(3) The Office and State Border Guard for the performance of their duties shall establish and maintain electronic information systems, the amount of information to be included and procedures for use of which shall be determined by the Cabinet.

*[22 April 2010]*

## **Section 4.**

(1) A foreigner shall be entitled to enter and reside in the Republic of Latvia, if he or she concurrently:

- 1) has a valid travel document. The travel document is valid if:
  - a) it is recognised in the Republic of Latvia,
  - b) it conforms to a specified sample,

c) it contains all identity data and photographs of the foreigners who use this document as a travel document. In order to request a residence permit, it is necessary for each foreigner to have his or her own travel document,

d) its term of validity exceeds the period of time of the planned residence in the Republic of Latvia or in the territory of another Schengen Agreement Member State by at least three months,

e) it does not contain any unstipulated corrections by the issuer of the document, mechanical damages or smears due to which it is not possible to identify the holder of the document, to read the information indicated in the document or to detect document forgeries, and

f) it contains space for visas. This condition shall not be in effect if international agreements, which are binding on the Republic of Latvia, specify that there need not be such visas;

2) has a valid visa in a valid travel document, a residence permit issued by the Republic of Latvia or another Schengen Agreement Member State or a residence permit of a long-term resident of the European Community. A foreigner who has received a new travel document in a foreign state may use the previous travel document with a valid residence permit for single entry in the Republic of Latvia, in order to receive a new residence permit of the Republic of Latvia;

3) has a valid health insurance policy, which guarantees the covering of expenses related to health care in the Republic of Latvia, including the conveying of the foreigner back to the country of residence in the case of his or her serious illness. The Cabinet shall determine the cases when a foreigner may enter and reside in the Republic of Latvia without a health insurance policy;

4) does not have any other obstacles prescribed by the law or other regulatory enactments for entry into the Republic of Latvia; and

5) has the necessary financial means in order to reside in the Republic of Latvia or another Schengen Agreement Member State and return to the country of residence or to depart to a third country which he or she has the right to enter. The Cabinet shall determine the amount of necessary financial means and how to determine the existence of financial means.

(2) Paragraph one, Clause 2 of this Section shall not apply to a foreigner who:

1) enters and resides according to the procedures prescribed by international treaties binding on the Republic of Latvia regarding the abolition of visa requirement;

2) uses a United Nations passport (*Laissez-passer*) as a travel document;

3) uses a Vatican passport as a travel document;

4) uses a European Commission passport as a travel document;

5) [22 April 2004];

6) [20 December 2007]; or

7) is a crew member of an international route sea transport or aircraft, which enters and stays in the Republic of Latvia in accordance with the entry and residence regulations provided for in international agreements binding upon the Republic of Latvia.

(3) A foreigner who, in accordance with the provisions of this Law, has been included in the list of those foreigners for whom entry in the Republic of Latvia is prohibited (hereinafter also – list), or regarding whom a notification has been included in the Schengen information system in order to refuse entry and residence in the territory of the Schengen Agreement Member States (hereinafter – prohibition to enter Schengen territory), is not entitled to enter and reside in the Republic of Latvia.

(4) The procedures by which the travel documents of foreigners are recognised shall be determined by the Cabinet.

(5) The specimens of travel documents, visas, residence permits, seals and stamps shall be included in the information system of specimens of documents. The Cabinet shall determine

the procedures by which the information system of specimens of documents is established and used.

(6) The procedures for foreigners' health insurance, as well as the procedures by which a foreigner receives health care services in the Republic of Latvia, the minimum insurance amount, the minimum amount of services to be covered and cases when a visa or a residence permit without health insurance policy may be issued to a foreigner shall be determined by the Cabinet.

(7) [21 June 2007]

(8) In issuing a visa or a residence permit to a foreigner who is citizen of a state included in the list referred to in Paragraph nine of this Section, or a foreigner who has had stateless person or refugee status granted in a foreign state, an official shall examine accessible information in respect of whether the entry of the foreigner will not cause a threat to national security or public order and safety (hereinafter – additional assessment). The Cabinet shall determine the procedures in respect of additional assessments.

(9) The Cabinet shall determine the list of states for the citizens of which in issuing a visa or a residence permit an additional examination shall be performed.

(10) [20 December 2007].

[8 July 2003; 22 April 2004; 24 November 2005; 6 April 2006; 21 June 2007; 20 December 2007; 22 April 2010; 26 May 2011]

#### **Section 4.<sup>1</sup>**

(1) A foreigner shall be entitled to enter and reside in the border area of the Republic of Latvia, if he or she has a local border traffic permit which is issued by the representation in accordance with the international agreements entered into.

(2) The procedures by which a local border traffic permit shall be registered, annulled and revoked, the data to be included therein, as well as the amount of information to be included in the electronic information system and the procedures for use thereof shall be approved by the Cabinet.

(3) A decision on refusal to issue a local border traffic permit, as well as a decision on annulment or revocation of the issued local border traffic permit may not be contested or appealed.

(4) In respect of examination of the documents necessary for requesting a local border traffic permit, a foreigner shall pay a State fee in the amount and according to the procedures specified by the Cabinet. The Cabinet shall determine the categories of persons exempted from payment of the State fee.

[22 April 2010; 26 May 2011]

#### **Section 5.**

(1) A foreigner has the right to reside in the Republic of Latvia for more than 90 days within six months from the date of the first entry, if he or she has received a visa on the basis of Section 11, Paragraph two of this Law or a residence permit.

(2) If a foreigner has resided in the Republic of Latvia with a temporary residence permit, after the expiry of the time period of this permit, without exiting from the territory of the Republic of Latvia or another Schengen Agreement Member State, he or she is not entitled to receive a visa or to continue to reside in the Republic of Latvia in accordance with Section 4, Paragraph two, Clause 1 of this Law. The Head of the Office or his or her authorised official may permit the issuing of a visa if it conforms to international legal norms, the State interests of Latvia or is associated with *force majeure* or reasons of a humanitarian nature.

(3) A foreigner has a duty, if it is requested by a State institution in accordance with the competence thereof, to present the documents specified in Sections 4 and 4.<sup>1</sup> of this Law, as well as allow their fingerprints to be taken.

(4) A foreigner who is not a Union citizen and who has been recognised as a victim of trafficking in human beings, as well as minor children accompanied by him or her has the right to reside in the Republic of Latvia without a visa or residence permit until the specified reflection period has ended or terminated or a decision has come into effect regarding the issue of a temporary residence permit.

*[24 November 2005; 25 January 2007; 20 December 2007; 22 April 2010, 26 May 2011]*

## **Section 6.**

A foreigner shall pay a State fee for the examination of the documents necessary for requesting a long-stay visa or residence permit and the services related thereto in accordance with the procedures and in the amount specified by the Cabinet. The Cabinet shall determine the categories of those persons who are exempted from payment of the State fee or who, upon requesting a uniform visa, are applied a reduced rate of the State fee.

*[20 December 2007; 26 February 2009; 22 April 2010]*

## **Section 7.**

The Cabinet shall determine the procedures for the entry and residence of those minor foreigners, who enter and reside in the Republic of Latvia not accompanied by their parents or guardians.

## **Section 8.**

An obligation of civil liability, the term of which exceeds the period of time during which a foreigner is allowed to reside in the Republic of Latvia, may not in itself be the basis for the issue of a visa or the issue or registration of a residence permit.

## **Section 9.**

(1) A foreigner who wishes to establish employment legal relationship by entering into an employment agreement or be employed on the basis of another civil legal contract (including as a member of a commercial company's administration or executive body) or be a self-employed person shall need a work permit.

(2) A work permit shall not be necessary if a foreigner:

1) has received a permanent residence permit;

2) has received a temporary residence permit in accordance with Section 23, Paragraph one, Clause 19 of this Law and does not receive remuneration for the work performed;

3) has arrived in the Republic of Latvia for a performance on tour (concert on tour) as a performer (musician, singer, dancer, actor, circus performer and others), an author (composer, choreographer, director, scenographer and others), administrative or technical worker to ensure the performance (concert) and the intended length of stay does not exceed 14 days;

4) arrives in the Republic of Latvia on the basis of a written request from an educational institution or scientific institution, or individual scientist in relation to scientific research or participation in the implementation of an educational programme and the intended length of stay in the Republic of Latvia does not exceed 14 days;

5) *[22 April 2004];*

6) has received a residence permit of a long-term resident of the European Community in the Republic of Latvia;

7) performs scientific activity in the Republic of Latvia in accordance with a scientific co-operation agreement, which has been concluded with a scientific institution included in the Register of Scientific Institutions;

8) is a crew member of the ship, which performs international voyages and is registered in the Latvian Ship Register;

9) is legally employed in another European Union Member State, Member State of the European Economic Area or in the Swiss Confederation and the employer appoints him or her for provision of services in Latvia; or

10) may work at any employer in the Republic of Latvia. The categories of those foreigners who may work at any employer shall be determined by the Cabinet.

(3) The procedures for the requesting and issue of work permits shall be determined by the Cabinet.

(4) [22 April 2010]

[8 July 2003; 22 April 2004; 24 November 2005; 6 April 2006; 20 December 2007; 8 May 2008; 22 April 2010; 26 May 2011]

### **Section 9.<sup>1</sup>**

An inviter shall take responsibility for the compliance of the purpose of entry and residence of the invited foreigner with the purpose specified in the documents submitted for requesting a visa or residence permit, for his or her exit from the State on the specified time, as well as, if necessary, shall ensure the covering of expenses related to the health care, residing in the Republic of Latvia and return to the country of residence of the foreigner.

[22 April 2010]

## **Chapter II Visas**

### **Section 10.**

(1) Having regard to the purpose of entry, the following may be issued to a foreigner:

- 1) a uniform visa;
- 2) a visa with limited territorial validity;
- 3) an airport transit visa; or
- 4) a long-stay visa.

(2) The visas referred to in Paragraph one of this Section may be intended for a single, double or multiple entry.

(3) The visas referred to in Paragraph one, Clauses 1, 2 and 3 of this Section shall be issued in accordance with the procedures specified in Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

(4) The visas referred to in Paragraph one, Clause 4 of this Section shall be issued in accordance with the procedures specified in this Law.

[20 December 2007; 22 April 2010]

### **Section 11.**

(1) The period of stay specified in a visa shall not exceed 90 days within six months counting from the first – date of entry.

(2) The period of stay in the Republic of Latvia provided for in a long-stay visa may exceed 90 days within six months from the date of first entry, if it complies with the norms of international law, the State interests of Latvia, or if it is related to *force majeure* or reasons of a humanitarian nature.

[20 December 2007; 22 April 2010]

## **Section 12.**

(1) A foreigner, in accordance with the procedures prescribed by this Law, has the right to request a visa if the following conditions exist concurrently:

- 1) he or she has a valid travel document;
- 2) he or she has the financial resources necessary to reside in the Republic of Latvia or in another Schengen Agreement Member State and return to the country of residence or exit to a third country;
- 3) he or she, in accordance with the procedures specified by the Cabinet, submits documents substantiating the purpose of entry and stay and the place of stay, or he or she has an invitation or written request. The invitation shall be mandatory, if a natural or legal person is to be considered as an employer in accordance with the Law on State Social Insurance and he or she has intended to employ a foreigner by entering into an employment contract or a contract for work performance; and
- 4) he or she has a valid health insurance policy, which guarantees the covering of expenses related to health care during the intended time period of residence in the Republic of Latvia or in Schengen Agreement Member States, including the conveyance of the foreigner back to the country of residence in the case of his or her serious illness. The Cabinet shall determine the cases when a visa may be issued to a foreigner without a health insurance policy.

(2) [22 April 2010]

(3) A foreigner may submit the documents necessary for requesting a visa specified by the Cabinet in the Latvian, English, French, Russian or German language.

[24 November 2005; 20 December 2007; 22 April 2010]

## **Section 13.**

(1) The Cabinet shall determine the procedures for approval of invitations, as well as the procedures for drawing up of written requests.

(2) Visas, in conformity with competence, shall be issued by the officials of the Office, the State Border Guard, representations or the Consular Department. A visa, in conformity with the competence, shall be extended by the officials of the Office or the Consular Department.

(2<sup>1</sup>) If a visa is issued by the official of a representation, the following conditions shall be taken into account:

- 1) the documents for requesting a visa are submitted to a representation within the competence of which is the territory where the permanent place of residence of the submitter of the application is located;
- 2) a foreigner, who lawfully but not permanently resides in the territory of another country, may submit the documents for requesting a visa to such representation within the competence of which is the territory where the place of stay of the submitter of the application is located. A representation shall accept the referred to documents only in such case, if the submitter of the application is able to substantiate sufficiently the necessity to submit the documents to the relevant representation.

(3) The Cabinet shall determine the border crossing points where a visa may be issued in accordance with the Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).



(4) The Cabinet shall determine the procedures for the issue, registration, extension, annulment and revocation of visas, as well as the period of validity of visas.

(5) The territorial competence of representations for requesting of visas shall be determined by the Cabinet.

*[20 December 2007; 22 April 2010; 26 May 2011]*

#### **Section 14.**

Officials of the authorities referred to in Section 13, Paragraph two of this Law have the right to interview a foreigner and his or her inviter and request explanations and additional documents justifying the purpose of entry and residence, and the veracity of information provided by the foreigner, as well as to verify the information provided by the foreigner or his or her inviter in order to take a decision on approval of a visa, refusal to approve an invitation, revocation of an approved invitation, issue or extension of a visa, refusal to issue or extend a visa, revocation of an issued visa or annulment of a visa.

*[22 April 2010; 26 May 2011]*

#### **Section 15.**

A decision on the issue of a long-stay visa shall be taken within 15 days after the submission of all the documents specified by the Cabinet. If additional information or inspection is necessary for the issue of a long-stay visa, the decision shall be taken within 60 days.

*[20 December 2007; 22 April 2010]*

#### **Section 15.<sup>1</sup>**

(1) The approval of invitation shall be refused or approved invitation shall be revoked if:

1) the reason referred to in Section 16, Paragraph one, Clauses 6, 7, 8, 9, 13, 15, 16, 17, 18, 19 or 20 of this Law has been determined;

2) an inviter has not submitted all the documents specified in the Cabinet regulations necessary for the approval of an invitation, or refuses to provide the requested explanations which are related to the approval of the invitation and entry and residence of the foreigner to be invited in the Republic of Latvia;

3) it has been determined that an inviter has provided false information;

4) it has been determined that an invited foreigner does not have a travel document recognised in the Republic of Latvia;

5) the information provided by an inviter or obtained by the Office does not show evidence of an enduring connection of a foreigner with his or her country of residence and there is a reason to believe that the foreigner presents the risk of illegal immigration;

6) an inviter has lost the right to invite a foreigner determined by this Law;

7) the equity capital of the commercial company of the inviter is not paid in accordance with the Commercial Law;

8) it is determined that during the previous year an inviter had made infringements connected with employment of foreigners and payment of taxes; or

9) a reason of invitation of a foreigner is employment in accordance with an employment contract and the relevant free vacancy, which after registration is free for at least a month, has not been registered at the State Employment Agency, or the qualifications of the invited foreigner do not comply with the requirements specified in the application form for the registered free vacancy.

(2) If it is determined that an inviter has provided false information that he or she has been registered as a taxpayer or regarding tax debts which are administered by the State Revenue

Service, the Office is entitled to take a decision on a six-month prohibition for such person to invite a foreigner.

(3) If it is determined that an inviter had violated the requirements of regulatory enactments related to employment of foreigners during the last year, the Office is entitled to take a decision on a one-year prohibition for such person to invite a foreigner.

(4) An inviter has the right to contest the decision adopted in Paragraphs one, two and three of this Section to the Head of the Office. The decision of the Head of the Office may not be appealed.

(5) The Head of the Office or his or her authorised official may permit to approve an invitation in the cases referred to in this Section or reduce the prohibition time period specified in Paragraph two or three of this Section, if the entry and stay of the invited foreigner in the Republic of Latvia complies with the norms of international law, the State interests of Latvia or is related to *force majeure* or reasons of a humanitarian nature.

