Citizen of the European Union Act

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Chapter 1
GENERAL PROVISIONS

§ 1. Scope of regulation and application of Act

(1) This Act governs principal aspects of entry to and residence in Estonia of citizens of the European Union and their family members and provides the grounds for imposing the obligation to leave Estonia and the prohibition of entry to Estonia on the citizens of the European Union and their family members.

(1') The provisions of the Obligation to Leave and Prohibition of Entry Act concerning the imposition of the obligation to leave and the prohibition of entry on aliens are applied to citizens of the European Union and their family members without prejudice to the special rules established by this Act or an international agreement.

(2) In the absence of contrary provision herein, this Act applies to citizens of the member states of the European Union and of the European Economic Area who are not Estonian citizens and to citizens of the Swiss Confederation (hereinafter, 'citizens of the European Union') and their family members.

(3) This Act does not apply to citizens of the European Union whose stay in Estonia is based on the National Defence Act, or to their family members.

(4) The administrative procedures provided in this Act are subject to the provisions of the Administrative Procedure Act without prejudice to the special rules established by this Act.

(4') Unless this Act provides otherwise, a minor of at least 15 years of age may independently perform any proceeding provided for in this Act, or independently participate in the proceedings.

(5) When applying Divisions 1 and 2 of Chapter 2 of the Aliens Act to family members of citizens of the European Union the special rules provided in this Act are taken into account.


§ 2. Legal basis for entry, residence and employment in Estonia

(1) The right of entry is the legal basis for entry to and stay in Estonia of citizens of the European Union and their family members.

(2) The right of residence is the legal basis for residence in Estonia of citizens of the European Union and their family members.

(3) A family member is prohibited from residing in Estonia if he or she does not enjoy a right of residence in Estonia.

(4) A family member must have a right of residence in order to be employed or operate as a sole proprietor in Estonia.

(5) The identity of the citizens of the European Union or their family member is ascertained or verified on the basis of an identity document or, in the absence of such a document, of other documentary evidence.

(6) When this is requested by another member state of the European Union, Estonia readmits any person who holds its citizenship even if a dispute is pending concerning the citizenship of that person.

§ 3. Family member of a citizen of the European Union

(1) For the purposes of this Act, family member of a citizen of the European Union (hereinafter, family member”) means a person who is not a citizen of the European Union or a citizen of Estonia and who is:

1) the spouse of a citizen of the European Union (hereinafter, ‘the spouse’),
2) a child under 21 years of age or a dependent adult child of a citizen of the European Union or of his or her spouse (hereinafter, ‘dependent child’),
3) a dependent parent of a citizen of the European Union or of his or her spouse, or
4) a person not covered by clauses 1–3 of this subsection who, in the country of origin of the citizen of the European Union, is a dependent of the citizen of the European Union or is a member of his or her household,
or who is permanently unable to cope independently due to health reasons, and with respect to whom it is necessary that the citizen of the European Union personally care for him or her.

(2) For the purposes of this Act, a dependent is a person who resides together with a citizen of the European Union in a shared household and has no personal income.

(3) For the purposes of this Act, member of the household means:
1) a person specified in subsection 4 of section 24 of the Official Statistics Act who resides with a citizen of the European Union in a shared household and has an independent income;
2) a person who has a proven permanent and factual registered partnership with a citizen of the European Union.

§ 4. Newborn child
For the purposes of this Act, newborn child means a child under one year of age.

§ 5. Permanent residence in Estonia
(1) For the purposes of this Act, permanent residence in Estonia of a citizen of the European Union or his or her family member means a stay in Estonia on the basis of the right of residence.
[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(2) [Repealed – RT I, 03.01.2017, 1 – entry into force 18.01.2017]

§ 6. Employment and employer
(1) For the purposes of this Act, employment shall mean the provision of services based on a contract of employment or a contract for services for which remuneration is received.

(2) For the purposes of this Act, an employer is a person or agency who has entered into a contract of employment or a contract for services, or who has a service relationship with a person.

Chapter 2
RIGHT OF STAY IN ESTONIA

Division 1
Right of stay in Estonia of a citizen of the European Union

§ 7. Right of stay in Estonia of a citizen of the European Union
(1) A citizen of the European Union has the right to stay in Estonia on the basis of a valid travel document or identity document.

(2) Not later than three months after his or her date of entry into Estonia, a citizen of the European Union must register his or her residence pursuant to the procedure provided in the Population Register Act.

§ 8. Suspension of the right of stay of a citizen of the European Union
(1) The right of stay in Estonia of a citizen of the European Union may be suspended if there is good reason to believe that the person concerned poses a threat to public order or national security or public health.

(2) [Repealed – RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(3) The decision concerning suspension of the right of stay is made by the Police and Border Guard Board or the Security Police Board.

