

Prosecutor's Office Act

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Amended by the following acts

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

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06.06.2012	RT I, 29.06.2012, 2	09.07.2012, partially 01.01.2013
13.06.2012	RT I, 06.07.2012, 1	01.04.2013
05.12.2012	RT I, 21.12.2012, 1	01.03.2013

Chapter 1

GENERAL PROVISIONS

§ 1. Prosecutor's Office

(1) The Prosecutor's Office is a government agency within the area of government of the Ministry of Justice which participates in the planning of surveillance necessary to combat and detect criminal offences, directs pre-trial criminal procedure and ensures the legality and efficiency thereof, represents public prosecution in court and performs other duties assigned to the Prosecutor's Office by law.

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

(1¹) The Prosecutor's Office is, in implementing its obligations arising from its Act, independent and shall act pursuant to this Act, other Acts and legislation issued on the basis thereof.

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

(2) The Prosecutor's Office is divided into the Office of the Prosecutor General and into District Prosecutor's Offices subordinate to it.

§ 2. Prosecutors

(1) Prosecutors are the prosecutors of the Office of the Prosecutor General and the prosecutors of the District Prosecutor's Offices.

(2) Prosecutors shall be independent in the performance of their duties and act only pursuant to law and according to their conscience.

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

Chapter 2

ORGANISATION OF PROSECUTOR'S OFFICE

§ 3. Prosecutor General

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

(2) If the Prosecutor General is temporarily unable to perform his or her duties due to illness or other hindrance, the Minister of Justice shall designate a substitute for him or her from among the prosecutors of the Office of the Prosecutor General.

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

§ 4. Office of Prosecutor General

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

(2) The prosecutors of the Office of the Prosecutor General are the Prosecutor General, the Chief State Prosecutors, State Prosecutors and Assistant Prosecutors.

(3) The Office of the Prosecutor General may be divided into departments, which shall be approved by the Minister of Justice. The Prosecutor General shall designate the State Prosecutors and Assistant Prosecutors who belong to the departments.

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

§ 4¹. Chief State Prosecutors

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

(2) Within their area of responsibility, Chief State Prosecutors have the right to issue orders to District Prosecutor's Offices.

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

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

§ 5. District Prosecutor's Office

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

(2) The prosecutors of a District Prosecutor's Office are the Chief Prosecutor, Senior Prosecutors, Specialised Prosecutors, District Prosecutors and Assistant Prosecutors.

(3) The location and territorial jurisdiction of a District Prosecutor's Office shall be established by a regulation of the Government of the Republic.

(4) A District Prosecutor's Office may be divided into departments, which shall be approved by the Minister of Justice. The Chief Prosecutor shall appoint the Specialised Prosecutors, District Prosecutors and Assistant Prosecutors to departments. The Chief Prosecutor has the right to transfer a District Prosecutor to another regional department within the same territorial jurisdiction without a public competition with his or her consent.

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

§ 5¹. Number of prosecutors

The Minister of Justice shall determine the number of prosecutors in the Office of the Prosecutor General and prosecutors in the District Prosecutor's Offices.
[RT I 2004, 7, 40 - entry into force 01.03.2004]

§ 5². Chief Prosecutor

(1) Chief Prosecutors direct the District Prosecutor's Offices and perform other duties imposed on them by law.

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

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

§ 6. Senior Prosecutor

(1) Senior Prosecutors direct the departments of the District Prosecutor's Offices and perform other duties imposed on them by law.

(2) The Chief Prosecutor shall designate substitutes for the Senior Prosecutors from among the prosecutors of the District Prosecutor's Offices for the event of temporary inability of the Senior Prosecutors to perform their duties due to illness or other hindrance.

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

§ 7. Assistant Prosecutor

(1) Assistant Prosecutors shall act under the supervision of the Prosecutor General, Chief State Prosecutor, Chief Prosecutor, State Prosecutor, Senior Prosecutor, Specialised Prosecutor or District Prosecutor.

(2) Assistant Prosecutors may perform the duties imposed on prosecutors in court proceedings regarding criminal matters sent to court pursuant to the general procedure to the extent as to which higher ranking prosecutors have authorised them in specific criminal proceedings.

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

(3) Assistant Prosecutors shall not be members of the prosecutors' competition committee or prosecutors' disciplinary committee.