[22 April 2010; 26 May 2011]

## **Section 16.**

(1) The issue of a long-stay visa shall be refused if:

1) a foreigner has not submitted all the documents necessary for requesting a visa specified by the Cabinet or refuses to provide the required explanations related to the request for a visa and planned residence in the Republic of Latvia or another Schengen Agreement Member State;

2) a foreigner has provided false information;

3) the actual purpose of entry of a foreigner does not conform to the purpose specified in the documents;

4) the information provided by a foreigner does not show evidence of an enduring connection with his or her country of residence and there is a reason to believe that the foreigner presents the risk of illegal immigration;

5) a foreigner is unable to prove that he or she has the necessary financial resources to reside in the Republic of Latvia or another Schengen Agreement Member State and after that to exit to another country which he or she has the right to enter;

6) a foreigner is included in the list;

7) an inviter withdraws the invitation or written request in writing ;

8) a foreigner has submitted documents for requesting a residence permit or the inviter has drawn up a sponsorship, but the Office has not taken a decision on the issue of a residence permit or a refusal to issue it yet, except in the case where the inviter withdraws the sponsorship in writing;

9) a foreigner by a judgment of a court has been found guilty of committing such a criminal offence in the Republic of Latvia or outside it, for which a sentence is provided for by the laws of the Republic of Latvia – deprivation of liberty for at least one-year time period. This condition shall not apply if the conviction has been extinguished or set aside in accordance with procedures prescribed by law, but with regard to criminal offences committed in foreign countries – no less than five years have elapsed after the serving of the sentence of deprivation of liberty;

10) a foreigner is unable to prove that he or she is legally residing in the country in which he or she is present when requesting a visa;

11) a foreigner or another person using threats or promises has tried to influence an official's decision on issue of a visa;

12) a foreigner has specified a purpose of entry which is related to activities which may only be performed by a Latvian citizen or a non-citizen of Latvia or for the performance of which in the Republic of Latvia a permit is necessary, but the foreigner has not received

such permit. This condition shall not apply if, in accordance with regulatory enactments, it is possible to receive such permit only by residing in the Republic of Latvia;

13) the period of stay prescribed in accordance with Section 5, Paragraphs one or two of this Law has expired;

14) it has been determined that the inviter is absent without information as to his or her whereabouts, has lost the capacity to act or has deceased;

15) competent State institutions have provided information which constitutes grounds for prohibiting a foreigner from entering and residing in the Republic of Latvia; or

16) it has been determined that the foreigner is prohibited from entering the Schengen territory;

17) it has been determined that a foreigner, while staying in the Republic of Latvia, has committed an administrative violation and has not paid the fine imposed within the time period specified in regulatory enactments, except the case, when the operation of the administrative act is suspended or the court adjudication regarding the payment of the fine has not come into force;

18) a foreigner, to whom a visa has been issued during the last year on the basis of employment in the Republic of Latvia and to whom a work permit is necessary in accordance with Section 9 of this Law, has not received the referred to work permit;

19) a foreigner has been removed from the Republic of Latvia during the last five years and he or she or his or her inviter has not covered the expenses related to the execution of a voluntary return decision or forced removal of a foreigner;

20) it has been determined that a foreigner during the last year has repeatedly violated regulations regarding entry or residence in the Republic of Latvia or another Schengen Agreement Member State or has used a previously issued visa in a way not corresponding to the declared purpose of entry;

21) a foreigner is a person who has been registered in the Commercial Register as a member of a partnership having the right to represent the partnership, administrator or liquidator, a member of the board of directors, a member of the council, a proctor, if the equity capital of the relevant capital company has not been paid in accordance with the Commercial Law; or

22) a foreigner is a person who has been registered in the Commercial Register as a member of a partnership having the right to represent the partnership, administrator, liquidator, a member of the board of directors, a member of the council, a proctor or a person authorised to represent a merchant (a foreign merchant) in activities which are related to a branch, or an individual merchant, or a self-employed person and the violations had been made during the previous year which were related to employment of foreigners and payment of taxes.

(2) The issued long-stay visa shall be annulled if the provisions referred to in Paragraph one of this Section had existed at the time of the issue of the visa or if technical errors or inaccuracies have been disclosed after the issue of the visa or made when issuing the visa.

(3) A long-stay visa or the unexpired period of validity thereof shall be revoked, if the conditions referred to in Paragraph one of this Section have come into effect after the issue of the visa or a foreigner has been issued another visa, or it has been requested by the foreigner. If a foreigner has submitted the documents for requesting a residence permit in accordance with the procedures specified in this Law, while in the Republic of Latvia, or the foreigner has a valid visa for multiple entries and he or she has requested a residence permit in accordance with Section 23, Paragraph one, Clause 2, 3, 4, 8, 9, 14, 15, 28, 29 or 30 of this Law, the issued visa or the unexpired period of time of the visa shall not be revoked in the case referred to in Paragraph one, Clause 8 of this Section.

(4) The Head of the Office, Chief of the State Border Guard, Director of the Consular Department or their authorised officials may take a decision to issue a visa to a foreigner under the circumstances of the conditions referred to in Paragraph one of this Section, if it

complies with the norms of international law, the State interests of Latvia or is related to *force majeure* or reasons of a humanitarian nature.

(5) The term of validity shall be revoked for a visa which has been issued on the basis of employment in the Republic of Latvia, if a foreigner, to whom a work permit is necessary in accordance with Section 9 of this Law, has not received it.

[22 April 2004; 24 November 2005; 20 December 2007; 22 April 2010; 26 May 2011]

## **Section 17.**

(1) A decision on the issue or extension of a visa, refusal to issue or extend a visa, annulment or revocation of a visa shall be taken by officials of the authorities referred to in Section 13, Paragraph two of this Law. An official when taking a decision on the issue or extension of a visa, refusal to issue or extend a visa, within the scope of the applicable norms of law, shall also take into account the principle of protection of the State's interests – to promote the protection of State security interests.

(2) A decision on the issue or extension of the visa referred to in Section 10, Paragraph one, Clauses 1, 2 and 3 of this Law, on refusal to issue or extend such visa, on annulment or revocation of a visa shall be drafted in accordance with Regulation No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

(3) A foreigner has the right to contest the decision on the refusal, annulment or revocation of the visa referred to in Section 10, Paragraph one, Clauses 1, 2 and 3 of this Law within 30 days after coming into effect of such decision, by submitting an application and other documents in Latvian, English or Russian:

1) to the Director of the Consular Department, if the decision was taken by an official of a representation or an official of the Consular Department;

2) to the Minister for Foreign Affairs, if the decision was taken by the Head of the Consular Department;

3) to the Head of the Office, if the decision was taken by an official of the Office;

4) to the Chief of the State Border Guard, if the decision was taken by an official of the State Border Guard.

(4) A foreigner may appeal the decision on the contested administrative act to the Administrative District Court in accordance with the procedures prescribed by law. The adjudication of the court is final and cannot be appealed.

(5) Contesting and appeal of a decision shall not suspend operation thereof.

(6) Submission of an application to the court shall not give the rights to a foreigner to enter and reside in the Republic of Latvia.

(7) The Administrative District Court, when taking an adjudication on the case referred to in Paragraph four of this Section, shall examine the compliance of the decision referred to in Paragraphs two and three of this Section with regulatory enactments.

(8) The court may adjudicate the case, which has been initiated on the basis of the application regarding the decision referred to in Paragraph three of this Section, by written procedure, if it recognises that the evidence existing in the case is sufficient for hearing the case. The adjudication of the case by written procedures shall not require a consent from the participants of the administrative proceedings.

(9) The officials who have refused to issue a long-term visa, have annulled or revoked a long-term visa, shall not be obliged to state the grounds of such decision.

(10) A decision on the refusal to issue a long-term visa, a decision on the annulment or revocation of a long-term visa shall not be subject to contesting or appeal.

[26 May 2011]

### **Chapter III**

#### **Refusal for a Foreigner to Enter the Republic of Latvia**

##### **Section 18.**

(1) An official of the State Border Guard shall take and draw up a decision on the refusal to enter the Republic of Latvia in accordance with Regulation No 562/2006 of the European Parliament and of the Council of 15 March 2006.

(2) The officials of the State Border Guard, which are entitled to take a decision on refusal for a foreigner to enter the Republic of Latvia, shall be appointed by the Chief of the State Border Guard.

(3) The Chief of the State Border Guard or an official authorised by him or her may, taking into account the conditions of Article 5(4)(c) of Regulation No 562/2006 of the Parliament and of the Council of 15 March 2006, permit the entry into the Republic of Latvia of a foreigner who does not conform to the conditions of entry.

*[8 July 2003; 22 April 2004; 24 November 2005; 20 December 2007; 26 May 2011]*

##### **Section 19.** [24 November 2005]

*[22 April 2004; 24 November 2005]*

##### **Section 20.**

(1) A foreigner has the right to dispute in the representation the decision on refusal to enter the Republic of Latvia within 30 days after the taking of the decision.

(2) The submission referred to in Paragraph one of this Section shall be examined by the Chief of the State Border Guard or an official authorised by him or her, and the decision taken by such persons shall not be subject to appeal.

##### **Section 21.**

(1) A carrier shall ascertain that the foreigner he or she is carrying has the necessary documents for entry into the Republic of Latvia.

(2) Upon the request of an official of the State Border Guard a carrier who has transported a foreigner to the State border of the Republic of Latvia or into the Republic of Latvia shall transport the foreigner back to the country from which he or she is carried or to the country which has issued a travel document or to any other country in which the entry of the foreigner is guaranteed if:

1) a decision has been taken to refuse entry for the foreigner into the Republic of Latvia;

2) the next carrier who must deliver the foreigner crossing in transit the territory of the Republic of Latvia to the country of destination or to the next country refuses to do so; or

3) entry for the foreigner who crosses the territory of the Republic of Latvia in transit has been refused by the country of destination or the next country, and it sends him or her back to the Republic of Latvia.

(3) Expenses related to the detaining, holding under guard and forced removal of a foreigner shall be covered by the carrier. The procedures for determining and recovering of expenses shall be determined by the Cabinet.

*[24 November 2005; 26 May 2011]*

## **Chapter IV Residence Permits**

### **Section 22.**

- (1) The following may be issued to a foreigner:
- 1) a temporary residence permit; or
  - 2) a permanent residence permit.
- (2) A temporary residence permit, the period of validity of which exceeds one year, shall be registered annually. A permanent residence permit shall be registered once every five years.
- (3) A sponsorship shall be approved and temporary residence and permanent residence permits shall be issued, registered and annulled by the Office in accordance with procedures specified by the Cabinet.
- (4) A foreigner may submit the documents specified by the Cabinet for requesting a residence permit in the Latvian, English, French, Russian or German language.
- [24 November 2005]*

### **Section 22.<sup>1</sup>**

- (1) The approval of a sponsorship shall be refused or an approved sponsorship shall be revoked if:
- 1) an inviter has not submitted all the documents specified in the Cabinet regulations necessary for the approval of the sponsorship, or refuses to provide the explanations requested which are related to the approval of the sponsorship and entry and residence of the foreigner to be invited in the Republic of Latvia;
  - 2) the invited foreigner has been included in the list;
  - 3) it has been determined that an inviter has provided false information;
  - 4) competent State institutions have provided information which is the grounds to refuse the entry for the foreigner;
  - 5) it has been determined that the invited foreigner does not have a travel document recognised in the Republic of Latvia;
  - 6) the information provided by the inviter or obtained by the Office does not show evidence of an enduring connection of the foreigner with his or her country of residence and there is a reason to believe that the foreigner presents the risk of illegal immigration;
  - 7) it has been determined that the invited foreigner is prohibited from entering the Schengen territory;
  - 8) an inviter has withdrawn the sponsorship in writing;
  - 9) an inviter has lost the right to reside in the Republic of Latvia;
  - 10) an inviter has lost the right to invite a foreigner determined by this Law;
  - 11) it has been determined that a foreigner, while staying in the Republic of Latvia, has committed an administrative violation and has not paid the fine imposed within the time period specified in regulatory enactments, except the case, when the operation of the administrative act is suspended or the court adjudication regarding payment of the fine has not come into force;
  - 12) the equity capital of the commercial company of the inviter is not paid in accordance with the Commercial Law; or
  - 13) a reason of invitation of a foreigner is employment in accordance with an employment contract and the relevant free vacancy, which after registration is free for at least a month, has not been registered at the State Employment Agency, or the qualifications of the invited foreigner do not comply with the requirements specified in the application form for the registered free vacancy.

(2) If it is determined that an inviter has provided false information that he or she has been registered as a taxpayer or regarding tax debts which are administered by the State Revenue Service, the Office is entitled to take a decision on a one-year prohibition for such person to invite a foreigner.

(3) If it is determined that an inviter had violated the requirements of regulatory enactments related to the employment of foreigners during the last year, the Office is entitled to take a decision on a one-year prohibition for such person to invite a foreigner.

(4) An inviter has the right to contest the decision adopted in Paragraphs one, two and three of this Section to the Head of the Office. The decision of the Head of the Office may not be appealed.

(5) The Head of the Office or his or her authorised official may permit to approve a sponsorship in the cases referred to in this Section or reduce the prohibition time period specified in Paragraph two or three of this Section, if the entry and stay of the invited foreigner in the Republic of Latvia complies with the norms of international law, the State interests of Latvia or is related to *force majeure* or reasons of a humanitarian nature.

[22 April 2010; 26 May 2011]

### **Section 23.**

(1) A foreigner has the right to request a temporary residence permit in accordance with the procedures prescribed by this Law:

1) once in a calendar year for a period of time which does not exceed six months, if he or she is a relative of a Latvian citizen or of a non-citizen of Latvia or of a foreigner who has received a permanent residence permit, up to the third degree in direct line or third degree in a collateral line, or also affinity to the third degree;

2) for a period of time which does not exceed five years, if he or she is an individual merchant registered in the Commercial Register;

3) for the time period of authorisation, but not longer than for five years, if he or she has been registered in the Commercial Register as a member of the board of directors or a member of the council, proctor, administrator, liquidator or a member of a partnership having the right to represent the partnership, or a person who is authorised to represent a merchant (foreign merchant) in activities related to a branch, if the commercial company or the branch of the foreign merchant has been registered in the Commercial Register for at least one year prior to requesting a residence permit, it is performing active economic activity and its activity provides economic benefit for the Republic of Latvia. This condition shall be applied in relation to an official of the limited liability company registered in the Commercial Register, if the equity capital of the limited liability company is at least LVL 2000;

4) for a period not exceeding a year if he or she is a self-employed person;

5) [24 November 2005];

6) for a period of employment, but not longer than five years. If a European Union Blue Card is being requested for a period of time, which does not exceed one year, it shall be issued accordingly for a period of time, which exceeds the time period of the employment contract by three months;

7) [6 April 2006];

8) for a period of time which does not exceed four years if the foreigner is a representative of a representation of a foreign merchant;

9) for a period of time provided for by the scientific co-operation agreement entered into between scientific institutions included in the register of scientific institutions, but not longer than for five years;

10) for a period of time of studies of pupils of educational establishments accredited in the Republic of Latvia or full-time students;

- 11) for a period of time indicated in the contract regarding treatment in an inpatient medical treatment institution;
- 12) for a period of time referred to in Sections 25, 26, 30 and 31 of this Law;
- 13) for a period of time for which, in accordance with procedures prescribed by the Asylum Law he or she is granted alternative status;
- 14) for a period of time which is necessary for the implementation of such international agreements or projects in which the Republic of Latvia, State direct administration institution or a derived public person is participating;
- 15) for a period of time which is necessary for the provision of assistance to State or local government institutions of the Republic of Latvia, but not longer than one year;
- 16) for a period of time which is necessary for the performance of religious activities, but not longer than a year;
- 17) for a period of time, for which guardianship or trusteeship is established over him or her or he or she has been appointed as a guardian or trustee for a citizen of Latvia or a non-citizen of Latvia. If the trusteeship has been established, a residence permit shall be issued for a period of time not exceeding five years;
- 18) for a period of time not exceeding five years if the foreigner has joined a cloister registered in accordance with procedures prescribed by regulatory enactments;
- 19) for a period of time not exceeding one year if residence in the Republic of Latvia is related to pupil or student exchange, practice or apprenticeship in one of the educational establishments of the Republic of Latvia or in a commercial company registered in the Commercial Register or performance of another task;
- 20) for a period of time until the day of the coming into effect of a court judgment regarding divorce and the specification of the children's place of domicile, or until the day when a sworn notary has prepared a certificate of divorce, but not longer than one year if the marriage is dissolved and there are children in the marriage who are Latvian citizens or non-citizens of Latvia;
- 21) for a period of time not exceeding one year if it is necessary for pre-trial investigation institutions or a court that the foreigner resides in the Republic of Latvia until a criminal case investigation is finished or adjudicated in a court;
- 22) for a period of time not exceeding five years if he or she has lost European Community long-term resident status in the Republic of Latvia when exiting to another state and requests a residence permit not later than three years after exiting;
- 23) for a period of time not exceeding five years if he or she has a valid residence permit of a long-term resident of the European Community issued by another Member State of the European Union and there are no grounds to request a temporary residence permit in accordance with any other provision of this Paragraph;
- 24) for a period of time, for which temporary protection has been granted for him or her in accordance with the Asylum Law;
- 25) for a period of time not exceeding five years, if a foreigner has not fulfilled the condition of Section 24, Paragraph five of this Law and he or she has the right to request a permanent residence permit in accordance with:
  - a) Section 24, Paragraph one, Clauses 2, 3 and 6 or Section 25, Paragraph two of this Law;
  - b) Section 24, Paragraph one, Clause 7 of this Law (if a foreigner resides in the Republic of Latvia with a residence permit which has been issued in accordance with Section 23, Paragraph three of this Law), or
  - c) Section 28, Paragraph two of this Law;
- 26) for a period of time not exceeding five years, if a foreigner may enter and reside in the Republic of Latvia according to the procedures specified by international treaties binding on the Republic of Latvia regarding abolition of visa requirement, he or she has sufficient



means of subsistence and he or she has reached pensionable age determined in the Republic of Latvia;