§ 9. Issue of enforcement order to leave Estonia upon suspension of the right of stay of a citizen of the European Union
Division 2
Right of stay of a family member

§ 10. Right of stay of a family member

(1) A family member has the right to stay in Estonia together with a citizen of the European Union if the family member has a valid travel document and a visa.
[RT I 2010, 3, 4 – entry into force 05.04.2010]

(2) A family member who has another legal basis for his or her stay in Estonia in accordance with the Aliens Act is not required to have a visa.
[RT I 2010, 3, 4 – entry into force 05.04.2010]

(2¹) A family member may be issued a visa provided:
1) he or she has a valid travel document,
2) it is proved that he or she travels with a citizen of the European Union or will join the citizen of the European Union and
3) his or her status as a family member of the citizen of the European Union is proved.
[RT I 2010, 3, 4 – entry into force 05.04.2010]

(2²) A family member is not required to have a medical expense insurance policy.
[RT I 2010, 3, 4 – entry into force 05.04.2010]

(2³) A family member has the right to stay in Estonia during the 90 days following the day on which his or her right of residence in Estonia expired, provided his or her right of residence expired on account of the lapsing of the corresponding time-limit.
[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(3) A family member may not stay in Estonia if he or she does not possess a right of stay or another legal basis for staying in Estonia.

(4) A family member who is staying in Estonia on the basis of the right of stay must within a period of three months after the date of entry to Estonia apply for a temporary right of residence, or leave Estonia before the expiration of this period if he or she has failed to apply for a temporary right of residence.

(5) The stay in Estonia of a family member who has applied for a temporary right of residence is legal until the processing of his or her application has been concluded.

(6) A family member who is staying in Estonia on the basis of the right of stay may not be employed or operate as a sole proprietor in Estonia.

§ 10¹. Refusal to issue a visa to a family member

(1) A family member may be refused a short-entry visa or an airport transit visa on grounds specified in Visa Rules.

(2) A family member shall be refused long-entry visa if at least one of the following is true:
1) the family member lacks a valid travel document;
2) the travel document of the family member is forged or contains falsified entries;
3) the Republic of Estonia has issued a Prohibition of Entry to Estonia in respect of the family member, and
4) the family member may pose a threat to public order or national security or public health in Estonia or to international relations.

(3) Reasons shall be given for any refusal to issue a visa to a family member and these reasons and the related facts shall be communicated to the family member to the extent that is not contrary to the needs of maintaining public order or ensuring national security of any member state of the European Union.
[RT I 2010, 3, 4 – entry into force 05.04.2010]

§ 11. Suspension of the right of stay of a family member

(1) The right of stay in Estonia of a family member may be suspended if there is good reason to believe that the person concerned poses a threat to public order or national security or public health.

(2) [Repealed – RT I, 17.12.2015, 3 – entry into force 27.12.2015]

(3) The decision concerning suspension of the right to stay in Estonia is made by the Police and Border Guard Board or the Security Police Board.
§ 11. Annulment and revocation of visas issued to family members

(1) A short-entry visa or airport transit visa issued to a family member may be annulled or revoked on grounds specified in Visa Rules.

(2) A long-entry visa issued to a family member shall be annulled or revoked if at least one of the following is true:
   1) the family member lacks a valid travel document;
   2) the travel document of the family member is forged or contains falsified entries;
   3) the Republic of Estonia has issued a Prohibition of Entry to Estonia with respect of the family member, and
   4) the family member may pose a threat to public order, national security or public health in Estonia or to international relations.

(3) Reasons shall be given for any annulment or revocation of a visa issued to a family member and these reasons and the related facts shall be communicated to the family member to the extent that is not contrary to the needs of maintaining public order or ensuring national security of any member state of the European Union.

(4) A family member may, pursuant to the procedure specified in the Administrative Procedure Act and within 30 days from the day the determination is made known, apply to an administrative court to set aside the annulment or revocation of his or her visa.

§ 12. Issue of enforcement order to leave Estonia upon suspension of a family member’s right of stay or in the case of a family member’s stay in Estonia without a legal basis


Chapter 3
TEMPORARY RIGHT OF RESIDENCE

Division 1
Temporary right of residence of a citizen of the European Union

§ 13. Temporary right of residence of a citizen of the European Union

(1) A citizen of the European Union acquires a temporary right of residence in Estonia for five years when he or she registers his or her residence pursuant to the procedure provided in the Population Register Act.

(2) After five years, the term of temporary right of residence is extended for another five years if the residence of the citizen of the European Union continues to be registered in Estonia and the right of residence of the citizen of the European Union has not expired or has not been terminated.

(3) Upon registration of the residence, a corresponding certificate shall be issued to the citizen of the European Union if he or she so desires.

§ 14. Application for an Estonian identity card

(1) A citizen of the European Union who has acquired a temporary right of residence in Estonia must apply for an Estonian identity card within one month after registration of his or her residence in Estonia pursuant to the procedure provided in the Identity Documents Act.

(2) An Estonian identity card constitutes evidence of the temporary right of residence of a citizen of the European Union.

§ 15. Expiration of the temporary right of residence of a citizen of the European Union

(1) The temporary right of residence of a citizen of the European Union expires:
   1) when he or she has no registered residence in Estonia;
   2) upon acquisition of a permanent right of residence;
   3) upon the grant of Estonian citizenship to the citizen or upon restoration of his or her Estonian citizenship;
   4) upon the citizen losing his or her European Union citizenship, or
   5) upon the death of the citizen or upon a declaration of his or her death in absentia.
Upon expiration of the temporary right of residence of a citizen of the European Union, the Police and Border Guard Board shall revoke the Estonian identity card issued to him or her.

§ 16. Termination of the temporary right of residence of a citizen of the European Union

(1) The temporary right of residence of a citizen of the European Union is terminated if there is good reason to believe that the citizen poses a threat to public order or national security or public health.