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

§ 8. Plan for division of duties

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

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

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

§ 9. Supervisory control

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

(2) The Prosecutor General shall exercise supervisory control in the Prosecutor's Office, and Chief Prosecutors shall exercise supervisory control in the District Prosecutor's Offices.
[RT I 2004, 7, 40 - entry into force 01.03.2004]

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

§ 10. Substitution

The Prosecutor General or a Chief Prosecutor may, with compelling reason, substitute for a subordinate prosecutor in a criminal proceeding or impose such obligation on another subordinate prosecutor, who shall not be a subordinate of the person substituted. A substitution order shall be in writing, shall set out the extent to which one person substitutes for another and shall justify the need for substitution.
[RT I 2004, 7, 40 - entry into force 01.03.2004]

§ 11. Reporting

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

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

(3) In addition to the regular reports specified in subsections (1) and (2) of this section, the Prosecutor General may submit to the Constitutional Committee of the *Riigikogu* reports concerning significant issues which have an extensive effect or need prompt settlement and which become known in the course of the activities of the prosecutor's office.
[RT I, 16.03.2011, 2 - entry into force 26.03.2011]

§ 11¹. Administration Department

(1) For the performance of administrative functions, an Administration Department may be formed in the Prosecutor's Office, which shall be approved by the Minister of Justice.

(2) The Administration Department shall be directed by the director of administration.
[RT I 2004, 46, 329 - entry into force 01.07.2004]

§ 12. Statutes of Prosecutor's Office

The Minister of Justice shall approve the statutes of the Prosecutor's Office.

Chapter 3 PROSECUTORS' ASSEMBLY

§ 13. Prosecutors' Assembly

(1) The Prosecutors' Assembly is a meeting of all prosecutors, which shall be convened at least once a year.

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

(2) The Prosecutors' Assembly shall:

1) elect two prosecutors from the District Prosecutor's Offices and one prosecutor from the Office of the Prosecutor General as members of the prosecutors' competition committee;

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

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

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

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

3) approve the procedures of the Prosecutors' Assembly;

4) hear reports of the Minister of Justice and the Prosecutor General concerning the activities of the prosecutor's offices;

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

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

Chapter 4 PROSECUTORS' SERVICE

Division 1 General Provisions

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

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

Division 2

Appointment to Office

§ 15. Requirements for prosecutors

(1) An Estonian citizen with active legal capacity who has attained at least 21 years of age may be appointed as the Prosecutor General, a Chief State Prosecutor, Chief Prosecutor, State Prosecutor, Senior Prosecutor, Specialised Prosecutor or District Prosecutor provided that he or she:

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

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

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

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

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

3) is of high moral character;

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

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

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

(1¹) An Estonian citizen with active legal capacity who has attained at least 21 years of age, has completed higher education, is proficient in Estonian to the extent established by or pursuant to law, is of high moral character and has the necessary abilities and personal characteristics may be appointed as an Assistant Prosecutor.

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

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

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

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

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

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

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

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

(3) A person who has been employed for one year as a prosecutor or for three years as a judge, police officer, sworn advocate or in another position which requires in-depth

knowledge of penal law and procedure may be appointed as a District Prosecutor.
[RT I, 21.12.2012, 1 - entry into force 01.03.2013]

(4) A person who is employed as a prosecutor, except an Assistant Prosecutor, before appointment to office may be appointed as a Specialised Prosecutor.
[RT I 2004, 46, 329 - entry into force 01.07.2004]

(5) A person who has been employed as a judge, prosecutor, police officer or sworn advocate for three years before appointment to office may be appointed as a Chief Prosecutor or Senior Prosecutor. The clerkship or probationary period of an Assistant Prosecutor shall not be included in the period of employment as a prosecutor.
[RT I, 21.12.2012, 1 - entry into force 01.03.2013]

(6) A person who has been employed in a position which requires high qualification in law for at least two years may be appointed as a Chief State Prosecutor and a State Prosecutor.
[RT I 2008, 1, 3 - entry into force 14.01.2008]

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

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

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

(1) A person who applies for prosecutor's service shall submit the following to the prosecutors' competition committee:
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

- 1) the form concerning personal data;
- 2) declaration of interests conforming to the requirements provided for in the Anti-corruption Act as at the first day of the month preceding the application.
[RT I, 29.06.2012, 1 - entry into force 01.04.2013]

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

(3) The form used to apply for prosecutor's service shall be approved by the Minister of Justice.