27) for a period of time not exceeding five years, if the status of a stateless person has been granted to a foreigner in the Republic of Latvia. This condition shall not apply to a foreigner to whom prior to the granting of the status of a stateless person in the Republic of Latvia a residence permit has been issued in accordance with another purpose of entry;

28) for a period of time not exceeding five years, if he or she has invested in the equity capital of the capital company, increasing it, or has invested in the equity capital of the capital company, founding a new capital company, and the investment is at least:

a) LVL 25 000, and it has been performed in a capital company, which employs no more than 50 employees, the annual turnover or annual balance of which does not exceed LVL 7 million and which during the economic year pays not less than LVL 20 000 in taxes into both the State budget and local government budget,

b) LVL 100 000;

29) for a period of time not exceeding five years, if he or she has acquired in the Republic of Latvia and he or she owns one or several immovable properties in the planning region of Riga or cities, the total value of the immovable property being at least LVL 100 000, or one or several immovable properties outside the planning region of Riga or cities, the total value of the immovable property being at least LVL 50 000, if the following conditions exist concurrently:

a) he or she does not have and has never had payment debts of immovable property tax,

b) the total value of immovable properties was paid for by non-cash settlement,

c) immovable property which has been acquired from a legal person or natural person registered in the Republic of Latvia, who is a citizen of Latvia, a non-citizen of Latvia, a citizen of the Union or foreigner, who is staying in the Republic of Latvia with a valid residence permit,

d) the total cadastral value of immovable properties acquired in the planning region of Riga or cities was not less than LVL 30 000 at the time of acquisition thereof or the total cadastral value of immovable properties outside the planning region of Riga or cities was not less than LVL 10 000 at the time of acquisition thereof. If the cadastral value is less than that indicated in this Sub-clause, the total value of immovable properties shall not be less than the market value of immovable properties specified by a certified assessor of immovable property;

30) for a period of time not exceeding five years, if he or she has made financial investments in the credit institution of the Republic of Latvia in the amount of at least LVL 200 000 in the form of subordinated capital (subordinated loan or subordinated bonds) of a credit institution, if the term of such transaction is not less than five years and in accordance with the deposit provisions it may not be terminated prior to the term of repayment of the deposit.

(2) The Cabinet shall issue regulations which provide for the criteria (taking into account the taxes paid, turnover, number of employees, profit etc.), in order to determine that a commercial company, a branch of a foreign merchant, an individual merchant or a self-employed person is performing active economic activity and provide economic benefit to the Republic of Latvia or a representation of a foreign merchant performs active activity, as a result of which the development of the economy of the Republic of Latvia is promoted, as well as, taking into account the economic and internal security interests of the Republic of Latvia, is entitled to determine restrictions for commercial activities of foreigners.

(3) In cases not provided for in this Law a temporary residence permit shall be issued for a time period of up to five years:

1) by the Minister for the Interior, if it complies with the State interests of Latvia; or

2) by the Head of the Office, if it complies with the norms of international law, or is related to reasons of a humanitarian nature.

(4) In the cases referred to in Paragraph one of this Section, the spouse of a foreigner, minor children (also those under guardianship) and persons under trusteeship have the right to request a temporary residence permit for the duration of the temporary residence permit issued to the foreigner.

(5) [22 April 2010]

(6) The person directing the proceedings has the right to request a temporary residence permit for the foreigner who is not a Union citizen and who has been recognised as a victim of trafficking in human beings, as well as minor children accompanied by him or her for a period, which is not less than six months.

(7) A foreigner, who, whilst staying illegally in the Republic of Latvia, has been illegally employed in particularly exploitative working conditions, as well as a minor foreigner, who, whilst staying illegally in the Republic of Latvia, has been illegally employed, has the right to request a temporary residence permit for a period of time, which is necessary for the collection of unpaid work remuneration from the employer, but not longer than for one year, if the foreigner has been employed for at least six months and has turned to the court with the relevant application. A temporary residence permit may be requested repeatedly for a period of time, which is necessary for the collection of unpaid work remuneration from the employer, but not longer than for six months, if the court proceeding for the collection of the unpaid work remuneration has been completed, but the employer has not paid the work remuneration, which is due to the foreigner. Particular exploitative working conditions are such working conditions and employment requirements, which cause very incommensurate differences between the working conditions and employment requirements of legally employed workers and the working conditions and employment requirements of such foreigner who is staying illegally in the Republic of Latvia, as well as differences due to gender discrimination or another type of discrimination, or differences that affect the protection of health and safety of the foreigner at work, as well as violates his or her dignity.

*[24 November 2005; 6 April 2006; 25 January 2007; 20 December 2007; 22 April 2010; 20 January 2011; 26 May 2011]*

## **Section 24.**

(1) The right to request a permanent residence permit, in accordance with the procedures prescribed by this Law, shall be granted:

1) to the minor child of a Latvian citizen or non-citizen of Latvia, or of a foreigner who has received a permanent residence permit;

2) to the spouse of a Latvian citizen or non-citizen of Latvia, or of a foreigner who has received a permanent residence permit in accordance with Sections 25 and 26 of this Law, as well as the child of the spouse in accordance with Section 29 of this Law;

3) to the parents of a Latvian citizen or a non-citizen of Latvia and their spouses in accordance with Section 30 of this Law;

4) [20 December 2007];

5) to a foreigner who in the Republic of Latvia has received a secondary education certificate, moreover, has completed the secondary education in the official language;

6) to a foreigner who was a citizen of Latvia on 17 June 1940 or one of his or her parents is a Latvian citizen, and who moves to Latvia for permanent residence in accordance with Section 31 of this Law;

7) to a foreigner who has continuously resided in the Republic of Latvia with a temporary residence permit for at least five years prior to the end of the term of the last temporary residence permit;

8) to a foreigner living in the Republic of Latvia who prior to the acquisition of the citizenship of another country has been a Latvian citizen or a non-citizen of Latvia;

9) to a foreigner who, in accordance with the procedures prescribed by the Asylum Law, has been granted refugee status and to his or her family members;

10) to a foreigner, one of whose relatives is a Latvian or a Liiv in direct ascending line and who is moving for permanent residence to the Republic of Latvia;

11) for a foreigner who in accordance with the Repatriation Law is a family member of a repatriate.

(2) In cases not laid down in this Law a permanent residence permit shall be issued by the Minister for the Interior, if it complies with the State interests of Latvia.

(3) The provisions of Paragraph one, Clause 7 of this Section shall not apply to a foreigner who has received a temporary residence permit for a period of studies in accordance with Section 23, Paragraph one, Clause 10 of this Law, as well as a foreigner who has received a temporary residence permit in accordance with Section 23, Paragraph six of this Law as a foreigner who is not a Union citizen and who has been recognised as a victim of trafficking in human beings, and to the minor children accompanied by him or her.

(4) A foreigner referred to in Paragraph one, Clause 8 of this Section shall submit the documents necessary for requesting a permanent residence permit within 30 days after coming into effect of a decision on loss of the status of the Latvian citizen or non-citizen of Latvia.

(5) A foreigner referred to in Paragraph one, Clauses 2, 3, 6 and 7 of this Section has the right to receive a permanent residence permit if he or she has acquired the official language. The level of knowledge of the official language, the procedures for the testing of knowledge of the official language and the exemptions in the completion of testing of knowledge of the official language, as well as such person categories which due to long-term or unpreventable health disorders are exempt from testing of knowledge of the official language and the procedures for the recognition of other relevant level of knowledge of the official language certifying documents, shall be determined by the Cabinet.

(5<sup>1</sup>) In respect of the testing of knowledge of the official language, a foreigner shall pay a State fee in the amount and according to the procedures specified by the Cabinet.

(6) [22 April 2010]

(7) In the cases referred to in Paragraph one, Clauses 2, 3 and 6 of this Section a foreigner may request a permanent residence permit, if he or she has been residing in the Republic of Latvia continuously with a temporary residence permit for at least five years prior to the end of the term of the last temporary residence permit.

(8) Residence in the Republic of Latvia shall be recognised as continuous, if during the specified time period the absence from the Republic of Latvia has not exceeded six consecutive months or altogether does not exceed one year. The absence shall be considered as justified, if the reason thereof has been the circumstances non-dependent on a person (illness of a foreigner or *force majeure*). The time of studies of a pupil or the time of full time studies of a student in the Republic of Latvia in the accredited educational institution, but not more than a half of the referred to time, as well as the time of the service abroad of a person in the diplomatic or consular service of Latvia (it shall apply also to a spouse and a dependent child who is residing with him or her abroad) shall be included in the continuous time of residence.

[16 June 2005; 24 November 2005; 6 April 2006; 25 January 2007; 20 December 2007; 22 April 2010; 26 May 2011]

## **Section 25.**

(1) A foreigner who is the spouse of a Latvian citizen or a non-citizen of Latvia is entitled to request:

- 1) when submitting documents for the first time – a temporary residence permit for one year;
  - 2) when submitting documents for the second time – a temporary residence permit for four years; and
  - 3) when submitting documents for the third time – a permanent residence permit.
- (2) If the marriage has ended in divorce, before the spouse of a Latvian citizen or a non-citizen of Latvia has received a permanent residence permit, the temporary residence permit shall be annulled, except in the case where the court leaves the minor child – a Latvian citizen or a non-citizen of Latvia with the parent who is not a Latvian citizen or a non-citizen of Latvia. In such case the former spouse is entitled to receive a permanent residence permit.
- [24 November 2005]*

## **Section 26.**

- (1) A foreigner who is the spouse of a foreigner holding a permanent residence permit shall be entitled to request:
- 1) when submitting documents for the first time – a temporary residence permit for one year;
  - 2) when submitting documents for the second time – a temporary residence permit for four years; and
  - 3) when submitting documents for the third time – a permanent residence permit.
- (2) If the marriage has ended in divorce, before the spouse of the foreigner who has received a permanent residence permit receives a permanent residence permit, the temporary residence permit shall be annulled.
- (3) In the cases referred to in Section 25, Paragraph one, Section 26, Paragraph one, Section 30, Paragraph one and Section 31, Paragraph two of this Law, a residence permit shall be issued on the condition that the marriage is monogamous, spouses will live together and they have a common household.
- [24 November 2005]*

## **Section 27.**

A foreigner who has received a permanent residence permit in accordance with Section 25, Section 26, Paragraph one, Clause 3 of this Law and whose marriage has ended in divorce shall acquire the right to invite the spouse – a foreigner – to reside in the Republic of Latvia in accordance with Section 26 of this Law not earlier than three years after the receipt of a permanent residence permit.

## **Section 28.**

- (1) If the spouse of a foreigner holding a temporary residence permit who is a Latvian citizen, a non-citizen of Latvia or a foreigner who has received a permanent residence permit deceases, a new temporary residence permit shall not be issued to the foreigner and the existing temporary residence permit shall not be registered.
- (2) If in the marriage referred to in Paragraph one of this Section there is a minor child – a Latvian citizen or a non-citizen of Latvia, the spouse shall be entitled to receive a permanent residence permit.

## **Section 29.**

- (1) For the period of the residence permit issued to the spouse of a Latvian citizen or a non-citizen of Latvia, or a spouse of a foreigner who has received a permanent residence permit,

the child of the spouse shall be entitled to request a residence permit, except in the case where:

- 1) there are legal restrictions for the exit of a child from the country of residence;
  - 2) a child has reached legal age at the time of requesting the first residence permit; and
  - 3) a child has entered into marriage or he or she has a separate household.
- (2) The rights referred to in this Section shall also apply to other persons who are under the guardianship of the spouse.  
*[20 December 2007]*

### **Section 30.**

- (1) Parents of a Latvian citizen or a non-citizen of Latvia who have reached the pensionable age specified in the Republic of Latvia shall be entitled to request:
- 1) when submitting documents for the first time – a temporary residence permit;
  - 2) when submitting documents for the second time – a temporary residence permit for four years; and
  - 3) when submitting documents for the third time – a permanent residence permit.
  - 4) *[6 April 2006]*.
- (2) A temporary residence permit shall be issued on condition that a foreigner will not request a material benefit from the social assistance system of the Republic of Latvia.
- (3) The conditions of Paragraph one of this Section shall apply to a spouse of a parent of a Latvian citizen or a non-citizen of Latvia regardless of his or her age.  
*[24 November 2005; 6 April 2006; 22 April 2010]*

### **Section 31.**

- (1) A foreigner who was a Latvian citizen on 17 June 1940 or if one of his or her parents is a Latvian citizen is entitled to request:
- 1) when submitting documents for the first time – a temporary residence permit for one year;
  - 2) when submitting documents for the second time – a temporary residence permit for four years; and
  - 3) when submitting documents for the third time – a permanent residence permit.
  - 4) *[6 April 2006]*.
- (2) The conditions specified in Paragraphs one and three of this Section shall also apply to the spouse of the foreigner and their minor children unless one of the provisions of Section 29, Paragraph one, Clauses 1, 2 and 3 of this Law applies to them.
- (3) A foreigner, one of the parents of which is a citizen of the Republic of Latvia, is entitled to continue residing in the Republic of Latvia in accordance with the conditions of Paragraph one of this Section also in the case, if the referred to parent has deceased.  
*[24 November 2005; 6 April 2006; 22 April 2010; 26 May 2011]*

### **Section 32.**

- (1) A foreigner shall submit documents for requesting a residence permit to a representation, which is not located in a Schengen Agreement Member State. If the foreigner has a valid residence permit in any of the Schengen Agreement Member States, he or she has the right to submit documents to a representation, which is located in the Schengen Agreement Member State.
- (2) The range of those persons who are entitled to submit documents to the Office in order to receive a residence permit shall be determined by the Cabinet.

(3) The Head of the Office or his or her authorised official may permit the submission to the Office of the documents necessary for requesting a residence permit if it complies with the norms of international law, the State interests of Latvia or is related to reasons of a humanitarian nature.

(4) Pupils of educational institutions and students during the term of validity of their residence permits are not entitled to request from the Office a residence permit in relation to another reason for residence. This provision shall not apply to foreigners who have acquired higher education in the Republic of Latvia and to whom a residence permit has been issued for acquiring such education.

*[24 November 2005; 6 April 2006; 26 February 2009; 22 April 2010; 26 May 2011]*

### **Section 33.**

(1) The Office, after receipt of all the necessary documents for requesting or registration of a residence permit, shall examine such documents and provide a reply:

- 1) regarding a temporary residence permit – within 30 days;
- 2) regarding a temporary residence permit, which has been requested in accordance with Section 23, Paragraph one, Clause 28, 29 or 30 of this Law, if it is requested by a foreigner who is a citizen of such country for the citizens of which an additional examination is performed in issuing a residence permit, or for whom the status of a stateless person or refugee has been granted in a foreign state, as well as in the case, if a residence permit is requested by a spouse of the relevant foreigner, minor children (also those under guardianship) and persons under trusteeship – within 90 days;
- 3) regarding a permanent residence permit – within 90 days;
- 4) regarding a permanent residence permit, which has been requested in accordance with Section 24, Paragraph one, Clause 1 or 8 of this Law – within 30 days; and
- 5) regarding a registration of a residence permit – within 30 days.