(2) The temporary right of residence of a citizen of the European Union in Estonia is terminated by decision of the Police and Border Guard Board.

(3) Upon termination of the temporary right of residence of a citizen of the European Union, the Police and Border Guard Board shall revoke the Estonian identity card issued to him or her.

(4) Upon termination of the temporary right of residence of a citizen of the European Union, the citizen ceases to be a subject of the population register of Estonia.

§ 17. Issue of enforcement order to leave Estonia upon termination of the temporary right of residence of a citizen of the European Union


Division 2
Family members’ temporary right of residence

§ 18. Family members’ temporary right of residence

(1) A family member is granted temporary right of residence in Estonia if he or she meets the preconditions established for a grant of temporary right of residence.

(2) A family member is granted temporary right of residence by determination of the Police and Border Guard Board.

(3) The term of a family member’s temporary right of residence is extended if the family member continues to meet the preconditions for a grant of temporary right of residence.

§ 19. Term of temporary right of residence

(1) A family member shall be granted temporary right of residence for up to five years but not for longer than the period during which the citizen of the European Union resides in Estonia.

(2) The temporary right of residence of a family member shall be extended for the period during which the citizen of the European Union resides in Estonia but not for longer than five consecutive years at a time.

§ 20. Preconditions for grant of temporary right of residence

(1) The Police and Border Guard Board shall grant temporary right of residence to a family member provided that:
1) the citizen of the European Union with whom the family member wishes to take up residence is employed or operates as a sole proprietor in Estonia;
2) the citizen of the European Union with whom the person wishes to take up residence has sufficient financial means to provide for himself or herself and for his or her family members, and he or she is a person insured pursuant to the procedure provided in the Health Insurance Act, or
3) the citizen of the European Union with whom the person wishes to take up residence is studying in Estonia and has sufficient financial means to provide for himself or herself and for his or her family members, and he or she is a person insured pursuant to the procedure provided in the Health Insurance Act.

(2) If a family member of a citizen of the European Union has a newborn child who is not a citizen of the European Union and who does not fulfil the definition of family member provided in section 3 of this Act, the Police and Border Guard Board shall grant temporary right of residence to the child provided that the parent enjoys a temporary right of residence in Estonia.

(3) Studying in Estonia means studying at a basic school, upper secondary school, vocational school, institution of vocational higher education or university, participating in preparatory or continuing education courses organised at any of the abovementioned educational institutions, doing research at an Estonian university or institution of vocational higher education, or holding a traineeship arranged in Estonia by an international student organisation.
§ 21. Special requirements regarding grants of temporary right of residence

A citizen of the European Union who enjoys a temporary right of residence in Estonia shall continue to be deemed employed in Estonia or operating in Estonia as a sole proprietor:

1) during the citizen’s temporary incapacity for work, when he or she is temporarily unable to work due to an illness or accident;
2) during the time the citizen is registered as unemployed, provided he or she has been registered as unemployed pursuant to the procedure provided in the Labour Market Services and Support Act after having been employed in Estonia for more than one year;
3) within six months after the citizen’s registration as unemployed provided he or she has been registered as unemployed following the procedure provided in the Labour Market Services and Support Act after having completed a contract of employment with a term of less than one year or having lost employment during the first twelve months, or
4) during periods of continuing education if the citizen is not unemployed and the course relates to his or her previous employment or activity.

[RT I, 23.03.2015, 5 – entry into force 01.07.2015]

§ 22. Preconditions for a grant of temporary right of residence

(1) The Police and Border Guard Board shall grant a temporary right of residence to a family member provided all of the following preconditions are fulfilled:

1) the citizen of the European Union with whom the person wishes to reside meets the preconditions provided in points 1, 2 or 3 of subsection 20(1) of this Act;
2) the citizen of the European Union with whom the person wishes to reside enjoys the right of residence in Estonia;
3) the applicant for temporary right of residence fulfils the definition of family member as provided in section 3 of this Act;
4) there exist no grounds for refusing to grant temporary right of residence to the family member.

(2) In the case specified in point 3 of subsection 20(1) of this Act, a temporary right of residence shall be granted only to the spouse and dependent children.

(3) If a family member who enjoys a temporary right of residence in Estonia has a newborn child who is not a citizen of the European Union and does not meet the definition of family member provided in section 3 of this Act, the child shall be granted a temporary right of residence for the term of the temporary right of residence of the parent.

§ 23. Obligation to register residence

A family member who has been granted a temporary right of residence by the Police and Border Guard Board must register his or her residence in Estonia pursuant to the procedure provided in the Population Register Act within one month following the date of the grant of temporary right of residence.

§ 24. Application for temporary right of residence

(1) A family member who wishes to be granted a temporary right of residence must submit the corresponding application to the Police and Border Guard Board or a foreign mission of the Republic of Estonia who shall transmit the application for processing to the Police and Border Guard Board.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(2) In order to submit an application for a temporary right of residence, a family member is required to appear at a foreign mission of the Republic of Estonia or the Police and Border Guard Board.

(3) A family member who has entered Estonia must submit an application for a temporary right of residence to the Police and Border Guard Board within three months following the date of his or her entry into Estonia.