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

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

- 1) address local government agencies, officials of local governments, legal persons and natural persons by inquiry concerning the personal data of a person applying for prosecutor's service;
- 2) interview the person indicated in the form concerning personal data, and with employers, representatives of educational institutions and other persons in order to ascertain the moral character and other personal characteristics of the person and if necessary, obtain a written

explanation from the interviewed person with his or her permission;

3) ascertain whether the persons specified in subsection (2) of this section participate in a criminal proceeding as the suspect or the accused;

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

4) examine the data obtained by surveillance activities.

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

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

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

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

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

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

§ 16. Appointment of prosecutors to office

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

(2) The Minister of Justice shall appoint the Chief State Prosecutor, State Prosecutor or Chief Prosecutor to office on the proposal of the Prosecutor General.

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

(3) The Prosecutor General shall appoint Senior Prosecutors to office on the proposal of the Chief Prosecutors.

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

(5) The Prosecutor General shall appoint Specialised Prosecutors, District Prosecutors and Assistant Prosecutors to office on the proposal of the prosecutors' competition committee.

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

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

(7) A person shall not be appointed as a prosecutor if he or she does not meet the requirements for prosecutors. A decision not to appoint a person as a prosecutor shall be justified.

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

§ 16¹. Transfer of prosecutors

(1) The Minister of Justice has the right to transfer, without a public competition, a Chief State Prosecutor, Chief Prosecutor or State Prosecutor on the basis of his or her written application to a position of a lower prosecutor to be filled by way of public competition.

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

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

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

(5) The procedure for compensation for expenses specified in subsection (4) of this section shall be established by a regulation of the Minister of Justice.

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

§ 17. Prosecutors' term of office

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

(2) Chief State Prosecutors, State Prosecutors, Senior Prosecutors, Specialised Prosecutors and Assistant Prosecutors shall be appointed to office for an unspecified term.

(3) A substitute State Prosecutor, Specialised Prosecutor, District Prosecutor or Assistant Prosecutor shall be appointed to office for a specified term until the return to or release from office of the person substituted. The substitute State Prosecutor, Specialised Prosecutor, District Prosecutor or Assistant Prosecutor may, with his or her consent, be appointed to a vacant position of the same or a lower prosecutor for an unspecified term during the substitution and one year after the end of the substitution without a public competition.

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

§ 18. Public competition

(1) Specialised Prosecutors, District Prosecutors and Assistant Prosecutors shall be appointed to office on the basis of a public competition.

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

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

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

(3) The Prosecutor General, Chief State Prosecutors, State Prosecutors, Chief Prosecutors and Senior Prosecutors may be appointed to office without a public competition.
[RT I 2008, 1, 3 - entry into force 14.01.2008]

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

§ 19. Assessment of participants in public competition

(1) The prosecutors' competition committee shall assess the suitability of an applicant for a position.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(2) If a prosecutor applies for a vacant position, the prosecutor to whom the applicant is directly subordinate shall present a reasoned opinion on the applicant to the prosecutors' competition committee.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

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

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

Division 3 Benefits Related to Office and Guarantees of Independence

§ 22. Salary

(1) The salary grades corresponding to the official titles of prosecutors are as follows:

- 1) Prosecutor General, salary grade 8;
- 2) Chief State Prosecutor, salary grade 7;
- 3) Chief Prosecutor, salary grade 6;
- 4) State Prosecutor, salary grade 5;
- 5) Senior Prosecutor, salary grade 4;
- 6) Specialised Senior Prosecutor, salary grade 3;
- 7) District Prosecutor, salary grade 2;
- 8) Assistant Prosecutor, salary grade 1.

(2) The salary of a prosecutor shall be determined for one year at least.

(3) The salaries corresponding to the salary grades of prosecutors and the procedure of and terms and conditions for payment of the variable salary provided for in the Public Service Act shall be established by a regulation of the Government of the Republic in adherence with the principles of determining judge's salaries provided for in the High-Ranking State Public Servants Salaries Act.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(3¹) Differentiated salary rates may be established within the salary grades corresponding to the positions of prosecutors appointed to office in or transferred to some regions or

prosecutors employed in such regions. The differentiated salary rate, the bases for, terms of and specifications concerning the application thereof shall be established by a regulation of the Government of the Republic.