(1<sup>1</sup>) The Minister for the Interior after receipt of all the documents necessary for requesting a residence permit shall examine them and shall provide a reply:

- 1) if the temporary residence permit has been requested in accordance with Section 23, Paragraph three of this Law – within 60 days;
- 2) if the permanent residence permit has been requested in accordance with Section 24, Paragraph two of this Law – within 90 days.

(1<sup>2</sup>) The Office shall prepare a residence permit within 10 working days. Upon the request of a foreigner or in case where the term of the lawful residence of the foreigner in the Republic of Latvia is less than 10 working days, the residence permit shall be prepared within two working days.

(2) The documents necessary for requesting or registration of a residence permit shall be determined by the Cabinet, also providing that in the cases referred to in Section 23, Paragraph one, Clauses 2, 3, 4, 6, 28, 29 and 30 of this Law a foreigner submits also the documents which attest the payment of taxes and fees specified in regulatory enactments.

(3) The documents for requesting or registering residence permits shall be submitted to the Office:

- 1) taking into account that, in accordance with the time periods specified in Paragraphs 1.<sup>1</sup> and 1.<sup>2</sup> of this Section for providing a reply and preparing a residence permit, the foreigner does not exceed the lawful term of residence in the Republic of Latvia;
- 2) for requesting a residence permit for a child who has been born in the Republic of Latvia – not later than 90 days after his or her birth.

(4) If a foreigner is not entitled to reside in the Republic of Latvia during the time period specified in Paragraphs 1.<sup>1</sup> and 1.<sup>2</sup> of this Section for examining the documents and preparing a residence permit, the Head of the Office or his or her authorised official may permit the submission of documents for requesting of or registration of a residence permit, if it complies

with the State interests of Latvia or is related to *force majeure* or reasons of humanitarian nature and is justified with the relevant documents. In such cases, the decision shall be taken:

1) within five or 10 working days – depending on the time that the foreigner is entitled to reside in the Republic of Latvia, if a temporary residence permit is being requested or a residence permit is being registered;

2) within 45 days or 10 working days – depending on the time that the foreigner is entitled to reside in the Republic of Latvia, if a permanent residence permit is being requested;

3) in the time period specified in Paragraph 1.<sup>1</sup> of this Section, if the decision on the granting of a residence is being taken by the Minister for the Interior.

(5) If a residence permit is requested later than 90 days after expiration of the term of validity of the previous residence permit, in the cases referred to in Sections 25, 26, 30 and 31 of this Law a residence permit shall be issued for the time period that is specified in Paragraph one, Clause 1 of this Section.

(6) The officials of the institutions referred to in Section 3, Paragraph one of this Law have the right to conduct interviews with a foreigner and his or her inviter and to require explanations and additional documents, which justify the entry and residence purpose and the truthfulness of the information provided by the foreigner, as well as to examine information provided by the foreigner or his or her inviter in order to take a decision on issue or registration of a residence permit.

[24 November 2005; 6 April 2006; 20 December 2007; 22 April 2010; 26 May 2011]

#### **Section 34.**

(1) The issue or registration of a residence permit shall be refused if:

1) a foreigner or his or her inviter has not submitted all the documents specified in the Cabinet regulations necessary in order to request a residence permit, or refuses to provide the explanations required which are related to the receipt of a residence permit;

2) a foreigner or his or her inviter has provided false information or the documents submitted have been obtained unlawfully or have been forged;

3) a foreigner does not have the necessary financial resources for residence in the Republic of Latvia;

4) a foreigner has submitted the documents necessary for requesting a residence permit with a travel document not recognised or invalid in the Republic of Latvia, or he or she does not have a travel document;

5) a foreigner has such a health disorder or disease that endangers the safety of the public and the health of the members thereof, or there is a reason to believe that the foreigner may cause a threat to public health, except in the case where the foreigner with the consent of the Ministry of Health enters for medical treatment of the relevant health disorder or disease. The Cabinet shall determine a health disorder and disease list. If the referred to health disorder or disease of the foreigner arose during the period of validity of the previous residence permit and he or she wishes to obtain a new residence permit, in addition to the necessary documents, a statement from a medical institution shall be submitted, which certifies that the foreigner has performed all the necessary measures for the medical treatment of the relevant illness;

6) a foreigner has been illegally residing in the territory of the Republic of Latvia or another Schengen Agreement Member State during the last year or it has been established by a judgment of a court that he or she has helped another foreigner to enter the territory of the Republic of Latvia or another Schengen Agreement Member State illegally;

7) a foreigner has been included in the list or it has been determined that he or she is prohibited from entering the Schengen territory;

8) a foreigner by a judgement of a court has been found guilty of committing such criminal offence in the Republic of Latvia or outside it, for which the sentence – deprivation of liberty for a time period, which exceeds three years – is provided for by the law of the Republic of Latvia. This condition shall not apply if the status of a stateless person in the Republic of Latvia has been granted to the foreigner or the conviction has been extinguished or set aside in accordance with procedures prescribed by law, but with regard to criminal offences committed in foreign countries – at least five years have elapsed after serving of the sentence of deprivation of liberty;

9) a foreigner has received remuneration (compensation) for exit to another state for permanent residence therein irrespective of the fact whether the remuneration (compensation) has been provided by State or local government institutions of the Republic of Latvia or international (foreign) funds or authorities. This condition shall not apply to a foreigner who at the time of the receipt of the remuneration (compensation) was a minor, to a foreigner who has reimbursed the remuneration (compensation), as well as to a foreigner who requests a temporary residence permit, but the request is not based upon Section 25, 26, 30 or 31 of this Law. The procedures for reimbursement of the remuneration (compensation) shall be determined by the Cabinet;

10) the inviter has lost the right to reside in the Republic of Latvia;

11) a foreigner has not complied with the term referred to in Section 24, Paragraph four of this Law, except in the case when the foreigner can produce evidence that the time period was missed due to a justifiable reason;

12) a foreigner has joined a foreign military or another civil service;

13) there is a reason to believe, that a foreigner has entered into a marriage of convenience in order to receive a residence permit in the Republic of Latvia;

14) a foreigner is under the guardianship or trusteeship of such foreigner for whom entry into the Republic of Latvia is prohibited;

15) there is a reason to believe that the established adoption is fictitious and established in order for the foreigner to receive a residence permit in the Republic of Latvia;

16) a foreigner works without a work permit or has worked during the last year without a work permit;

17) an inviter withdraws the sponsorship in writing;

18) the inviter is absent without information as to his or her whereabouts, has lost the capacity to act or has deceased;

19) competent State institutions have provided information which constitutes grounds for prohibiting the foreigner from entering and residing in the Republic of Latvia;

20) a permanent residence permit has been requested in accordance with Section 24, Paragraph one, Clause 8 of this Law and there have been grounds to withdraw the status of a Latvian citizen or non-citizen of Latvia in accordance with the Law on Citizenship or the Law On the Status of Those Former USSR Citizens who do not have the Citizenship of Latvia or that of any Other State;

21) the information provided by a foreigner does not show evidence of an enduring connection with his or her country of residence and there is a reason to believe that the foreigner presents the risk of illegal immigration;

22) the inviter is in pre-trial investigation or in a prison, except in the case where the residence permit is requested by the spouse of the inviter and there is a minor child in their family;

23) the residence permit is requested in accordance with Section 23, Paragraph one, Clause 1; Section 25, Paragraph one, Clause 2 or 3; Section 26, Paragraph one, Clause 2 or 3; Section 30, Paragraph one or Section 31 of this Law and the inviter resides outside the Republic of Latvia for a time period longer than six months during a year, except in the case where the inviter is a seafarer or fulfils military service in the National Armed Forces of the Republic of Latvia or civil service outside the Republic of Latvia or the residence permit is



requested by the spouse of a Latvian citizen or a non-citizen of Latvia, or the spouse of a foreigner who has received a permanent residence permit and there is a child in their family;

24) the foreigner has resided in the Republic of Latvia in accordance with Section 23, Paragraph one, Clause 2, 3, 4 or 7 of this Law and taxes have not been paid for him or her in the last year or he or she has a tax debt as provided for in regulatory enactments;

25) the spouses do not comply with the conditions of Section 26, Paragraph three of this Law or there is a basis for considering that the marriage does not in fact exist;

26) the inviter has been residing outside the Republic of Latvia for a time period longer than six months during the last year, except in the case where the inviter is a seafarer or fulfils military service in the National Armed Forces of the Republic of Latvia or civil service outside the Republic of Latvia or a foreigner and inviter have a child in their family;

27) the residence permit has been requested in accordance with Section 23, Paragraph one, Clause 2, 3 or 4 of this Law and a commercial company, a branch of a foreign merchant, an individual merchant or a self-employed person has not performed active economic activity and has not provided economic benefit to the Republic of Latvia during the last year;

28) a foreigner requests a residence permit in accordance with Section 23, Paragraph one, Clause 8 of this Law and a representation of a foreign merchant, which is operating in the Republic of Latvia, has not performed active activity during the last year, which would result in promoting the development of the economy of the Republic of Latvia;

29) a permanent residence permit has been requested in accordance with Section 24, Paragraph one of this Law and there was the basis for annulment of a previously issued temporary residence permit in accordance with Section 35, Paragraph one and two of this Law; or

30) a foreigner requests a permanent residence permit in accordance with Section 24, Paragraph one, Clause 2, 3, 6 or 7 of this Law and it has been determined that he or she has not fulfilled the conditions of Section 24, Paragraph seven of this Law.

31) a foreigner has submitted documents for requesting a European Union Blue Card and:

a) has received the status of a refugee or alternative status, or temporary protection in the Republic of Latvia or has requested an asylum in the Republic of Latvia and the final decision has not been taken,

b) has requested a residence permit in accordance with Section 23, Paragraph one, Clause 9 of this Law,

c) he or she has been granted the status of long-term resident of the European Community in another Member State of the European Union,

d) he or she is entering in accordance with an international agreement, which regulates facilitated entry and residence of trade and investment-related foreigners,

e) he or she resides in another Member State of the European Union as a seasonal worker,

f) his or her removal from the State has been suspended,

g) he or she resides in the Republic of Latvia as a service provider;

32) there are grounds for considering that the real reason of a foreigner for applying for a residence permit does not comply with what has been indicated in the submitted documents.

(2) For a foreigner who requests a permanent residence permit in accordance with Section 24, Paragraph one, Clause 8 of this Law, this permit may be refused in the cases referred to in Paragraph one, Clauses 1, 2, 4, 7, 9, 11, 12, and 20 of this Section.

(3) For a foreigner who has requested a temporary residence permit and who has been granted the long-term resident status in another Member State of the European Union, or his or her family members, a temporary residence permit may be refused in the cases referred to in Paragraph one, Clauses 1, 2, 3, 4, 5, 7, 8, 10, 13, 14, 15, 17, 18, 19, 22, 23 and 25 of this

Section or in cases where the foreigner creates a threat to national security or public order and safety.

(4) If it has been determined that a foreigner, while residing in the Republic of Latvia, has committed an administrative violation and has not paid the fine imposed within the time period specified in regulatory enactments, a residence permit shall be issued only after the payment of the relevant fine, except the case, when the operation of the administrative act is suspended or the court adjudication regarding the payment of the fine has not come into force. [22 April 2004; 16 June 2005; 24 November 2005; 6 April 2006; 20 December 2007; 22 April 2010; 26 May 2011]

### **Section 35.**

(1) A temporary residence permit shall be annulled if:

1) a foreigner or his or her inviter has provided false information or the documents submitted have been obtained unlawfully or have been forged;

2) a foreigner does not have the necessary financial resources for the residence in the Republic of Latvia;

3) a foreigner has been included in the list or it has been determined that he or she is prohibited from entering the Schengen territory;

4) a foreigner by a judgment of a court has been found guilty of committing such criminal offence in the Republic of Latvia or outside it, for which a sentence is provided for by the laws of the Republic of Latvia – deprivation of liberty for a time period which is longer than two years;

5) a foreigner has joined a foreign military or another civil service;

6) there is a reason to believe, that the foreigner has entered into a marriage of convenience in order to receive a residence permit in the Republic of Latvia;

7) a foreigner works without a work permit;

8) an inviter withdraws the sponsorship in writing;

9) the inviter has lost the legal status or the right to reside in the Republic of Latvia;

10) a foreigner has not fulfilled all the conditions provided for by the decision on issue of a residence permit;

11) the circumstances, on the basis of which a foreigner has received a temporary residence permit, no longer exist or they have changed. If a holder of a European Union Blue Card has become an unemployed person and the period of unemployment does not exceed three consecutive months, the European Union Blue Card shall be annulled only in such case where the Card holder has not notified the Office thereof or the period of unemployment has occurred repeatedly during the validity period of the European Union Blue Card;

12) [24 November 2005];

13) [22 April 2010];

14) a foreigner has exited for permanent residence in another state;

15) a foreigner has employed another foreigner who does not have a work permit;

16) a foreigner has provided another foreigner residing illegally in the Republic of Latvia with a place of residence;

17) it has been established by a judgment of a court that the foreigner has helped another foreigner to enter illegally into the Republic of Latvia;

18) the inviter resides outside the Republic of Latvia for a time period longer than six months during a year, except in the case where the inviter is a seafarer or fulfils military service in the National Armed Forces of the Republic of Latvia or civil service outside the Republic of Latvia or a residence permit is issued to the spouse of the inviter and there is a child in their family;

19) the foreigner has resided in the Republic of Latvia in accordance with Section 23, Paragraph one, Clause 2, 3, 4 or 7 of this Law and taxes have not been paid for him or her in the last year or he or she has a tax debt as provided for in regulatory enactments;

20) the spouses do not comply with the conditions of Section 26, Paragraph three of this Law or there is a basis for considering that the marriage does not in fact exist;

21) the temporary residence permit has been refused registration or a foreigner has not submitted the documents for the registration of a residence permit within three months from the day of registration of the residence permit specified in this Law;

22) the person directing the proceedings has informed in writing the institution, which has issued the temporary residence permit that the foreigner who is not a Union citizen as well as the minor children accompanied by him or her, who is residing in the Republic of Latvia in accordance with Section 23, Paragraph six of this Law, no longer needs to reside in the Republic of Latvia in the status of a victim of trafficking in human beings;

23) competent State institutions have provided information which constitutes grounds for prohibiting a foreigner from residing in the territory of the Republic of Latvia or another Schengen Agreement Member State;

24) a foreigner has received a residence permit in accordance with Section 23, Paragraph one, Clause 2 of this Law as an individual merchant and he or she has not performed active economic activity and has not provided economic benefit for the Republic of Latvia during the last year;

25) a foreigner has received a residence permit in accordance with Section 23, Paragraph one, Clause 3 of this Law and a commercial company or a branch of a foreign merchant, in which he or she is employed, has not performed active economic activity and has not provided economic benefit for the Republic of Latvia during the last year;

26) a foreigner has received a residence permit in accordance with Section 23, Paragraph one, Clause 8 of this Law and a representation of a foreign merchant, which is operating in the Republic of Latvia and in which a foreigner is employed, has not performed active activity during the last year; or

27) there are grounds for considering that the real reason of a foreigner for applying for a residence permit does not comply with what has been indicated in the submitted documents.

(2) If a temporary residence permit of a foreigner has been annulled, the temporary residence permits of his or her spouse, minor children and persons under guardianship or trusteeship whose residence in the Republic of Latvia is associated with the residence in the Republic of Latvia of the referred to foreigner, shall also be annulled.

(3) For a foreigner who has a long-term resident status in another Member State of the European Union and who has obtained a temporary residence permit, or his or her family members, a temporary residence permit may be annulled in the cases referred to in Paragraph one, Clauses 1, 2, 3, 4, 6, 8, 9, 11, 14, 15, 16, 17, 18, 20 and 21 of this Section or in cases where the foreigner has resided continuously outside the territory of the European Union for 12 months, as well as where the foreigner creates a threat to national security or public order and safety.