(4) For the time of processing an application for a temporary right of residence, the Police and Border Guard Board shall issue a certificate to the family member who has entered Estonia which states that the family member's application for temporary right of residence is being processed by the Police and Border Guard Board.

§ 25. Documents certifying a family member’s temporary right of residence

(1) The Police and Border Guard Board shall issue a residence permit card to a family member who has been granted a temporary right of residence in Estonia and the residence permit card shall serve as proof of the family member's temporary right of residence.

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

(2) [Repealed – RT I, 09.12.2010, 1 – entry into force 01.01.2011]
§ 26. Refusal to grant a temporary right of residence

(1) The Police and Border Guard Board shall refuse to grant a temporary right of residence to a family member if:
1) the citizen of the European Union with whom the person wishes to reside does not fulfill the preconditions provided in section 20 of this Act;
2) the citizen of the European Union with whom the person wishes to reside has no right of residence in Estonia;
3) the person who has applied for a temporary right of residence does not meet the definition of family member provided in section 3 of this Act;
4) there is good reason to believe that the family member poses a threat to public order or national security or public health, or
5) the family member or the citizen of the European Union with whom the family member wishes to reside has abused the rights established in this Act or has resorted to deceit in order to make it possible for the family member to obtain a temporary right of residence in Estonia.

(2) The Police and Border Guard Board shall refuse to grant a temporary right of residence to a newborn child of a family member if the child is not a citizen of the European Union and does not fulfill the definition of family member provided in section 3 of this Act, unless the parent enjoys a temporary right of residence in Estonia.

(3) Inter alia, the following shall be considered as deceit or abuse of rights specified in point 5 of subsection 1 of this section:
1) contracting a fictitious marriage;
2) for a citizen of the European Union, claiming a temporary right of residence in Estonia for the purpose of obtaining a temporary right of residence in Estonia for a family member;
3) submitting forged documents or
4) submitting false information.

§ 27. Issue of enforcement order to leave Estonia upon refusal to grant temporary right of residence


§ 28. Preconditions for extension of a temporary right of residence

(1) The Police and Border Guard Board shall extend the temporary right of residence of a family member provided all of the following preconditions are fulfilled:
1) the citizen of the European Union named in the determination granting temporary right of residence as the person with whom the family member is to reside meets the preconditions provided in section 20 of this Act;
2) the citizen of the European Union named in the determination granting temporary right of residence as the person with whom the family member is to reside continues to enjoy the right of residence in Estonia;
3) the family member continues to enjoy a temporary right of residence in Estonia;
4) the person applying for extension of a temporary right of residence fulfills the definition of family member provided in section 3 of this Act;
5) the residence of the family member in Estonia has been registered pursuant to the procedure provided in the Population Register Act;
6) there exist no grounds for refusing to extend the family member’s temporary right of residence.

(2) The Police and Border Guard Board shall extend, for the period of the parent's temporary right of residence in Estonia, the temporary right of residence of a family member's newborn child who is not a citizen of the European Union and who does not fulfill the definition of family member provided in section 3 of this Act.

§ 29. Application for extension of a temporary right of residence

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

(1) A family member must submit the application for extension of his or her right of residence to the Police and Border Guard Board not later than one month prior to expiration of the temporary right of residence, or leave Estonia within two months from the date of expiration of the temporary right of residence.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(2) The time-limit for submission of the application for extension of a right of residence provided in subsection I of this section shall not be reinstated if the temporary right of residence has expired.

(21) In order to submit an application for extension of his or her temporary right of residence, a family member is required to appear at the Police and Border Guard Board, except in the cases specified in section 277 of the Aliens Act and when less than two years have elapsed from the last fingerprinting performed as part of the procedure of issuing a residence permit, work permit, right of residence, extension of a right of residence or an identity card, and the fingerprints taken allow the person to be identified and conform to the requirements established under subsection 6 of section 15 of the Identity Documents Act or under clauses 4 and 5 of subsection 1 of section 224, or clauses 7 and 8 of subsection 2 of section 250 of the Aliens Act.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]
(3) Upon extension of the temporary right of residence, the Police and Border Guard Board shall issue a residence permit card to the family member and the residence permit card shall serve as proof of the family member's temporary right of residence.

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

§ 30. Issue of enforcement order when a temporary right of residence is not extended


§ 31. Refusal to extend the temporary right of residence

(1) The Police and Border Guard Board shall refuse to extend the temporary right of residence of a family member if:
1) the citizen of the European Union named in the determination granting temporary right of residence as the person with whom the family member is to reside does not enjoy a right of residence in Estonia;
2) there is good reason to believe that the family member poses a threat to public order or national security or public health, or
3) the family member or the citizen of the European Union named in the determination granting temporary right of residence as the person with whom the family member is to reside has abused the rights provided in this Act or has resorted to deceit in order to make it possible for the family member to obtain a temporary right of residence in Estonia.

(2) The Police and Border Guard Board may refuse to extend the temporary right of residence of a family member if:
1) the citizen of the European Union named in the determination granting temporary right of residence as the person with whom the family member is to reside does not meet the preconditions provided in section 20 of this Act;
2) the person applying for an extension of the temporary right of residence no longer fulfils the definition of family member provided in section 3 of this Act,
3) the family member does not reside in Estonia.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(3) The Police and Border Guard Board shall refuse to extend the temporary right of residence of a family member's newborn child who is not a citizen of the European Union and who does not fulfil the definition of family member provided in section 3 of this Act if the parent's temporary right of residence is not extended or if the parent does not enjoy a temporary right of residence in Estonia.