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

(3²) The monthly salary rate of the Prosecutor General shall not be higher than the product of the salary rate specified in subsection 2 (1) of the High-Ranking State Public Servants Salaries Act, the highest salary rate index specified in subsection (2) and a coefficient of 0.85. No variable salary shall be paid to the Prosecutor General.

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

(4) The grounds for the formation of the salaries of prosecutors shall be established in the salary guide for prosecutor's offices. The salary guide shall be established by a directive of the Minister of Justice.

(5) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]

§ 22¹. Prosecutor's holiday

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

(2) A prosecutor's holiday lasts 35 calendar days.

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

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

(4) The Prosecutor General shall approve the holiday schedule of prosecutors in the Office of the Prosecutor General and a Chief Prosecutor shall approve the holiday schedule of prosecutors in a District Prosecutor's Office.

(5) The Prosecutor General and a Chief Prosecutor may, based on the interests of work management, establish restrictions on the length of holiday and time of holiday taken at a time. In such case, the duration of one continuous part of holiday must be at least 14 calendar days and, at the request of the prosecutor, 21 calendar days. The duration of other parts of the holiday may be shorter.

[RT I 2004, 46, 329 - entry into force 01.01.2005]

§ 22². On-call time

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

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

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

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

(5) The portion of on-call time during which the prosecutor performs his or her duties is considered his or her working time. In such case the requirement provided for in §§ 51 and 52 of the Employment Contracts Act concerning consecutive rest periods shall not apply to the prosecutor.

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

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

§ 23¹. Application of incentive

The Prosecutor General shall apply incentives with regard to prosecutors.

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

§ 24. Compensation for proprietary damage

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

§ 25. Prosecutor's old-age pension

(1) A prosecutor who has been employed as a prosecutor for at least twenty-five years has the right to receive a prosecutor's old-age pension when he or she attains the pensionable age, except in the case he or she has been released from service due to entry into force of a judgment of conviction for an intentionally committed criminal offence.

[RT I 2009, 15, 94 - entry into force 10.03.2009, applied to persons in respect of whom a judgment of conviction enters into force after the entry into force of the Act.]

(2) A person who has been employed as a prosecutor for at least fifteen years and as a judge or police officer for at least ten years prior to it also has the right to receive a prosecutor's old-age pension, except in the case when he or she has been released from service due to the entry into force of a judgment of conviction for an intentionally committed criminal offence.

[RT I 2009, 15, 94 - entry into force 10.03.2009, applied to persons in respect of whom a judgment of conviction enters into force after the entry into force of the Act.]

(3) The amount of a prosecutor's old-age pension is 65 per cent of the minimum salary rate established by a regulation of the Government of the Republic corresponding to the prosecutor's most recent position without considering the increase of the salary rate due to working in the specific area.

[RT I 2006, 21, 160 - entry into force 25.05.2006]

(4) If the minimum salary rate of the position of prosecutor in which the person who receives a prosecutor's old-age pension was employed is changed, the prosecutor's old-age pension shall be recalculated. In such case, the pension shall be paid in the altered amount as of the first day of the following month.

[RT I 2006, 21, 160 - entry into force 25.05.2006]

(5) The portion of a prosecutor's old-age pension which exceeds the general old-age pension shall be paid from the state budget.

(6) A prosecutor's old-age pension shall not be paid during the period of employment as a prosecutor. If a retired prosecutor is employed elsewhere, he or she shall receive the prosecutor's old-age pension in full regardless of the amount of the earnings.
[RT I 2006, 21, 160 - entry into force 25.05.2006]

(7) A person convicted for an offence provided for in Chapter 15 or Division 2 of Chapter 17 of the Penal Code, for which the Penal Code prescribes at least up to five years' imprisonment, loses the right to a prosecutor's old-age pension provided for in this section.
[RT I 2009, 15, 94 - entry into force 10.03.2009, applied to persons in respect of whom a judgment of conviction enters into force after the entry into force of the Act.]

(8) If a person was paid the procurator's old-age pension provided for in this section, the payment of the pension is terminated as of the month following the month of entry into force of the judgment. In the case of losing the right to a prosecutor's old-age pension provided for in this section, the person retains the right to apply for a pension pursuant to general principles.
[RT I 2009, 15, 94 - entry into force 10.03.2009, applied to persons in respect of whom a judgment of conviction enters into force after the entry into force of the Act.]