*[24 November 2005; 6 April 2006; 25 January 2007; 20 December 2007; 22 April 2010; 26 May 2011]*

## **Section 36.**

(1) A permanent residence permit shall be annulled if:

1) a foreigner has provided false information;

2) a foreigner has been included in the List of those persons for whom entry in the Republic of Latvia is prohibited;

3) a foreigner by a judgment of a court has been found guilty of committing a serious or especially serious criminal offence in the Republic of Latvia;

4) a foreigner resides continuously outside the Republic of Latvia for more than 12 months, except in the case where the absence has been declared in accordance with the procedures prescribed by the Cabinet and he or she has a documentarily certified justifiable reason (circumstances non-dependent on a person or acquisition of education);

5) a foreigner exits or has exited for permanent residence in another state;

6) there is a reason to believe that the established adoption is fictitious and established in order for a foreigner to receive a residence permit in the Republic of Latvia;

7) a foreigner has lost the refugee status or it has been withdrawn;

8) [26 May 2011];

9) [ 26 May 2011];

10) a foreigner is a member of the family of a person who has lost the refugee status;

11) a permanent residence permit has been issued in accordance with Section 24, Paragraph one, Clause 8 of this Law and there have been grounds for the withdrawal of the status of a Latvian citizen or non-citizen of Latvia in accordance with the Law on Citizenship and the Law On the Status of Those Former USSR Citizens who do not have the Citizenship of Latvia or that of any Other State;

12) a foreigner has been granted the status of the long-term resident of the European Community in the Republic of Latvia;

13) a foreigner has acquired Latvian citizenship; or

14) a foreigner has not submitted the documents for registration of a residence permit within six months after the day of registration specified for a permit.

(2) In the case referred to in Clause 10 of this Section a permanent residence permit may be annulled only if not more than five years have elapsed since the date of issue thereof.

(3) A permanent residence permit which a foreigner has received in accordance with Section 24, Paragraph one, Clause 8 of this Law may be annulled in the cases referred to in Paragraph one, Clauses 1, 2, 4, 5, 11, 12, 13 or 14 of this Section.

(4) If a residence permit of a foreigner is annulled, the permanent residence permits of his or her minor children shall also be annulled, except the case when the other parent of a child is a citizen of Latvia, non-citizen of Latvia or a foreigner who has received a permanent residence permit in the Republic of Latvia, or a child has received a permanent residence permit independently from the parent for whom a permanent residence permit is annulled, or he or she is under extra-familial care. A permanent residence permit shall also be annulled for a person under guardianship or trusteeship who has received a permit for the residence in the Republic of Latvia with the referred to foreigner.

*[24 November 2005; 6 April 2006; 20 December 2007; 22 April 2010; 26 May 2011]*

### **Section 37.**

(1) In the cases referred to in Section 34, Paragraph one, Clause 8; Section 35, Clause 4 and Section 36, Paragraph one, Clause 3 of this Law a decision on refusal to issue a residence permit to a foreigner who is the spouse of a Latvian citizen or a non-citizen of Latvia or the annulment thereof may be taken only in the interests of national and public safety.

(2) The conditions laid down in Paragraph one of this Section shall be applicable if the marriage has been established before the foreigner has committed a criminal offence regarding which he or she is being held criminally liable in accordance with the procedures prescribed by law.

*[22 April 2010]*

### **Section 38.**

(1) Courts, State and local government institutions of the Republic of Latvia shall within seven days inform the Office, if they possess information regarding the conditions referred to in Sections 34 and 35 or Section 36, Paragraph one of this Law.

(2) The Cabinet shall, at least once a year, assess the course and results of practical implementation of the provisions specified in Section 23, Paragraph one, Clause 3, 28, 29 and 30 of this Law and the effect thereof on the State and local government budget, as well as on the development of the society of Latvia and national economy, and shall submit a report to the *Saeima* thereon.

*[22 April 2010]*

### **Section 39.**

(1) An inviter has a duty to inform the Office within three working days that the circumstances on the basis of which a foreigner has received a temporary residence permit do not exist any longer or they have changed.

(2) A foreigner has a duty within three working days to inform in writing the Office regarding changes in the information provided in the request for a residence permit.

(3) A foreigner, who has a valid residence permit, after the receipt of a new travel document in the Republic of Latvia (instead of the previous travel document) has a duty to submit it to the Office within 30 days for the receipt of a new residence permit.

(4) A foreigner, who has a valid residence permit, after receipt of a new travel document outside the Republic of Latvia (instead of the previous travel document) has a duty to submit it to the Office within 30 days after entry in the Republic of Latvia for receipt of a new residence permit.

*[22 April 2010]*

### **Section 40.**

(1) An inviter or a foreigner for whom in accordance with Cabinet regulations an invitation for requesting a residence permit is not necessary, has the right to dispute a decision on refusal to issue or register a residence permit to a foreigner or annulment thereof to the Head of the Office within 30 days after the day of the coming into effect of such decision.

(2) The persons referred to in Paragraph one of this Section have the right to appeal to a court according to the procedures specified by law a decision by the Head of the Office regarding the refusal to issue or register a residence permit to a foreigner or annulment thereof.

(3) The submission of an application to a court shall not create a right for the foreigner, who has been refused the issue or registration of a residence permit or whose residence permit has been annulled, to reside in the Republic of Latvia, except in the cases specified in Paragraph four of this Section.

(4) A foreigner who has been refused the issue or registration of a residence permit or whose residence permit has been annulled has the right to reside in the Republic of Latvia throughout the dispute of the decision or appeal thereof, if the refusal to issue the residence permit or the annulment of the residence permit has not been justified by Section 34, Paragraph one, Clause 13, Section 35, Paragraph one, Clause 6 of this Law or by his or her inclusion in the List of foreigners whose entry into the Republic of Latvia is prohibited in accordance with Section 61, Paragraph one or two of this Law, and he or she has been refused or annulled:

1) a permanent residence permit, which has been requested in accordance with Section 24, Paragraph one, Clause 1, 2 or 8 of this Law; or

2) a temporary residence permit, which has been requested in accordance with Section 25, Paragraph one, Clause 2 or Section 26, Paragraph one, Clause 2 of this Law.

(5) If a foreigner resides in the Republic of Latvia with a residence permit and a decision on extension of the time period for examination of documents submitted for requesting or registration of a residence permit has been taken, he or she has the right to reside in the Republic of Latvia until the day when a decision on granting, registration or annulment of the residence permit or a decision on refusal to grant the residence permit is taken.

(6) The contestation or appeal of a decision on annulment of a residence permit may not suspend the operation thereof. A decision on annulment of a residence permit is executed immediately after coming into force thereof.

(7) If a foreigner who has a valid European Union Blue Card issued in the Republic of Latvia and who wishes to change his or her employer, or who has a valid European Union Blue Card issued in another Member State of the European Union, has submitted documents for requesting a European Union Blue Card in the Republic of Latvia, the relevant foreigner and his or her family members have the right to reside in the Republic of Latvia until the day when a decision on the granting of a European Union Blue Card or residence permit or a decision on refusal to issue a European Union Blue Card or residence permit is taken.

*[24 November 2005; 20 December 2007; 22 April 2010; 26 May 2011]*

## **Chapter V Removal**

*[26 May 2011]*

### **Section 41.**

(1) If it is detected that a foreigner is staying illegally in the Republic of Latvia, he or she shall be issued a voluntary return decision, except the cases specified in Section 42 of this Law.

(2) A voluntary return decision shall be issued by the Head of the Office or his or her authorised official in the following cases:

1) the illegal stay of the foreigner in the Republic of Latvia is detected by an official of the Office;

2) the illegal stay of the foreigner in the Republic of Latvia is detected by an official of the State Border Guard and any of the following circumstances exists:

a) the foreigner has been issued a residence permit in the Republic of Latvia,

b) the foreigner has been residing in the Republic of Latvia for more than one year,

c) the spouse, relative up to the second degree in direct line or up to the first degree in collateral line of the foreigner is a legally staying in the Republic of Latvia,

d) the foreigner has been a Latvian citizen or a non-citizen of Latvia,

e) a decision on refusal to grant the foreigner the status of a refugee or alternative status in the Republic of Latvia has been taken,

f) the foreigner has the right to request a residence permit in accordance with the procedures specified in this Law,

g) the foreigner has served a sentence for a criminal offence committed in the Republic of Latvia, except a criminal offence that is related to the illegal crossing of the State border, illegal relocation of a person across the State border or illegal stay in the State.

(3) If illegal stay of a foreigner in the Republic of Latvia is detected by an official of the State Border Guard, the voluntary return decision shall be issued by the Chief of the State Border Guard or his or her authorised official, except the cases specified in Paragraph two, Clause 2 of this Section.

(4) If illegal stay of a foreigner in the Republic of Latvia is detected when, he or she is departing by crossing the external border and it is not possible to issue a voluntary return decision prior to the departure of an international route transport, an official of the State

Border Guard shall inform the foreigner that in relation to him or her a voluntary return decision shall be issued, to which a decision on inclusion in the list and a decision on entry ban into the Schengen territory may be attached. In such case the Chief of the State Border Guard or his or her authorised official shall, within 10 days from the day when the foreigner departed, issue a voluntary return decision in accordance with the competence specified in Section 41, Paragraph three of this Law and the referred to voluntary return decision shall enter into effect on the day of issue thereof. The voluntary return decision shall be sent to the foreigner to the address indicated by him or her, explaining in a language that the foreigner understands or which he or she should justifiably understand, if necessary, using the services of an interpreter, the essence of the voluntary return decision, the decision included therein on inclusion in the list and the decision on the entry ban into the Schengen territory and the procedures for contesting.

(5) If, when issuing the voluntary return decision, it is detected that the foreigner has entered, violating the conditions for entering the Republic of Latvia, and no circumstances have existed in relation to him or her, which would allow him or her to reside in the Republic of Latvia, information regarding the foreigner, the nature of the violation, the decision on inclusion of the foreigner in the list and the decision on the entry ban into the Schengen territory, the procedures for contesting the voluntary return decision, the place and date of drafting thereof, the position, given name and surname of the official who issued the decision shall be indicated in the voluntary return decision.

#### **Section 42.**

A voluntary return decision shall not be issued or a removal order shall not be taken, if:

1) the foreigner has a valid residence permit of another Member State of the European Union or another document, which gives him or her the right to reside there, and the foreigner is going without delay to the territory of the relevant Member State of the European Union;

2) the foreigner is accepted back by another Member State of the European Union in accordance with the conditions of an international agreement, which have become binding for the Republic of Latvia in the time period up to 13 January 2009;

3) the Head of the Office or his or her authorised official has, on humanitarian grounds, taken a decision to allow the foreigner to reside in the Republic of Latvia for a specific period of time, but not more than for a year;

4) in accordance with Section 18 of this Law a decision has been taken on refusal for the foreigner to enter the territory of the Member States of the European Union;

5) the foreigner who has been detected as being in the border area, who has illegally crossed the external border and in relation to whom circumstances do not exist, which would allow him or her to reside in the Republic of Latvia, shall be taken back by the third country in accordance with an agreement concluded with the Republic of Latvia or treaty conditions;

6) the foreigner has been imposed an additional punishment by a court judgment – removal from the Republic of Latvia;

7) the foreigner is subject to a return or an extradition process in accordance with international co-operation in the field of criminal law.

#### **Section 43.**

(1) A time period of seven to 30 days for fulfilment of the obligation in a voluntary return decision shall be specified. A foreigner is entitled to depart from the territory of the Member State of the European Union earlier than specified in the voluntary return decision.

(2) An official who has issued the voluntary return decision, upon the request of the foreigner, has the right to extend the time period specified in Paragraph one of this Section for a time

period not exceeding one year. The foreigner shall be informed in writing regarding the extension of the time period.

(3) If, when applying for a residence permit, a foreigner has provided false information or the application for a residence permit is clearly unjustified, the time period, by which the foreigner has to execute the voluntary return decision, may be specified to be less than seven days.

#### **Section 44.**

(1) The Head of the Office or his or her authorised official or the Chief of the State Border Guard or his or her authorised official is entitled to include a decision on inclusion of the foreigner in the list and a decision on the prohibition to enter the Schengen territory in the voluntary return decision, having regard to the conditions of Section 61, Paragraph four or five of this Law.

(2) A decision on inclusion in the list and a decision on prohibition to enter the Schengen territory shall not be included in the voluntary return decision, if the foreigner in accordance with the regulatory enactments regulating the relevant field has been recognised as a victim of trafficking in human beings or has been involved in promoting illegal immigration and has co-operated with the relevant State institutions. The referred to condition shall not apply to a foreigner who, in accordance with the opinion of a competent institution, poses a threat to the State security, public order or safety.

(3) The institution, which has issued the voluntary return decision, may revoke the decision on prohibition to enter the Schengen territory included therein or reduce the time period specified therein prohibiting entry, if the foreigner can prove that the voluntary return decision has been fully executed.

#### **Section 45.**

(1) A foreigner, in relation to whom a removal order has been taken or a voluntary return decision has been issued, has the right to apply for aid provided by international organisations, associations or foundations, so that he or she could voluntarily return to his or her country of residence (hereinafter – voluntary return programme).

(2) The Head of the Office or his or her authorised official or the Chief of the State Border Guard or his or her authorised official is entitled to revoke the removal order, if the foreigner, in relation to whom the decision has been taken, has applied for the voluntary return programme and the relevant international organisation, association or foundation has informed the institution, which issued the decision, thereof. When revoking the removal order, the foreigner shall be issued a voluntary return decision.

(3) The provision of Paragraph two of this Section shall not be applied, if any of the following cases exists:

1) the foreigner in accordance with the opinion of a competent institution poses a threat to the State security, public order or safety;

2) the foreigner has previously used the voluntary return programme.

#### **Section 46.**

(1) If a foreigner is staying in the Republic of Latvia illegally, the Head of the Office or his or her authorised official or the Chief of the State Border Guard or his or her authorised official in accordance with the competence specified in Section 41, Paragraphs two and three of this Law shall take a removal order, if the conditions referred to by Section 51, Paragraph two of this Law exist.



(2) If a foreigner has been issued a voluntary return decision, but the conditions referred to in Section 51, Paragraph two of this Law are detected after the issue of the voluntary return decision, an official of the institution, which issued the voluntary return decision, shall take a removal order of the foreigner.

(3) When taking a removal order, the official shall include in this decision a decision on inclusion in the list and a decision on prohibition to enter the Schengen territory and shall determine the period of time for the entry prohibition in accordance with Section 61, Paragraph four or five of this Law. The official may include a decision on inclusion in the list and a decision on prohibition to enter the Schengen territory in the removal order, if the removal order has been taken in relation to a foreign minor.

(4) If, when taking a removal order, it is detected that the foreigner has entered, violating the conditions for entry in the Republic of Latvia, and no circumstances had existed, which would allow him or her to reside in the Republic of Latvia, information regarding the foreigner, the nature of the violation, the decision on inclusion of the foreigner in the list and the decision on prohibition to enter the Schengen territory, the procedures for contesting the removal order, the place and date of drafting thereof, the position, given name and surname of the official who took the removal order shall be indicated in the removal order.

(5) If the Minister for the Interior or the Minister for Foreign Affairs, on the basis of Section 61, Paragraphs one or two of this Law, has taken a decision on inclusion of a foreigner in the list and the foreigner is located in the Republic of Latvia, the Chief of the State Border Guard or his or her authorised official shall, within eight days from the day when the fact was detected that the foreigner is located in the Republic of Latvia, shall take a removal order of the foreigner.

#### **Section 47.**

A foreigner shall not be removed, if the circumstances referred to in Section 20, Paragraph one or Section 23, Paragraph one of the Asylum Law exist.

#### **Section 48.**

(1) An official of the Office or of the State Border Guard shall acquaint a foreigner in a language, which he or she understands or which he or she should justifiably understand, if necessary, using the services of an interpreter, with the voluntary return decision or the removal order, with the decision on inclusion in the list and the decision on prohibition to enter the Schengen territory included therein, explaining the essence thereof and the procedures for contesting, as well as informing regarding the rights of the foreigner to legal aid.

(2) Upon the request of a foreigner the institution, which issued the relevant administrative act, shall ensure the translation of the main components of the voluntary return decision or removal order (the establishment of facts, justification of the administrative deed, legal obligation imposed on the addressee, an indication where and in what period of time the administrative deed may be contested or appealed). The relevant institution shall provide an oral or written translation for the foreigner in a language, which he or she understands or which he or she should justifiably understand, if necessary, using the services of an interpreter.

(3) The institution, upon taking a removal order, shall without delay notify the Ombudsman thereof.

#### **Section 49.**

The Head of the Office or of the State Border Guard may revoke or suspend execution of the voluntary return decision issued or the removal order and the decision included therein on inclusion in the list and prohibition to enter the Schengen territory taken by an official of the relevant institution, if the circumstances have changed, which were the basis for the issue of the relevant administrative act, including such circumstances have been determined, which are referred to by Section 47 of this Law, or on humanitarian grounds.