§ 32. Issue of enforcement order to leave Estonia upon refusal to extend the temporary right of residence


§ 33. Expiration of a family member’s temporary right of residence

(1) A family member’s temporary right of residence expires:
1) upon expiration of the term of the temporary right of residence;
2) upon acquisition of a permanent right of residence;
3) upon acquisition by the family member of Estonian citizenship or of a citizenship of another member state of the European Union, or upon restoration of such citizenship;
4) when the citizen of the European Union named in the determination granting temporary right of residence as the person with whom the family member is to reside has no right of residence in Estonia;
5) if the person concerned no longer fulfils the definition of family member provided for section 3 of this Act, or
6) when the person concerned has died or has been declared dead in absentia.

(2) Upon expiration of a family member’s temporary right of residence, the Police and Border Guard Board shall revoke the residence permit card issued to him or her.

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

§ 34. Termination of a family member’s temporary right of residence

(1) A family member’s temporary right of residence in Estonia is terminated:
1) on the basis of an application by the family member;
2) if there is good reason to believe that the family member poses a threat to public order or national security or public health, or
3) the family member or the citizen of the European Union named in the determination granting temporary right of residence as the person with whom the family member is to reside has abused the rights provided in this Act or has resorted to deceit in order to make it possible for the family member to obtain a temporary right of residence in Estonia.

Act or has resorted to deceit in order to make it possible for the family member to obtain a temporary right of residence in Estonia.

(2) A family member’s temporary right of residence in Estonia may be terminated if:
1) the citizen of the European Union named in the determination granting temporary right of residence as the person with whom the family member is to reside does not meet the precondition provided in section 20 of this Act, or
2) the family member does not reside in Estonia.
[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(3) A family member’s temporary right of residence in Estonia shall be terminated by determination of the Police and Border Guard Board.

(4) Upon termination of the family member’s temporary right of residence, the Police and Border Guard Board shall revoke the residence permit card issued to him or her.
[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

§ 35. Obligation to leave Estonia and issue of enforcement order to leave Estonia upon expiration or termination of temporary right of residence


Division 3
Special rules regarding expiration of a family member’s temporary right of residence

§ 36. A family member’s temporary right of residence in the case of death or departure from Estonia of the citizen of the European Union


(1) Upon the death of a citizen of the European Union, the temporary right of residence of his or her family members expires unless the family member has resided in Estonia on the basis of a temporary right of residence for at least a year before the death of the citizen of the European Union, and:
1) he or she is employed or operates in Estonia as a sole proprietor;
2) he or she has sufficient financial means to provide for himself or herself and for his or her family members, and he or she is a person insured pursuant to the procedure provided in the Health Insurance Act, or
3) he or she is a family member of a person specified in clause 1 or 2 of this subsection.

(2) Upon the death of a citizen of the European Union, his or her family members shall be entitled to obtain a permanent right of residence on the grounds specified in subsection 3 of section 45 of this Act.

(3) Upon the death or departure from Estonia of a citizen of the European Union, a child of the citizen of the European Union who resides and studies in Estonia and is enrolled in an educational institution of Estonia, and the parent raising that child, have temporary right of residence in Estonia until the conclusion of the studies.

(4) Upon the death of a citizen of the European Union, the temporary right of residence of his or her family member may be suspended or terminated or an extension of the temporary right of residence may be refused on general grounds without prejudice to the special rules set forth in this section.

§ 37. Family members’ temporary right of residence in the case of termination or expiration of the temporary right of residence in Estonia of the citizen of the European Union

(1) In the case of expiration of the temporary right of residence in Estonia of a citizen of the European Union on the basis of point 1 of subsection 15(1) of this Act, or upon termination of the temporary right of residence in Estonia of a citizen of the European Union on the basis of subsection 16(1) of this Act, a child of the citizen of the European Union residing in Estonia who is enrolled in an educational institution in order to study and the parent raising that child shall have temporary right of residence in Estonia until the child completes his or her studies.

(2) Upon the expiration or termination of the temporary right of residence of a citizen of the European Union, the temporary right of residence of his or her family members may be suspended or terminated or the extension of the temporary right of residence may be refused on general grounds without prejudice to the provisions set forth in this section.

§ 38. A family member’s temporary right of residence in the case of divorce or annulment of marriage

(1) In the case of a divorce or annulment of marriage, the spouse’s temporary right of residence in Estonia expires, except in the case where:
1) the marriage has lasted for at least three years before the initiation of divorce or marriage annulment proceedings, including one year during the period for which temporary right of residence in Estonia was invoked; [RT I, 17.12.2015 – entry into force 27.12.2015]
2) according to a court order or agreement between the spouses, the spouse specified above has custody of the child of the citizen of the European Union;
3) according to a court order or agreement between the spouses, the spouse specified above has the right to contacts with the underage child and the court order specifies that such contacts must take place in Estonia, or
4) special circumstances warrant allowing the person concerned to continue to enjoy a temporary right of residence, such as when the spouse specified above has been the victim of domestic violence in the course of the marriage.