(9) The court is required to notify the Social Insurance Board within ten working days as of the entry into force of the court judgment in writing of the fact in connection with which the person loses the right to the prosecutor's old-age pension provided for in this section.
[RT I 2009, 15, 94 - entry into force 10.03.2009, applied to persons in respect of whom a judgment of conviction enters into force after the entry into force of the Act.]

(10) The provisions of the State Pension Insurance Act apply upon payment of the prosecutor's old-age pension provided for in this section, unless otherwise provided by this Act.
[RT I 2009, 15, 94 - entry into force 10.03.2009, applied to persons in respect of whom a judgment of conviction enters into force after the entry into force of the Act.]

§ 26. Prosecutors' pension for incapacity for work

(1) A person who becomes permanently incapacitated for work during his or her employment as a prosecutor and whose length of service as a prosecutor is at least fifteen years has the right to receive a prosecutors' pension for incapacity for work.

(2) If a prosecutor becomes permanently incapacitated for work due to the performance of his or her duties as a result of an attack made against him or her or as a result of the prevention of a criminal offence by the prosecutor, he or she has the right to receive a pension for incapacity for work regardless of his or her length of service.

(3) The amount of a prosecutors' pension for incapacity for work is:

1) 65 per cent of the minimum salary rate established by a regulation of the Government of the Republic corresponding to the prosecutor's most recent position without considering the increase of the salary rate due to working in the specific area in the case of a 100 per cent loss of capacity for work;

2) 50 per cent of the minimum salary rate established by a regulation of the Government of the Republic corresponding to the prosecutor's most recent position without considering the increase of the salary rate due to working in the specific area in the case of a 80 to 90 per cent loss of capacity for work;

3) 30 per cent of the minimum salary rate established by a regulation of the Government of the Republic corresponding to the prosecutor's most recent position without considering the increase of the salary rate due to working in the specific area in the case of a 40 to 70 per cent loss of capacity for work;

(4) The prosecutors' pension for incapacity for work shall be recalculated if the percentage of the loss of the capacity for work or the salary of the position based on which the prosecutors' pension for incapacity for work was calculated changes. In such case, the pension shall be paid in the altered amount as of the first day of the following month.

(5) The portion of a prosecutors' pension for incapacity for work which exceeds the general pension for incapacity for work shall be paid from the state budget.

[RT I 2006, 21, 160 - entry into force 25.05.2006]

§ 26¹. Allowance upon attack against prosecutor

(1) If a prosecutor dies for reasons related to service in the prosecutor's office, the state shall pay the family members and persons who were maintained by him or her a single allowance in an amount equal to ten years' salary of the deceased.

(2) The funeral expenses of a prosecutor who died for reasons related to service in the prosecutor's office shall be borne by the state.

(3) If a prosecutor is declared permanently incapacitated for work for reasons related to service in the prosecutor's office, he or she shall be paid a single allowance in an amount equal to his or her:

1) one year's salary in the case of partial loss of capacity for work which did not result in release from police service;

2) two year's salary in the case of partial loss of capacity for work which resulted in release from service;

3) seven years' salary in the case of total loss of capacity for work.

(4) A prosecutor to whom, in connection with the service in the prosecutor's office, health damage is caused which does not result in permanent incapacity for work, shall be paid a single allowance in an amount equal to his or her one month's salary.

(5) The cost of medical examination, treatment and medicinal products of a prosecutor who becomes ill or to whom health damage is caused in connection with the service in the prosecutor's office shall be borne by the state.

(6) The procedure for calculation and payment of the allowances and costs provided for in this section shall be established by a regulation of the Government of the Republic.