#### **Section 50.**

(1) A foreigner has the right, within seven days after coming into effect of a voluntary return decision or a removal order and the decision included therein on inclusion in the list and prohibition to enter the Schengen territory, to contest these to a higher authority in accordance with the procedures regarding subordination. The foreigner shall be acquainted with the decision taken on the contested voluntary return decision or the removal order in a language, which he or she understands or which he or she should justifiably understand, if necessary, using the services of an interpreter, explaining the essence of the decision taken and the procedures for contesting, as well as inform him or her regarding the rights of the foreigner to legal aid.

(2) Contesting of the voluntary return decision issued in accordance with Section 41, Paragraph four of this Law and of the decision on inclusion in the list and the decision on prohibition to enter the Schengen territory included therein shall not suspend operation of the referred to decisions.

(3) Contesting of a removal order issued in accordance with Section 46 of this Law and of the decision on inclusion in the list and the decision on prohibition to enter the Schengen territory included therein shall not suspend operation of the referred to decisions.

#### **Section 50.<sup>1</sup>**

(1) The decisions taken in accordance with Section 50, Paragraph one of this Law may be appealed in the Administrative District Court within seven days after coming into effect thereof. A case, which has been initiated on the basis of an application regarding the contested voluntary return decision or the removal order, shall be adjudicated by the Administrative District Court by written procedure, if the foreigner has not requested that the case be adjudicated by oral procedure.

(2) The submission of an application to the court regarding appeal of the voluntary return decision issued in accordance with Section 41, Paragraph four of this Law shall not suspend operation of the voluntary return decision.

(3) Appeal of the decision taken in accordance with Section 46 of this Law on forced removal shall not suspend operation of the referred to decision.

(4) A judgment of the Administrative District Court may be appealed by submitting a cassation complaint to the Department of Administrative Cases of the Supreme Court Senate. The cassation complaint shall be adjudicated by written procedure, and it shall not require a consent from the participants of the administrative proceedings.

#### **Section 50.<sup>2</sup>**

(1) A foreigner has the right to legal aid ensured by the State in the case and the amount specified in the State Ensured Legal Aid Law, if:

1) he or she does not have sufficient resources, he or she is residing in the Republic of Latvia and execution of the voluntary return decision or removal order issued in relation to him or her is suspended;

2) he or she has been detained in the cases and according to the procedures specified in this Law and is residing in the Republic of Latvia in specially equipped premises or an accommodation centre.

(2) In the case referred to in Paragraph one, Clause 1 of this Law a foreigner shall, within the time period for appeal of a decision on the contested voluntary return decision or removal order, submit to the institution, which took the decision on the contested voluntary return decision or removal order, a filled-in application regarding the request of State ensured legal aid and income. The sample form of the referred to application shall be determined by the Cabinet.

(3) The institution, which took the decision on the contested voluntary return decision or removal order, upon receipt of the application regarding the request for State ensured legal aid and income, shall, without delay, but not later than the following working day, forward it to the institution, which is responsible for providing State ensured legal aid. Copies of the decision on the contested voluntary return decision or removal order shall be attached to the application.

(4) The submission of an application regarding the request for State ensured legal aid and income to the institution, which took the decision on the contested voluntary return decision or removal order, shall suspend the period of time for appeal thereof until the day when the foreigner, on the basis of a decision on the granting of State ensured aid, has been granted the first legal consultation or a decision has been taken on refusal to grant State ensured legal aid.

(5) If a foreigner in the case referred to in Paragraph one, Clause 2 of this Section wishes to receive State ensured legal aid, the State Border Guard shall, without delay, but not longer than the following working day after a decision has been taken on the contested removal order, invite a provider of legal aid from the list prepared by the institution, which is responsible for the provision of State ensured legal aid.

(6) In the case referred to in Paragraph one, Clause 2 of this Section the provider of legal aid shall be paid for provision of State ensured legal aid by the institution, which is responsible for the provision of State ensured legal aid, in accordance with the regulatory enactments determining the types, amount and payment amounts of State ensured legal aid and the expenses to be compensated in relation to the provision of legal aid, the amount and procedures for payment thereof.

(7) If the Office or the State Border Guard is in possession of information that a foreigner, who has been granted State ensured legal aid has departed from the Republic of Latvia, the Office or the State Border Guard shall without delay inform thereof the institution, which is responsible for the provision of State ensured legal aid.

### **Section 50.<sup>3</sup>**

(1) Forced removal of a foreigner shall be organised and carried out by the State Border Guard.

(2) The procedures for forced removal of a foreigner shall be determined by the Cabinet.

(3) The procedures, by which the Republic of Latvia shall receive and provide aid to the Member States of the European Union and the Schengen Agreement Member States in relation to forced removal by air, the aid amount, as well as the procedures, by which joint flights shall be organised between the Member States of the European Union and the Schengen Agreement Member States, shall be determined by the Cabinet.

### **Section 50.<sup>4</sup>**

Deadline for entry ban into the Schengen territory shall be counted in accordance with Section 63, Paragraph four of this Law.

## **Section 50.<sup>5</sup>**

(1) If a foreigner who has been issued a voluntary return decision or in relation to whom a removal order has been issued, does not have a valid travel document and it is impossible to obtain it through diplomatic or consular services, a standard travel document shall be issued to him or her.

(2) The sample of the standard travel document and the procedures for the issue thereof shall be determined by the Cabinet.

## **Section 50.<sup>6</sup>**

(1) If the Office or the State Border Guard has determined that a voluntary return decision or a removal order taken by another Member State of the European Union in relation to a foreigner is in effect, the Head of the Office or his or her authorised official or the Chief of the State Border Guard or his or her authorised official, after having assessed the circumstances of the case and contacted the Member State of the European Union, is entitled to take a decision on recognition of the relevant voluntary return order or removal order in the following cases:

1) the voluntary return decision or removal order of another Member State of the European Union is based on a serious threat to the State security, public order or safety, and the foreigner has been convicted of an offence in the relevant Member State of the European Union, for which a punishment is provided – deprivation of liberty for at least one year;

2) the voluntary return decision or removal order of another Member State of the European Union is based on a serious threat to the State security, public order or safety, and there are grounds for considering that the foreigner has committed a criminal offence, or there is specific evidence of his or her intention to commit such offence in the territory of one of the European Union Member States;

3) the voluntary return decision or removal order by another Member State of the European Union is based on non-observance of such regulatory enactments, which determine the entry or residence of foreigners.

(2) If the State Border Guard is in possession of information that a foreigner, in relation to whom a voluntary return decision taken by another Member State of the European Union is in effect, is planning to cross the territory of the Republic of Latvia in transit with the intention of fulfilling the voluntary return decision, the Chief of the State Border Guard or his or her authorised official, after having evaluated the circumstances of the case, is entitled to take a decision on recognition of the referred to voluntary return decision.

(3) A foreigner has the right to appeal the decision on recognition of the decision on voluntary return decision or removal order of another Member State of the European Union by submitting a relevant application to the court. Submission of an application to the court shall not suspend operation of the decision.

(4) The State Border Guard shall inform the Member State of the European Union, which took the voluntary return decision or removal order, regarding execution of the recognised voluntary return decision or removal order of another Member State of the European Union.

## **Section 50.<sup>7</sup>**

(1) The forced removal process shall be observed by the Ombudsman.

(2) The observation of the forced removal process shall include:

1) visiting of the detained foreigners subject to forced removal at their place of accommodation in order to evaluate the conditions of accommodation and maintenance, also the provision of medical assistance and the satisfaction of other needs;

2) a questioning of the foreigner in order to determine his or her awareness of the progress of the forced removal process, his or her rights and the possibility for implementation thereof;

3) observation of return of the personal property of the detained person seized at the time of detention, transportation from the accommodation centre of detained persons to the departure point, handing-over and registration of luggage, as well as participation in the actual implementation of the forced removal process in order to evaluate the observance of the human rights of the foreigner to be removed.

(3) The Ombudsman is entitled to involve associations or foundations in the observation of forced removal process, the purpose of operation of which is related to the observation of the process. Upon involving associations or foundations in the observation of the forced removal process, the Ombudsman shall evaluate the competence of the association or foundation for performing the relevant activity and shall agree on the stage of the forced removal process referred to in Paragraph two of this Section, which the association or foundation shall be authorised to observe. The Ombudsman may involve one association or foundation in the observation of each stage of the forced removal process referred to in Paragraph two of this Section. The Ombudsman may not involve an association or foundation in the observation of the forced removal process, which has violated the condition referred to in Paragraph four of this Section. The Ombudsman shall inform the State Border Guard regarding associations and foundations, which are authorised to observe the relevant stage of the forced removal process.

(4) The representatives of the Ombudsman, as well of associations and foundations involved in the observation of a forced removal process (hereinafter – Observer) are prohibited from interfering with the forced removal process during the course of observation the forced removal process.

(5) If an Observer has information at the disposal thereof regarding circumstances, which may influence the organisation or implementation of the forced removal process, as well as threaten personal safety or health, the Observer shall inform officials of the State Border Guard thereof.

(6) An Observer has the right:

1) to obtain information from the relevant State institution, which is involved in the forced removal process of foreigners, regarding organisation of the return process of the foreigner and the measures performed;

2) to invite specialists (for example, lawyers, medical practitioners, interpreters) for provision of the necessary consultations to the foreigner subject to forced removal;

3) to organise assistance for improving living conditions, pastoral care, as well as the provision of other support.

(7) An Observer, when performing the measures referred to in Paragraph six of this Section, shall without delay inform the official of the State Border Guard, who is implementing the forced removal process for the relevant foreigner, regarding the planned activities in writing.

(8) After observation of a forced removal process is completed, the Observer shall prepare a report on deficiencies detected and recommendations for improving the forced removal process. The Ombudsman shall submit the compiled report on deficiencies detected and recommendations compiled for improving the forced removal process to the Ministry of the Interior for evaluation.

## **Section 50.<sup>8</sup>**

(1) The Office and the State Border Guard, on detecting a minor foreigner who is not accompanied by a parent or his or her legal representative and whose staying in the Republic of Latvia is illegal, shall without delay inform the State Police and the Orphan's Court and shall act in such a way as to ensure the child's rights and interests during the whole removal

process in accordance with the regulatory enactments regulating the protection of the rights of the child.

(2) During the removal procedure the personal and property relations of a minor foreigner who is not accompanied by a parent or his or her legal representative shall be represented by the Orphan's Court or a guardian appointed thereby, or the head of a child care institution.

(3) If the identity and citizenship or country of residence of a minor foreigner who is not accompanied by a parent or his or her legal representative has been established, the State Border Guard with the intermediation of the Consular Department shall communicate with the diplomatic or consular representation of the relevant state, relevant competent institutions or non-governmental organisations, which monitor the observance of the rights of children in this State, and perform other necessary measures in order to ensure execution of the voluntary return decision or removal order and the handing over of the minor foreigner who is not accompanied by a parent or his or her legal representative to a family member, legal representative of the parents, representative who monitors the observance of the rights of children in this State, or a representative of the institution, which ensures placing of the child in a suitable accommodation institution.

## **Chapter VI** **Forced Removal** [26 May 2011]

## **Chapter VII** **Detention**

*[21 June 2007]*

### **Section 51.**

(1) An official of the State Border Guard has the right to detain a foreigner, except a minor foreigner who has not reached the age of 14 years, if:

1) the removal procedure is applicable to him or her in accordance with Section 41, 46 or 50.<sup>6</sup> of this Law;

2) he or she is subject to the return to a third country or to another Member State of the European Union in accordance with a treaty or agreement, which provides for the readmission of such persons who are staying illegally in the territory of the relevant state.

(2) An official of the State Border Guard has the right to take a decision on detention of a foreigner, if there are grounds to believe that he or she will avoid the removal procedure or will impede the preparation thereof or there is a risk of absconding of the foreigner, and it is substantiated by any of the following circumstances:

1) the foreigner is hiding his or her identity, provides false information or refuses to co-operate in other ways;

2) the foreigner has crossed the external border, avoiding border checks, as well as has used a forged travel document, forged visa or residence permit;

3) the foreigner cannot indicate a place where he or she will reside until the end of the relevant removal procedure;

4) a competent State or foreign institution has provided information, which is the basis for considering that the foreigner threatens the State security, public order or safety;

5) the foreigner is involved in promoting illegal immigration;

6) the foreigner has been convicted of a criminal offence committed in the Republic of Latvia, for which the sentence intended is related to the deprivation of liberty for at least one year;

7) the foreigner has previously avoided a removal procedure in the Republic of Latvia or in another Member State of the European Union;

- 8) the foreigner has unjustifiably failed to execute the voluntary return decision;
  - 9) the foreigner has unjustifiably failed to fulfil the specified obligation to register with the relevant unit of the State Border Guard;
  - 10) the foreigner has previously arbitrarily left an accommodation centre for detained foreigners or detention premises;
  - 11) the foreigner has entered the Republic of Latvia, without observing the decision on inclusion in the list or decision on prohibition to enter the Schengen territory.
- (3) An official of the State Border Guard, when deciding the case regarding detention of a foreigner, may, due to reasons of humanitarian nature, take a decision to apply one of the following alternative means of detention:
- 1) regular registration at the specified unit of the State Border Guard;
  - 2) the handing over of a travel document and other personal identification documents at the disposal of the foreigner to an official of the State Border Guard.
- (4) The decision of an official of the State Border Guard on application of the obligation referred to in Paragraph three of this Section shall indicate information regarding the foreigner, the obligation imposed on him or her and the conditions for fulfilment thereof, as well as a photograph of the foreigner shall be attached to the decision.
- (5) An official of the State Border Guard shall detain a foreigner in order to:
- 1) carry out his or her forced removal. If the foreigner has been imposed an additional punishment by a court judgment – removal from the Republic of Latvia –, he or she may be detained after the court judgment has been pronounced, if a security measure – imprisonment – has not been applied to the foreigner in the particular case;
  - 2) ensure the removal procedure, which is provided for in Section 46, Paragraph five of this Law.

*[26 May 2011]*

## **Section 52.**

- (1) When detaining a foreigner, the State Border Guard or State Police official shall draw up a detention report.
- (2) In a detention report the date and place of drawing up thereof, the position, given name and surname of the person who has drawn up the report, information regarding the detainee, time and motives of detention shall be indicated. The report shall be signed by the official who has drawn it up and the detainee. If the detainee refuses to sign the report, it shall be noted in the report.

## **Section 53.**

The State Police official in the cases referred to in Section 51 of this Law has the right to detain a foreigner for three hours until handing him or her over to the State Border Guard.

## **Section 54.**

- (1) An official of the State Border Guard in the cases referred to in Section 51 of this Law has the right to detain a foreigner for a period not exceeding 10 days. The foreigner has a right to appeal the decision on detention to a court. The submission of an application to a court may not suspend the operation of the decision.
- (2) An official of the State Border Guard has the right to detain a foreigner for more than 10 days only pursuant to a decision of a judge of a district (city) court (in conformity with the actual location of the detained foreigner) (hereinafter – judge). Based on the application of an official of the State Border Guard, the judge shall take a decision on detention of a foreigner for a time period of up to two months or regarding the refusal of detention.

(3) If it has been impossible to remove a foreigner in the time period indicated in the judge's decision, the judge, based on the submission of an official of the State Border Guard, shall take a decision on extension of the time period of detention for up to two months or on refusal to extend the time period of detention.

(4) An official of the State Border Guard may submit an application to the court for extension of the time period of detention repeatedly, however, the total time period of detention may not exceed six months, except the case specified in Paragraph seven of this Section.

(5) [26 May 2012]

(6) In respect of the detention of such minor foreigner who is at the age of 14 to 18 years and is not accompanied by parents or his or her legal representative, a State Border Guard official shall without delay inform the Consular Department, State Police and the Orphan's Court.

(7) A judge may take a decision on extension of the time period of detention referred to in Paragraph four of this Section, not exceeding additional 12 months, if the foreigner refuses to co-operate or delays the receipt of the necessary documents from third countries.

*[24 November 2005; 21 June 2007; 13 December 2007; 26 May 2011]*

#### **Section 54.<sup>1</sup>**

(1) A judge, in taking a decision on detention, extension of the time period of detention or refusal to extend the time period of detention, shall evaluate and take into consideration the circumstances determined within the framework of the removal procedure, as well as whether the circumstances referred to in Section 51, Paragraph two of this Law, which were the basis for detention of the foreigner, are still in effect.

(2) In taking a decision on extension of the time period of detention or refusing to extend the time period of detention, a judge shall indicate the determined facts, conclusions and arguments on the basis of which the relevant decision was taken.