(2) In addition to meeting the requirements provided in subsection (1) of this section, the spouse must:
1) be employed or operate in Estonia as a sole proprietor;
2) have sufficient financial means to provide for himself or herself and for his or her family members, and be insured pursuant to the procedure provided in the Health Insurance Act.

(3) In the case of a divorce or annulment of marriage, the temporary right of residence of a dependent child of the spouse or a dependent parent shall not expire if the spouse meets the conditions provided in subsections 1 and 2 of this section.

(4) In the case of a divorce or annulment of marriage, the temporary right of residence of a family member may be suspended or terminated or the extension of the temporary right of residence may be refused on general grounds without prejudice to the special rules set forth in this section.

(5) The provisions of this section also apply to cases of termination of registered partnerships. [RT I, 17.12.2015, 3 – entry into force 27.12.2015]

§ 39. Conformity to preconditions in the case of special requirements concerning family members’ temporary right of residence

A family member’s temporary right of residence may be terminated if, during the term of the temporary right of residence, the family member does not meet the conditions provided in this division.

Chapter 4
PERMANENT RIGHT OF RESIDENCE

Division 1
Permanent right of residence of a citizen of the European Union

§ 40. Permanent right of residence of a citizen of the European Union

(1) A citizen of the European Union who has resided in Estonia for a period of five consecutive years on the basis of a temporary right of residence shall be entitled to obtain a permanent right of residence. [RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(2) A citizen of the European Union is entitled to obtain a permanent right of residence before the expiration of the term specified in subsection 1 of this section if he or she:
1) has, by the date of termination of his or her employment or operation as a sole proprietor, attained the age of retirement or has terminated his or her work in order to assume early retirement and has been employed or has operated as a sole proprietor in Estonia for at least the last twelve months and has resided in Estonia on the basis of the temporary right of residence at least for the last three consecutive years,
2) has continuously stayed in Estonia on the basis of a temporary right of residence at least for the last two consecutive years and has ended his or her employment or operation as a sole proprietor due to having partial or no work ability,
3) resides in Estonia on the basis of a temporary right of residence and has ended his or her employment due to having partial or no work ability as a result of an occupational injury or occupational disease, or
4) resides in Estonia on the basis of a temporary right of residence and has been employed or has operated as a sole proprietor in Estonia at least for three consecutive years and has commenced employment in another member state of the European Union but resides in Estonia and returns to Estonia at least once a week.
(3) A newborn child of a citizen of the European Union who enjoys a permanent right of residence in Estonia shall be entitled to permanent right of residence.

(4) A citizen of the European Union who enjoys a permanent right of residence is a permanent resident of Estonia.

(5) The period of employment referred to in subsection 2 of this section includes the time during which the citizen of the European Union has been registered as unemployed with the Estonian Unemployment Insurance Fund due to reasons beyond his or her control, as well as the time during which he or she was not working or absent from work due to being sick or having suffered an accident, and the time following the termination of his or her employment contract due to the sickness or accident.


(6) The requirement for the period of residence and employment provided in clause 1 of subsection 2 of this section and the requirement for the period of residence provided in clause 2 of subsection 2 of this section do not apply if the citizen of the European Union is married to an Estonian citizen.

(7) In the case referred to in clause 4 of subsection 2 of this section, the period of work in another member state of the European Union is counted as time stayed in Estonia as regards acquisition of the right referred to in clause 1 or 2 of subsection 2.


§ 41. Registration of permanent right of residence of a citizen of the European Union and the document constituting evidence of his or her permanent right of residence

(1) A citizen of the European Union shall register his or her permanent right of residence with the Police and Border Guard Board.

(2) A citizen of the European Union shall submit the application for registration of his or her permanent right of residence to the Police and Border Guard Board.

[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(3) The Police and Border Guard Board shall verify the existence of a permanent right of residence of the citizen of the European Union and if such a right exists, shall issue an Estonian identity card to the citizen of the European Union, which shall be the document constituting evidence of his or her permanent right of residence.

§ 42. Expiration of the permanent right of residence of a citizen of the European Union

(1) The permanent right of residence of a citizen of the European Union expires:
1) upon the grant of Estonian citizenship to the citizen or upon restoration of his or her Estonian citizenship;
2) when the citizen loses his or her European Union citizenship, or
3) when the citizen concerned dies or is declared dead in absentia.

(2) Upon expiration of the permanent right of residence of a citizen of the European Union, the Police and Border Guard Board shall revoke the Estonian identity card issued to him or her.

§ 43. Termination of the permanent right of residence of a citizen of the European Union

(1) The permanent right of residence in Estonia of a citizen of the European Union shall be terminated:
1) on the basis of an application of the citizen of the European Union;
2) when the citizen has been away from Estonia for at least two consecutive years, or
3) if there is good reason to believe that he or she poses a threat to public order or national security or public health.


(2) The permanent right of residence of a citizen of the European Union is terminated by a determination of the Police and Border Guard Board.

(3) Upon termination of the permanent right of residence of a citizen of the European Union, the Police and Border Guard Board shall revoke the Estonian identity card issued to him or her.