[RT I 2006, 21, 160 - entry into force 25.05.2006]

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

Division 4

Duties

§ 28. Obligation of professional secrecy

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

§ 29. Duty to supervise

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

(2) No prosecutor shall be required to supervise more than one trainee at a time.
[RT I 2004, 46, 329 - entry into force 01.07.2004]

§ 30. Restrictions on activities

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

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

(3) The Minister of Justice prohibits the Prosecutor General by an administrative act from engaging in full or in part in the ancillary activities specified in subsection (1) of this section, if the volume of labour spent on the ancillary activities or the nature thereof hinders regular performance of his or her duties or if the ancillary activity brings about a breach of duties.
[RT I, 29.06.2012, 1 - entry into force 01.04.2013]

Division 5

Disciplinary Liability

§ 31. Disciplinary offences and disciplinary penalties

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

(2) Disciplinary offences are:

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

(3) Disciplinary penalties are:

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

§ 32. Initiation of disciplinary proceedings

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

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

- 1) the Minister of Justice against the Prosecutor General, Chief State Prosecutor or Chief Prosecutor;
- 2) the Prosecutor General against all prosecutors;
- 3) a Chief Prosecutor against the prosecutors of a District Prosecutor's Office subordinate to him or her.

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

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

§ 33. Preliminary processing of disciplinary offence

(1) A person who initiates disciplinary proceedings shall conduct the preliminary processing of the disciplinary offence. The Minister of Justice may assign the task of conducting the preliminary processing of disciplinary proceedings initiated by the Minister of Justice against a Chief State Prosecutor or a Chief Prosecutor to the Prosecutor General.

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

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

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

§ 34. Suspension of prosecutor

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

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

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

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

§ 35. Disciplinary charge

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

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

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

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

(4) A disciplinary charge shall not be brought and a disciplinary proceeding shall be terminated if more than three years have passed from the commission of the disciplinary offence.

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

§ 36. Hearing of disciplinary offence

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

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

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

(4) The Minister of Justice shall establish the procedures of the disciplinary committee by a regulation.

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

§ 37. Preparation for session of disciplinary committee

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

(2) The person who conducts the preliminary processing of the disciplinary offence and the person having prepared the charge and the prosecutor charged shall be invited to the session. In the case an Assistant Prosecutor is charged with a disciplinary offence, his or her supervising prosecutor shall also be invited to the session of the disciplinary committee.

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

§ 38. Right to examine disciplinary charge materials

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

(2) The prosecutor charged with a disciplinary offence has the right to examine the materials of the disciplinary charge. The materials of a disciplinary charge brought against an Assistant Prosecutor may also be examined by his or her supervising prosecutor.

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

§ 39. Session of disciplinary committee

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

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

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

(4) A member of the disciplinary committee cannot participate in the consideration of the disciplinary charge brought against him or her.

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

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

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

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

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

§ 41. Decision of Ministry of Justice upon hearing of disciplinary offences

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

(2) The Minister of Justice shall make the decision alone.

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

§ 42. Imposition and contestation of disciplinary penalty

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

- 1) the Minister of Justice to a prosecutor appointed to office by the Government of the Republic or the Ministry of Justice;
- 2) the Prosecutor General on the proposal of the prosecutors' disciplinary committee on all prosecutors.

(2) The Prosecutor General does not have the right to impose release from the service as a penalty to prosecutors appointed to office by the Minister of Justice.

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

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

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

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

Division 6

Organisation of competition, development and assessment

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

§ 43. Prosecutors' competition committee

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

(1) The prosecutors' competition committee shall evaluate persons applying for the position of prosecutor if the position is filled by way of a public competition.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(2) The prosecutors' competition committee shall comprise the Prosecutor General, one prosecutor of the Office of the Prosecutor General, two prosecutors from the District Prosecutor's Offices, one judge elected by the Court *en banc*, a jurist designated by the Dean of the Law Faculty of the University of Tartu and an official of the Ministry of Justice designated by the Minister of Justice. The term of authority of the members of the prosecutors' competition committee, excluding the Prosecutor General and an official of the Ministry of Justice, shall be three years.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(3) The Prosecutor General shall be the chairman of the prosecutors' competition committee.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(4) The prosecutors' competition committee has a quorum if at least five members of the committee, including the chairman, participate in the session.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(5) The Office of the Prosecutor General shall manage the operations of the prosecutors' competition committee.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

§ 44. Requirements for organisation of competition

The Minister of Justice shall establish the requirements for organisation of competition.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

§ 44¹. Prosecutor's performance assessment interview

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

Division 7 Release from Service

§ 45. Release from service at own request

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

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

§ 47. Release from service due to age

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

§ 48. Release from service due to bankruptcy

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

§ 49. Release from service for disciplinary offence

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

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

(1) Upon the expiry of the term of office of the Prosecutor General or a Chief Prosecutor, the Minister of Justice shall release him or her from office and shall appoint him or her as a State Prosecutor, Specialised Prosecutor or District Prosecutor without a public competition.