*[24 November 2005; 13 December 2007; 26 May 2011]*

#### **Section 55.**

(1) The time period of detention shall be calculated in hours, days and months. When calculating the term, the hour and day when the time period begins shall be taken in account. The time period of detention shall be calculated from the moment when a foreigner has been delivered to the premises of the State Border Guard or State Police in order to draw up a detention report.

(2) An official of the State Border Guard shall take a foreigner to the court not later than 48 hours prior to expiration of the time period specified in Section 54, Paragraph one of this Law or not later than 48 hours prior to expiry of the time period specified in the decision on detention of a foreigner and, if necessary, invite an interpreter.

(3) A judge shall immediately examine the materials submitted [the submission of the official of the State Border Guard, detention report, removal order regarding a foreigner (if any issued) and documents specifying the measures taken for ensuring the removal of the foreigner], hear the information provided by the official of the State Border Guard and explanations of the foreigner or his or her representative.

(4) A judge shall singly take a decision on detention of a foreigner, extension of the time period of detention or refusal to detain a foreigner or extend the time period of detention and indicate therein the name of the relevant court, his or her own given name, surname, date of examination of the materials, information regarding the detainee, reasons for the decision, the regulatory enactment which is the basis for the decision and his or her adjudication.

(5) A copy of a judge's decision shall be sent to the foreigner and the State Border Guard within 24 hours from the receipt of the application of the State Border Guard.



(6) The judge's decision may be appealed by the foreigner or the Chief of the Border Guard or his or her authorised official within 48 hours from the moment of receipt of the a copy of the decision.

(7) A district (city) court shall examine the complaint without delay and take a decision according to substance. A decision taken by a regional court in the relevant case cannot be appealed. A copy of the decision shall be sent to the foreigner and the State Border Guard within 24 hours from the moment of the taking of the decision.

(8) The contesting of detention, appeal or the submission of a complaint cannot of itself be the basis for the release of the detainee.

*[24 November 2005; 22 April 2010]*

#### **Section 56.**

(1) The detainee in defence of his or her legitimate interests has the right to appeal the detention to a district (city) court, contact the consular institution of his or her country and receive legal assistance. A foreigner shall be acquainted with these rights at the moment of detention.

(2) The detainee has the right personally or assisted by his or her representative to become acquainted with the materials related to his or her detention.

(3) The detainee shall be ensured the right to communicate in a language, which the foreigner understands or which he or she should justifiably understand, if necessary, using the services of an interpreter.

*[24 November 2005; 26 May 2011]*

#### **Section 57.**

(1) An official of the State Border Guard or State Police shall establish the identity of the detainee, take his or her fingerprints and his or her photograph, conduct an inspection of a foreigner and his or her property, as well as, if necessary, ensure a medical examination of the foreigner and draw up a report thereof. The referred to activities with a minor foreigner who is at the age of 14 to 18 years shall be performed by an official of the State Border Guard or State Police trained for work with minors. The detainee has a duty to co-operate with the State Border Guard and State Police in establishing his or her identity.

(2) The inspection of the detainee shall be conducted by an official of the State Border Guard or State Police. The official referred to must be of the same sex as the detained foreigner.

(3) Inspection of property shall be conducted in the presence of the detainee. In urgent cases property may be inspected in the presence of two invited persons without the detained foreigner.

(4) The State Border Guard has the right to specify and organise expert-examinations and inspections of documents, objects, language, medical and other expert-examinations and inspections in order to identify the detained foreigner and his or her country of citizenship.

*[24 November 2005; 21 June 2007; 22 April 2010; 26 May 2011]*

#### **Section 58.**

(1) An official of the State Border Guard or State Police has the right to seize the property and personal identification and travel documents of the detained foreigner by drawing up a report thereof or making a relevant record in the report regarding inspection of the property of a detainee.

(2) The documents referred to in Paragraph one of this Section shall be seized until the removal of the foreigner.

## **Section 59.**

(1) The detained foreigner shall be accommodated in specially equipped premises or accommodation centre separately from persons detained according to criminal procedural procedures or imprisoned persons.

(2) An accommodation centre is a structural unit of the State Border Guard. The Cabinet shall determine the requirements for the arranging and equipping of the accommodation centre.

(3) The residence norms of foreigner accommodated in an accommodation centre, as well as the amount of guaranteed health care services and the procedures for the receipt thereof shall be determined by the Cabinet.

(4) The internal procedure regulations of an accommodation centre shall be regulated by the Cabinet.

(5) Expenses, which are associated with the residence of foreigners, shall be covered from the State budget.

*[21 June 2007]*

## **Section 59.<sup>1</sup>**

(1) A State Police official shall accommodate a detained foreigner in an accommodation centre based upon a detention protocol drawn up according to the procedures specified in section 52 of this Law.

(2) In accommodating a detained foreigner in an accommodation centre, his or her health shall be examined and sanitary treatment shall be performed. The procedures for the health examination and sanitary treatment of the detained foreigner, as well as the procedures for fixing the results thereof shall be determined by the Cabinet.

(3) A detained foreigner shall be accommodated in an accommodation centre taking into account general human rights principles and internal security, as well as personal characteristics and psychological compatibility:

1) detained males and females shall be accommodated separately;

2) detained minor foreigners shall be accommodated together with detained parents or his or her legal representative;

3) a detained foreigner who has a health disorder shall be accommodated in accordance with the instructions of medical personnel in premises specially equipped for such purposes;

4) a detained foreigner who has violated the internal procedures regulations of an accommodation centre or in relation to whom there are grounds to believe that he or she may violate them, shall be accommodated in premises specially equipped for such purposes; and

5) a detained foreigner who may cause a threat to the safety of persons in the accommodation centre shall be accommodated separately in premises specially equipped for such purposes.

(4) On the basis of request of a detained foreigner, in order to preserve family unity, members of a family shall be accommodated together.

(5) If a detained foreigner has a child who has not been detained, on the basis of a request from the detained foreigner, in order to preserve family unity, the child may be accommodated in the accommodation centre together with the detained foreigner. The child of the detained foreigner in the accommodation centre has the same rights and duties as the detained foreigner.

*[21 June 2007]*

## **Section 59.<sup>2</sup>**

(1) After accommodation in an accommodation centre, the detained foreigner shall be acquainted in a language understandable to him or her (if necessary, utilising the services of an interpreter) with his or her rights and duties, as well as with the internal procedures regulations of the accommodation centre.

(2) A detained foreigner in an accommodation centre has the right:

- 1) to communicate with his or her state consulate;
- 2) to inform family members, kin or other persons regarding his or her whereabouts;
- 3) with his or her own means, to receive legal assistance;
- 4) to meet with family members or kin, as well as with representatives of international and non-government human rights organisations;
- 5) to submit complaints and submissions;
- 6) to receive food and material support for household needs in accordance with specified maintenance standards;
- 7) to receive emergency medical assistance, as well as guaranteed health care services in the amount and according to the procedures specified in regulatory enactments;
- 8) with his or her own means, to receive health care services and medicines which have been prescribed by medical personnel;
- 9) to keep with him or her amounts of money, which do not exceed one half of the minimum monthly wage specified by the State;
- 10) to utilise common premises;
- 11) to use the equipment provided for detained foreigners;
- 12) to receive consignments and parcels;
- 13) to store food products in the place specially provided for them; and
- 14) to store with him or her property, which is not included in the list of articles, which it is prohibited to store in an accommodation centre.

(3) A detained foreigner in an accommodation centre has a duty:

- 1) to subject him or herself to the lawful requirements of a State Border Guard official, including necessary health examinations;
- 2) to observe the internal procedures regulations of the accommodation centre;
- 3) to treat with care the property of the accommodation centre; and
- 4) to maintain in order the accommodation premises and common premises, as well as to observe personal hygiene.

(4) The Cabinet shall determine the list of articles, which a detained foreigner is prohibited from storing in an accommodation centre.

*[21 June 2007]*

### **Section 59.<sup>3</sup>**

(1) A detained foreigner may be taken out of an accommodation centre under escort in the following cases:

- 1) in order to ensure the activities specified in this Law;
- 2) in order to provide medical assistance;
- 3) in order to perform criminal procedural activities in accordance with the written request of a person directing criminal proceedings if such activities cannot be performed in the accommodation centre; and
- 4) in other cases associated with humanitarian considerations, based upon the written permission of the head of the relevant territorial State Border Guard office.

*[21 June 2007]*

### **Section 59.<sup>4</sup>**

A detained foreigner shall be released:

- 1) if the time period of detention has expired or the court has taken a decision on refusal to extend the time period of detention;
- 2) after forced removal;
- 3) in accordance with a decision of an official of the State Border Guard on release of the detained foreigner, if the circumstances no longer exist, which were the basis for his or her detention, or it is not possible to obtain the necessary documents in order to perform the forced removal procedure for the foreigner.

*[26 May 2011]*

#### **Section 59.<sup>5</sup>**

(1) A detained minor foreigner who is at the age of 14 to 18 years and is not accompanied by parents or his or her legal representative, up to the end of the time period of detention shall be accommodated in the relevant State Border Guard structural unit.

(2) If the State Border Guard in co-operation with the Consular Department up to the end of the time period of detention have not been able to ascertain the identity and citizenship or country of residence of the minor foreigner who is at the age of 14 to 18 years and is not accompanied by parents or his or her legal representative, the State Police shall ensure the accommodation of the minor foreigner in a child care institution.

(3) Expenses for accommodation of such minor foreigner in a child care institution, who is not accompanied by a parent or his or her legal representative, shall be covered in accordance with the regulatory enactments regulating the field of social services and social assistance.

*[21 June 2007; 26 May 2011]*

#### **Section 59.<sup>6</sup>**

*[26 May 2011]*

#### **Section 60.**

If an official of the State Border Guard, when taking a decision on refusal of a foreigner to enter the Republic of Latvia, is unable to return him or her immediately back to the country he or she has arrived from, the State Border Guard official has the right to detain such foreigner until it is possible to do this, but not longer than for 48 hours.

*[21 June 2007]*

### **Chapter VIII**

#### **List of those Foreigners for whom Entry into the Republic of Latvia is Prohibited**

#### **Section 61.**

(1) The Minister for the Interior shall take a decision on including a foreigner in the list, if any of the following circumstances exists:

1) competent State institutions have a reason to believe that a foreigner participates in anti-state or criminal organisations or is a member thereof;

2) competent State institutions have a reason to believe that a foreigner causes a threat to national security or public order and safety or, by entering Latvia, may hinder pre-trial investigations or the work of law enforcement institutions in discovering a criminal offence;

3) competent State institutions have a reason to believe that a foreigner has committed or is planning to commit a serious or extremely serious crime;

4) a foreigner has committed a crime against humanity, an international or war crime or has participated in mass repression if such has been determined by a court judgement;

5) competent foreign authorities have provided information which prohibits a foreigner from entering and residing in the Republic of Latvia; or

6) the entry and residence of a foreigner into the Republic of Latvia is not desirable for other reasons on the basis of an opinion delivered by competent State institutions.

7) the foreigner has been convicted of a criminal offence committed in the Republic of Latvia, for which deprivation of liberty for at least one year has been provided.

(2) If a foreigner is an undesirable person for the Republic of Latvia (*persona non grata*), a decision on his or her inclusion in the list shall be taken by the Minister for Foreign Affairs.

(3) If a decision has been taken either to refuse the issue of a visa, to annul or revoke a visa, or the foreigner has assisted another foreigner to submit documents for requesting a visa in order to unlawfully receive a visa, the Director of the Consular Department or a diplomatic official of the representation who is authorised to perform consular functions shall take a decision on inclusion of the foreigner in the list.

(4) The Head of the Office or his or her authorised person shall take a decision on including a foreigner in the list, if any of the following circumstances exists:

1) a decision to annul or revoke a visa has been taken in relation to the foreigner;

2) in accordance with Section 34, Paragraph one, Clause 6, 13, 15, 16 or 19 of this Law a decision has been taken to refuse the issue or registration of a residence permit or in accordance with Section 35, Paragraph one, Clause 6, 7, 16, 17 or 20 or Section 36, Paragraph one, Clause 3 or 6 of this Law a decision has been taken to annul a residence permit;

3) during the preceding year the foreigner has violated the procedures specified in regulatory enactments for entry and residence of foreigners in the Republic of Latvia or in another Schengen Agreement Member State or customs regulations;

4) the foreigner has failed to execute a voluntary return decision within the specified period of time;

5) the foreigner has helped another foreigner to illegally enter the Republic of Latvia and it has been determined by a court judgment or by an injunction of the public prosecutor regarding punishment, or a decision on termination of criminal proceedings by conditionally releasing from criminal liability;

6) the foreigner has served a punishment for a criminal offence committed in the Republic of Latvia.

(5) The Chief of the State Border Guard or his or her authorised official shall take a decision on including a foreigner in the list, if any of the following circumstances exists:

1) a decision to annul or revoke a visa has been taken in relation to the foreigner;

2) during the preceding year the foreigner has illegally crossed external border or otherwise violated the procedures specified in regulatory enactments for entry and residence of foreigners in the Republic of Latvia or in another Schengen Agreement Member State or customs regulations;

3) the foreigner has failed to execute a voluntary return decision within the specified period of time;

4) in accordance with the provisions of Regulation No 562/2006 of the European Parliament and of the Council of 15 March 2006 a decision on refusal to enter the territory of the Member States of the European Union has been taken on the grounds that the foreigner presents a forged travel document, visa or residence permit;

5) the foreigner was forcefully removed from the Republic of Latvia and expenses related to the forced removal, detention and keeping under guard have not been reimbursed into the State budget;

6) the foreigner has helped another foreigner to illegally enter or illegally reside in the Republic of Latvia and it has been determined by a court judgment or by an injunction of the public prosecutor regarding punishment, or a decision on termination of criminal proceedings by conditionally releasing from criminal liability;

7) the foreigner has served a punishment for a criminal offence committed in the Republic of Latvia, which is related to illegal crossing of the State border or illegal stay in the State.

(6) A foreigner in respect of whom a decision has been taken in accordance with Paragraph one of this Section has the right, within one month after becoming acquainted with the decision, to appeal the decision to the Senate Administrative Cases Department of the Supreme Court of the Republic of Latvia. The submission of an application to the court may not suspend the implementation of the decision referred to Paragraph one of this Section. The applicant does not have the right to request the court to suspend the operation of such decision.

(7) A decision, which has been taken in accordance with Paragraph two of this Section, shall not be subject to appeal.

(8) If the decision referred to in Paragraph one of this Section has been taken on the basis of information acquired by national security institutions as a result of intelligence or counter-intelligence operations it may be appealed to the Office of the Prosecutor General the decision of which is final.

*[16 June 2005; 24 November 2005; 26 January 2006; 6 April 2006; 13 December 2007; 20 December 2007; 22 April 2010; 26 May 2011]*

### **Section 61.<sup>1</sup>**

(1) An opinion of a competent State institution regarding the existence of the conditions referred to in Section 61, Paragraph one of this Law shall be sent to the Minister for Internal Affairs for the taking of a decision.

(2) In a decision on inclusion of a foreigner in a List in accordance with Section 61, Paragraph one of this Law shall be the following information:

1) name and address of the institution;

2) addressee (given name, surname or other information, which assists in identifying the person);

3) the date and identifying number of the opinion regarding the existence of the conditions referred to in Section 61, Paragraph one of this Law;

4) references to the legal norms being applied;

5) the time period for which the foreigner is included in the list;

6) an indication regarding forced removal if the foreigner is located in the Republic of Latvia; and

7) an indication where and in what time period this decision may be appealed.

(3) A decision to include in the list a foreigner who is not located in the Republic of Latvia shall be issued to him or her at his or her request.

(4) The List shall be maintained and up-dated by the Office according to the procedures specified by the Cabinet.

*[16 June 2005; 22 April 2010]*

### **Section 62.** [26 January 2006]

*[16 June 2005; 26 January 2006]*

### **Section 63.**

(1) When taking a decision on inclusion of a foreigner in the list in the cases referred to in Section 61, Paragraphs three, four and five of this Law, a entry ban for a period of time from 30 days up to three years shall be determined concurrently.

(2) [26 May 2011]

(3) When taking a decision on inclusion of a foreigner in the list in the cases referred to in Section 61, Paragraphs one and two of this Law, a entry ban for a specified or unspecified period of time shall be determined concurrently.