§ 44. Issue of enforcement order to leave Estonia upon termination of the temporary right of residence of a citizen of the European Union


Division 2
§ 45. Family member’s permanent right of residence

(1) A family member who has resided in Estonia for a period of five consecutive years on the basis of temporary right of residence shall be entitled to permanent right of residence. [RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(2) A family member with a temporary right of residence in Estonia shall be entitled to a permanent right of residence simultaneously with the citizen of the European Union if the permanent right of residence of the citizen of the European Union arises on the basis of subsection 40(2) of this Act.

(3) A family member who enjoys a temporary right of residence in Estonia shall be entitled to a permanent right of residence in the case of the death of the citizen of the European Union having a right of residence in Estonia, if:
   1) the citizen of the European Union was employed or operated as a sole proprietor in Estonia, and at the time of his or her death had resided in Estonia on the basis of the right of residence at least for two years, or [RT I, 03.01.2017, 1 – entry into force 18.01.2017]
   2) the citizen of the European Union was employed or operated as a sole proprietor in Estonia, and his or her death was caused by an accident at work or occupational disease.

(4) A newborn child of a family member who enjoys a permanent right of residence in Estonia shall be entitled to a permanent right of residence regardless of the child’s country of citizenship.

(5) A family member who enjoys a permanent right of residence in Estonia is a permanent resident of Estonia.

(6) A family member shall not be entitled to a permanent right of residence if his or her temporary right of residence has expired or has been terminated, or if he or she has not resided in Estonia for a period of five consecutive years, except in the case provided in subsection 2 of this section. [RT I, 03.01.2017, 1 – entry into force 18.01.2017]

§ 46. Registration of a family member’s permanent right of residence

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

(1) A family member shall register his or her permanent right of residence with the Police and Border Guard Board.

(2) A family member shall submit the application for registration of his or her permanent right of residence to the Police and Border Guard Board at least one month before the expiration of the term of validity of his or her residence permit card. [RT I, 03.01.2017, 1 – entry into force 18.01.2017]

(2¹) In order to submit an application for registration of permanent right of residence, the family member is required to appear at the Police and Border Guard Board, except in the cases specified in section 277 of the Aliens Act and when less than two years have passed from the last fingerprinting performed as part of the procedure of issuing a residence permit, work permit, right of residence, extension of a right of residence or an identity card, and the fingerprints taken allow the person to be identified and conform to the requirements established under subsection 6 of section 15 of the Identity Documents Act or under clauses 4 and 5 of subsection 1 of section 224, or clauses 7 and 8 of subsection 2 of section 250 of the Aliens Act. [RT I, 09.12.2010, 1 – entry into force 18.01.2017]

(3) The Police and Boarder Guard Board shall verify the existence of a permanent right of residence of the family member and if such a right exists, shall issue a residence permit card to the family member, which shall be the document constituting evidence of his or her permanent right of residence. [RT I, 09.12.2010, 1 – entry into force 01.01.2011]

§ 47. Expiration of a family member’s permanent right of residence

(1) A family member’s permanent right of residence expires:
   1) upon acquisition by the family member of Estonian citizenship or the citizenship of another member state of the European Union, or upon restoration of such citizenship, or
   2) when the family member dies or is declared dead in absentia.

(2) Upon expiration of the permanent right of residence, the Police and Border Guard Board shall revoke the residence permit card issued to the family member. [RT I, 09.12.2010, 1 – entry into force 01.01.2011]
§ 48. Termination of a family member’s permanent right of residence

1) A family member’s permanent right of residence in Estonia is terminated;
2) when the family member has been away from Estonia for at least two consecutive years;
3) if there is good reason to believe that the family member poses a threat to public order or national security or public health.

4) [Repealed – RT I, 17.12.2015 – entry into force 27.12.2015]

(2) A family member’s permanent right of residence in Estonia is terminated by determination of the Police and Border Guard Board.

(3) Upon termination of the permanent right of residence, the Police and Border Guard Board shall revoke the residence permit issued to the family member.

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

§ 49. Obligation to leave and issue of enforcement order to leave Estonia upon termination of permanent right of residence


§ 49. Directing a citizen of the European Union or a member of his or her family to participate in the adaptation programme

(1) The Police and Border Guard Board directs a citizen of the European Union or a member of his or her family who has acquired the right of residence under this Act or has been granted such right or whose right of residence has been extended to participate in the adaptation programme.

(2) The adaptation programme for citizens of the European Union or members of their families who have acquired the right of residence under this Act or have been granted such right or whose right of residence has been extended is established by regulation by the minister responsible for the area.

(3) The data of acts related to the adaptation programme are processed in the register of residence and work permits established in accordance with the rules provided in the Aliens Act.

(4) To arrange for the fulfilment of a task provided in the adaptation programme, the minister responsible for the area may, in accordance with the nature of the task, enter into a civil law contract or regulatory contract following the procedure provided in the Administrative Cooperation Act.

[RT I, 23.03.2015, 1 – entry into force 01.08.2015]

Chapter 5
PROCEDURE FOR GRANTING RIGHTS OF RESIDENCE

§ 50. Form of application for temporary right of residence

[Repealed – RT I, 03.01.2017, 1 – entry into force 18.01.2017]

§ 51. Form of application for registration of permanent right of residence

[Repealed – RT I, 03.01.2017, 1 – entry into force 18.01.2017]

§ 52. Procedure for granting the right of residence

(1) The minister responsible for the area makes regulations to establish the procedure for applying for, granting and extending temporary rights of residence of family members of citizens of the European Union, and the procedure for applying for registration of permanent rights of residence and termination of rights of residence of citizens of the European Union and their family members, and the list of certificates and documents to be submitted when applying for registration of temporary and permanent rights of residence.