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

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

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

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

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

Division 8

Engagement of Prosecutors in Performance of Administrative Duties or in Provision of Education in Institutions of Applied Higher Education for Public Defence

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

§ 52. Appointment of prosecutor to position on staff of Office of the Prosecutor General or Ministry of Justice

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

(2) After hearing the opinion of the Prosecutor General, the Minister of Justice may appoint a prosecutor, with his or her consent, to a position on the staff of the Ministry of Justice in

order to perform the duties of administration of prosecutor's offices or duties relating to international judicial cooperation.

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

(4) A prosecutor who has been employed in the Ministry of Justice on the bases specified in subsection (1) or (2) of this section for at least two years has the right to return to his or her previous position without a public competition. With the consent of the Prosecutor General, the prosecutor may return to his or her previous position without a public competition also earlier.

(5) The period of service in the Ministry of Justice or the Office of the Prosecutor General shall be included in the period of service of a prosecutor in the previous position.

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

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

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

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

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

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

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

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

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

Chapter 5 IMPLEMENTING PROVISIONS

§ 53. Appointment of prosecutors to office

(1) Prosecutors who are in office on the date of entry into force of this Act shall be appointed by the Minister of Justice as follows:

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

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

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

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

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

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

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

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

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

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

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

(1) County or city Senior Prosecutors appointed to office prior to 1 March 2004 shall be appointed, upon expiry of their term of office, as Senior Prosecutors, Specialised Prosecutors or District Prosecutors by the Prosecutor General.

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

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

§ 53². Specifications for appointment to office of Assistant Prosecutors

(1) The Prosecutor General shall appoint Assistant Prosecutors [*abiprokurör*] appointed to office before 1 April 2004 to office as Assistant Prosecutors [*prokuröri abi*].

(2) A person who is appointed as an Assistant Prosecutor pursuant to the procedure provided for in subsection (1) of this section shall continue a clerkship according to the procedure in force at the time when he or she was appointed as Assistant Prosecutor and the person shall be appointed as a District Prosecutor without a public competition after passing the prosecutor's examination.

(3) The limitation on the authorisation of Assistant Prosecutors provided for in subsection 7 (2) of this Act applies in court proceedings regarding criminal matters sent to court pursuant to the general procedure after 1 July 2004.

[RT I 2005, 29, 212 - entry into force 05.06.2005]

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

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

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

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

§ 54¹. Compensation of difference in wages

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

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

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

§ 55. Convention of first Prosecutors' Assembly

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

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

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

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

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

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

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

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

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

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

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

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

(2) Senior Prosecutors appointed to office pursuant to the procedure provided in subsection

(1) of this section shall be appointed, upon expiry of their term of office, as Senior

Prosecutors, District Prosecutors or Specialised Prosecutors by the Prosecutor General.
[RT I 2004, 7, 40 - entry into force 01.03.2004]

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

(1) Within ten years after the entry into force of this Act, the Government of the Republic may increase the salary of prosecutors employed in some regions by up to one quarter.
[RT I 2009, 15, 93 - entry into force 01.03.2009]

(2) As of 01 March 2009 until 31 December 2010, the salary of a prosecutor may be determined for a term shorter than one year and the salary determined may be lower than the salary of the previous period.
[RT I 2009, 15, 93 - entry into force 01.03.2009]

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

Assistant Prosecutors shall continue to have an annual holiday of 42 calendar days and other prosecutors an annual holiday of 49 calendar days for two years as of 1 April 2013 in the case they are in service as at 1 April 2013 either as Assistant Prosecutors or other prosecutors.
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

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

(1) Sections 25 and 26 of this Act apply in respect of persons who are employed as prosecutors on the date of entry into force of this Act or after the entry into force of this Act.

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

(3) The first sentence of subsection 25 (6) of this Act applies to persons whose right to receive a prosecutor's old-age pension arises as of 1 July 2006.
[RT I 2006, 21, 160 - entry into force 25.05.2006]

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

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

§ 61. Oath

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

§§ 62. – 66. [Omitted from this text.]

§ 67. Entry into force of Act

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

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

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