(4) The time period of the entry prohibition shall be counted from the day when the foreigner has exited from the Republic of Latvia. If the entry prohibition is determined after the exit of a foreigner from the Republic of Latvia, the time period of the entry prohibition shall be counted from the day of taking of the decision.

(5) If an additional sentence – removal from the Republic of Latvia – has been imposed on a foreigner for commitment of criminal offence, an official of the Office shall include the foreigner in the List, specifying the entry ban indicated in the judgement of a court.

(6) If in accordance with the provisions of the Law on Introduction of Sanctions Specified by International Organisations in the Republic of Latvia or Regulations of the Council of the European Union the travel restrictions shall be applied for a foreigner, an official of the Office shall include him or her in the List.

(7) The institution, which took the decision on inclusion of a foreigner in the list, determining a period of time for entry ban, which exceeds three years, shall review the decision taken every three years from the day when the relevant decision was taken and, if the necessity to include the foreigner in the list for the relevant period of time no longer exists, a decision shall be taken to reduce the period of time for prohibition or to revoke the entry ban.

*[22 April 2004; 24 November 2005; 13 December 2007; 20 December 2007; 22 April 2010; 26 May 2011]*

#### **Section 64.**

(1) If the circumstances have changed, the right to take a decision to reduce the term of re-entry ban or revoke the re-entry ban on the basis of a request from the foreigner shall be granted to:

1) the Minister for the Interior – in the cases referred to in Section 61, Paragraph one of this Law;

2) the Minister for Foreign Affairs – in the case referred to in Section 61, Paragraph two of this Law;

3) the Director of the Consular Department – in the case referred to in Section 61, Paragraph three of this Law;

4) the Head of the Office – in the case referred to in Section 61, Paragraph four of this Law; and

5) the Chief of the State Border Guard – in the cases referred to in Section 61, Paragraph five of this Law.

(2) The officials referred to in Paragraph one, Clauses 2, 3 and 5 of this Section shall inform the Office within three working days regarding the reduction of the term for which a foreigner has been included in the List or of the deletion of the foreigner from the List.

*[22 April 2004; 24 November 2005; 20 December 2007]*

#### **Section 65.**

The Office, State Border Guard, representations, the Consular Department and other competent authorities of the Republic of Latvia shall use the information included in the List.

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

#### **Adjudication by a Court of an Application regarding a Decision by the Minister for the Interior on Inclusion of a Person in the List**

*[26 January 2006]*

### **Section 65.<sup>1</sup>**

(1) A Senate Administrative Cases Department of the Supreme Court shall adjudicate a case, which has been initiated on the basis of an application regarding the decision referred to in Section 61, Paragraph one of this Law, within two months from the day a decision has been taken regarding the acceptance of the application and the initiation of the case.

(2) The court shall adjudicate the case as a first instance court. The case shall be adjudicated by a collegial composition of the court by oral proceedings.

(3) On the basis of a court decision the case may be adjudicated in a closed sitting of the court in order to protect official secrets or other restricted access information, which is associated with national security, as well as the circumstances of the private life of persons, commercial or professional secrets.

(4) If in the objective ascertaining of the circumstances, it is necessary for the court to examine information containing official secrets, the case shall be prepared and adjudicated by judges who have a special permit for access to official secrets. The special permit is also necessary for the court recorder of the court sitting, as well as the court interpreter and other court employees if they participate in the preparation or adjudication of the case.

*[26 January 2006; 6 April 2006]*

### **Section 65.<sup>2</sup>**

(1) After a decision has been taken regarding the acceptance of the application and the initiation of the case, the court shall determine the place and time of the court sitting, as well as the persons to be invited and summoned to the court.

(2) An applicant shall be invited to the court sitting if during the adjudication of the case he or she is lawfully residing in the Republic of Latvia.

(3) In respect of the defending party, the court may in addition invite a representative of the institution, which has submitted the opinion referred to in Section 61.<sup>1</sup>, Paragraph one of this Law.

(4) In adjudicating a case, a court may invite the Office of the General Prosecutor in order that it submits an opinion in conformity with its competence thereof.

(5) If the invited persons have not appeared, the court may decide to adjudicate the case without the presence of the invited persons.

*[26 January 2006]*

### **Section 65.<sup>3</sup>**

(1) An applicant has a duty to submit the evidence at his or her disposal, which certify the essential circumstances of the case under adjudication. A defendant has a duty to justify the lawfulness of the appealed decision.

(2) If in the objective ascertaining of the circumstances of the case, it is necessary for a court to examine evidence containing official secrets, in the examination of such evidence shall take part participants in the case, as well as if necessary other persons who have a special permit for access to official secrets.

(3) If a representative of the applicant does not have a special permit for access to official secrets, the court shall appoint as a representative of the applicant in this part of the proceedings an advocate practising in Latvia who has been issued a special permit for access to official secrets. If the applicant does not consent to such representation, the court shall examine the information associated with official secrets without the participation of the applicant and his or her representative.

(4) Minutes shall be taken of the court sitting. In the minutes of the court sitting a note regarding the time when the court commenced and finished examining evidence containing



official secrets shall be made, as well as the examination of the relevant evidence shall be recorded.

(5) If evidence containing official secrets is examined in a court, the minutes of the court sitting shall be classified as an official secrets object. An extract regarding that part of the court sitting in which the court did not examine evidence containing official secrets shall be prepared from the minutes.

(6) Evidence containing official secrets shall not be attached to the materials of the case.

(7) Information, which may reveal the identity of a covert assistant, may not be utilised in a court sitting.

*[26 January 2006; 6 April 2006]*

#### **Section 65.<sup>4</sup>**

(1) The court judgment shall not reflect the information which is an official secrets object, but shall indicate that the court has examined and evaluated such information.

(2) A court adjudication is final and cannot be appealed and shall come into effect at the moment of its proclamation.

(3) A court in adjudicating a case and rendering a judgment shall not decide regarding the conformity of the official secrets subject's submitted classified information to the status of official secrets object.

*[26 January 2006; 6 April 2006]*

#### **Section 65.<sup>5</sup>**

In the unregulated issues in this Law associated with an application or the adjudication of a case, a court shall apply the provisions of the Administrative Procedure Law.

*[26 January 2006]*

### **Chapter IX Expenses Related to Forced Removal and Sending**

*[21 June 2007]*

#### **Section 66.**

(1) Expenses related to the forced removal, detention and keeping under guard of a foreigner or transfer to the country, which is taking him or her back, shall be covered from the State budget.

(2) The expenses referred to in Paragraph one of this Section shall be recovered from the foreigner or his or her inviter or from employer, if employer has illegally employed the foreigner who is illegally staying in the Republic of Latvia.

*[26 May 2011]*

#### **Section 67.**

The procedures, by which expenses related to the forced removal, detention and keeping under guard of a foreigner or transfer to the country, which is taking him or her back, shall be determined by the Cabinet.

*[26 May 2011]*

#### **Section 68.**

- (1) If the inviter has not covered the expenses related to the execution of the voluntary return decision or forced removal of a foreigner, he or she shall lose the right to invite foreigners within the following five years or until covering of the expenses.
- (2) The provisions of Paragraph one of this Section shall not apply to the right of a natural person to invite relatives of the first degree and spouse.

## **Chapter X**

### **Final Provisions**

#### **Section 69.**

[26 May 2011]

#### **Section 70.**

If the free movement of workers during the transitional period, which is specified in accordance with the Treaty between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, the Treaty between the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Republic of Bulgaria and Romania, concerning the accession of the Republic of Bulgaria and Romania to the European Union and the free movement of persons protocol of the Agreement between the European Community and the member States thereof and the Swiss Confederation, significantly threatens the Latvian labour market or in relation to Latvia restrictions are specified for the free movement of workers, the Cabinet, taking into account the provisions of the Treaty between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the

European Union, the Treaty between the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Republic of Bulgaria and Romania, concerning the accession of the Republic of Bulgaria and Romania to the European Union, the Agreement on the participation of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic in the European Economic Area and the free movement of persons protocol of the Agreement between the European Community and the member States thereof and the Swiss Confederation shall determine appropriate countermeasures.  
[22 April 2004; 24 November 2005; 21 June 2007]

### **Transitional Provisions**

1. The documents for requesting for a visa or residence permit, which have been submitted by 30 April 2003, shall be examined in accordance with the Law On Entry into and Residence in the Republic of Latvia of Foreigners and Stateless Persons.

2. The conditions referred to in Section 1, Clause 7; Section 23, Paragraph one, Clauses 2, 3, 5, 7, 8 and 19, and Section 24, Paragraph one, Clause 4 of this Law shall also be applied to undertakings (companies), branches, divisions or representations registered with the Enterprise Register until registration thereof in the Commercial Register within the term specified in the Law on the Procedures for the Coming into Force of the Commercial Law.

3. Section 69 of this Law shall come into force on 1 May 2004.

[8 July 2003; 22 April 2004]

4. With the coming into force of this Law, the Law On Entry into and Residence in the Republic of Latvia of Foreigners and Stateless Persons is repealed. (*Latvijas Republikas Augstākās Padomes un Valdības Ziņotājs*, 1992, No.27/28; *Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 1997, No. 3; 1998, No. 2, 12, 23); 1999, No. 11; 2000, No. 23; 2002, No. 3/10).

5. Section 24, Paragraphs five and six of this Law shall come into force on 1 May 2004.

6. Until the day of the coming into force of the Cabinet regulations referred to in Section 4, Paragraph two, Clause 5 of this Law, but not longer than 1 May 2004, the Cabinet Regulation No. 206 of 22 April 2003, State List of those Citizens (Subjects) for whom a Visa or Residence Permit is not Necessary in order to Enter and Reside in the Republic of Latvia, shall be in force insofar as it is not in contradiction to this Law.

[8 July 2003]

7. A voluntary return decision, removal orders or decisions regarding the inclusion of a foreigner in the List, which have been taken on the basis of information provided by competent institutions and regarding which a foreigner has become acquainted with up to 30 April 2005, cannot be appealed, but the foreigner is entitled to request that the relevant

official re-examines the decision according to substance. If the circumstances still exist which were the basis for the taking of the decision, the Minister for the Interior shall take a decision in conformity with the provisions of Section 61.<sup>1</sup>, Paragraph two of this Law.

[16 June 2005]

8. Up to the day of the coming into force of the Cabinet regulations provided for in Section 61.<sup>1</sup>, Paragraph four of this Law, but not later than by 1 August 2005, Cabinet Regulation No. 216 of 29 April 2003, Procedures for Utilisation, Maintenance and Updating of a List of Foreigners who are Prohibited to enter the Republic of Latvia, shall be in force.

[16 June 2005]

9. Up to the day of the coming into force of the Cabinet regulations provided for in Section 24, Paragraph five of this Law, but not later than by 1 July 2005, Cabinet Regulation No. 319 of 20 April 2004, Regulations regarding Level of Knowledge of the Official Language and the Procedures for the Testing of Knowledge of the Official Language for Foreigners who are Entitled to Request a Permanent Residence Permit, shall be in force.

[16 June 2005]

10. The cabinet shall by 1 March 2006 issue the regulations referred to in Section 4, Paragraphs nine and ten of this Law.

[24 November 2005]

11. Up to the day of the coming into force of the Cabinet regulations referred to in Section 4, Paragraphs nine and ten of this Law, but not later than 28 February 2006, the necessary and additional assessment of visas shall be performed for the citizens of those countries, which are specified in Cabinet Regulation No. 183 of 15 April 2003, *Procedures for Approval of Invitations*.

[24 November 2005]

12. The Cabinet by 1 March 2006 shall issue the regulations referred to in Section 33, Paragraph two; Section 34, Paragraph one, Clause 5; Section 35, Clause 13; Section 36, Paragraph one, Clause 4 and Section 69 of this Law.

[24 November 2005]

13. Up to the day of the coming into force of the Cabinet regulations referred to in Paragraph 12 of these Transitional Provisions, but not later than by 1 March 2006, Cabinet Regulation No. 213 of 29 April 2003, *Regulations regarding Residence Permits*; Cabinet Regulation No. 914 of 9 November 2004, *Procedures for the Entry into and Residence in the Republic of Latvia of Citizens of European Union Member States and European Economic Area States and their Family Members* and Ministry of Health Order No. 122 of 21 May 2005, *On the Health Disturbance and Diseases List*, shall be applied insofar as they are not in contradiction with this Law.

[24 November 2005]

14. The Cabinet shall issue by 1 August 2006 the regulations referred to in Section 4, Paragraph eight of this Law.

[6 April 2006]

15. Up to the date of the coming into force of the Cabinet regulations provided for in Section 6 and Section 12, Paragraph one, Clause 3 of this Law, but not later than by 1 April 2008 the Cabinet Regulation No. 108 of 13 February 2007, *Regulations Regarding the State Fee for Examination of the Necessary Documents for Requesting of Visa, Residence Permit or the*

*Status of a Long-term Resident in the Republic of Latvia and for Services Related Thereto, and the Cabinet Regulation No. 691 of 9 December 2003, Regulations for the Health Insurance of Aliens, shall be in effect insofar as they are not in contradiction with this Law.*  
[20 December 2007]

16. A foreigner has the right to request a temporary residence permit in accordance with the procedures specified in Section 23, Paragraph one, Clause 28, 29 and 30 of this Law, if the contribution in equity capital of the capital company has been made in a specified amount, immovable property has been purchased in a specified value or financial investments made in a specified amount after 1 July 2010.  
[22 April 2010]

17. A foreigner who has received a temporary residence permit until 30 June 2011, on the basis of Section 23, Paragraph one, Clauses 28 and 29 of this Law, shall be allowed to reside in the Republic of Latvia until expiry of the term for the issued temporary residence permit, except the case where the cadastral value or market value of the immovable property purchased by him or her does not comply with the value specified in Section 23, Paragraph one, Clause 29, Sub-clause “d” of this Law.  
[26 May 2011]

18. Section 4.<sup>1</sup>, Paragraph four of this Law shall come into force on 1 July 2011.  
[26 May 2011]

19. Until the day of coming into force of the Cabinet regulations referred to in Section 2.<sup>1</sup>, Paragraph two and Section 13, Paragraph three of this Law, but not longer than until 1 September 2011 Cabinet Regulation No. 243 of 29 March 2011, *Procedures for the Entry into and Residence in the Republic of Latvia of Citizens of the European Union Member States, European Economic Area States and the Swiss Confederation, and their Family Members*, and Cabinet Regulation No. 958 of 12 October 2010, *Visa Regulations*, shall be applied.  
[26 May 2011]

20. Until the day of coming into force of the Cabinet regulations referred to in Section 21, Paragraph three and Section 67 of this Law, but not longer than until 1 October 2011 Cabinet Regulation No. 504 of 9 September 2003, *Procedures by which Expenses Related to the Expulsion, Detention and Keeping under Guard of an Alien shall be Determined and Recovered*, shall be applied.  
[26 May 2011]

21. Section 50.<sup>2</sup> of this Law shall come into force concurrently with the relevant amendments to the State Ensured Legal Aid Law.  
[26 May 2011]

### **Informative Reference to European Union Directives**

This Law contains legal norms arising from:

- 1) Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services;
- 2) Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the return of third country nationals;
- 3) Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985;

- 4) Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification;
  - 5) Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents;
  - 6) Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Text with EEA relevance);
  - 7) Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to foreigners who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;
  - 8) Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service;
  - 9) Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research;
  - 10) Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on the common standards and procedures in Member States for returning illegally staying third-country nationals;
  - 11) Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment;
  - 12) Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.
- [22 April 2004; 16 June 2005; 24 November 2005; 6 April 2006; 25 January 2007; 20 December 2007; 26 May 2011]

This Law shall come into force on 1 May 2003.

Note. This Law shall come into force on 1 July 2010.

[22 April 2010]

The Law has been adopted by the *Saeima* on 31 October 2002.

Acting for the President,  
Chairperson of the *Saeima*

I. Ūdre

Rīga, 20 November 2002

### **Transitional Provisions Regarding Amendments to the Immigration Law**

#### **Transitional Provision** (regarding amending Law of 8 July 2003)

With the coming into force of this Law, Cabinet Regulation No. 207, Amendments to the Immigration Law (*Latvijas Vēstnesis*, 2003, No. 63) issued in accordance with Article 81 of the Constitution of the Republic of Latvia is repealed.

### **Transitional Provision**

(regarding amending Law of 24 November 2005)

With the coming into force of this Law, Cabinet Regulation No. 521, Amendments to the Immigration Law (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 2005, No. 18) issued in accordance with Article 81 of the Constitution of the Republic of Latvia is repealed.