[RT I, 23.03.2015, 1 – entry into force 01.01.2016]

(2) Information concerning acts performed and administrative measures taken in the course of registration and extension of temporary rights of residence of family members of citizens of the European Union and the registration of permanent rights of residence of citizens of the European Union and their family members and in relation to other procedures concerning right of residence shall be processed in the register of residence and work permits established on the basis of the Aliens Act.

[RT I 2010, 3, 4 – entry into force 05.04.2010]
§ 52.1. Documents constituting evidence of family members’ right of residence

(1) Determination of the period of validity of a residence permit card issued to a family member shall be based on the provisions of the Identity Documents Act.

(2) A family member’s right of residence shall be formalised by recording, on the residence permit card, the information contained in the decision granting or extending a temporary right of residence or in the decision granting a permanent right of residence.

(3) A family member who applies for a temporary right of residence, an extension of his or her temporary right of residence or a permanent right of residence is not required to submit an application for the issue of a residence permit card and he or she is fingerprinted in the course of the procedure for granting a temporary right of residence, extending the temporary right of residence or granting a permanent right of residence.

(4) The terms and procedure for fingerprinting set out in the Aliens Act and in the regulations enacted on its basis shall apply to fingerprinting family members who apply for a temporary right of residence, for extension of their temporary right of residence or for a permanent right of residence.

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

§ 52.2. State fee

(1) The payment of a state fee for processing applications for a temporary right of residence, for extension of the temporary right of residence and for a permanent right of residence shall be required in the amount specified in the State Fees Act.

(2) If an application is not processed, the state fee shall not be refunded.

[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

Chapter 5

LIMITATIONS ON THE RIGHT OF FREE MOVEMENT OF CITIZENS OF THE EUROPEAN UNION AND THEIR FAMILY MEMBERS

[RT I, 17.12.2015, 3 - entry into force 27.12.2015]

§ 52.3. Refusal of admission to the national territory


(1) On the external border, a citizen of the European Union or a member his or her family may be refused entry to the national territory if:

1) he or she does not possess a document required under section 11 of the State Borders Act for the crossing of the national border;
2) he or she is the subject of a prohibition of entry;
3) he or she poses a threat to public order, national security or public health.

(2) Refusals of admission are decided by the Police and Border Guard Board.

(3) In the case referred to in clause 1 of subsection 1 of this section, before the making of the decision to refuse admission, the person concerned is given an opportunity to obtain the necessary documents or to provide evidence of his or her right of free movement by other means.

(4) When making the decision on the refusal of admission, the provisions of sections 525–527 of this Act are taken into account.


§ 52.4. Obligation to leave


(1) The citizen of the European Union or his or her family member is obligated to leave Estonia if he or she poses a threat to public order, national security or public health.
(2) A member of the family of a citizen of the European Union is obligated to leave Estonia if:
1) he or she has been refused temporary right of residence or the extension of such right;
2) his or her temporary right of residence has expired and he or she has not applied for an extension of that right, and the legally allowed period of staying in Estonia provided in subsection 23 of section 10 of this Act has been used up;
[RT I, 03.01.2017, 1 – entry into force 18.01.2017].
3) his or her temporary or permanent right of residence has been terminated;
4) he or she has stayed in Estonia for a period exceeding three months starting from the day of entry to Estonia, he or she has not applied for a temporary right of residence and has no other legal grounds for staying in Estonia.

(3) In the cases referred to in subsection 1 and clauses 2 and 3 of subsection 2 of this section, the decision to limit the right of free movement of the citizen of the European Union or the member of his or her family includes an enforcement order to leave Estonia (below, 'enforcement order to leave') and, if necessary, imposes a prohibition of entry to Estonia for up to ten years.

§ 52. Limitation of the right of stay and of residence

(1) Unless otherwise provided in this Act, limitations may only be imposed on the right of stay or of residence enjoyed by citizens of the European Union or members of their families if there is good reason to believe that they pose a threat to public order, national security or public health.

(2) Limitations are not imposed on the right of stay or of residence for the mere reason of invalidity of the identity document of the citizen of the European Union or of member of his or her family, of the certificate of registration of his or her place of residence, or of an identity card or residence permit card issued to him or her under the Identity Documents Act. Limitations are not imposed on the right of stay or of residence for reasons that are merely economic.

(3) When imposing limitations on the right of stay or of residence of a citizen of the European Union or a member of his or her family, consideration is given to the duration of the person’s legal stay in Estonia, the person’s age, the condition of his or her health, the person’s family and financial situation, his or her social and cultural ties with the Estonian society and the ties with his or her country of origin.

(4) If the citizen of the European Union or member his or her family is a minor and his or her expulsion or the refusal to admit him or her to the national territory is not justified from the point of view of the interests of the minor, limitations may be imposed on his or her right of stay or of residence only if there is a threat to national security.

(5) Assessment of the threat referred to in subsection 1 of this section is based on the person’s behaviour and may not be based solely on a prior convicting judgment. Limitations on the right of stay or of residence are not imposed out of considerations of general deterrence.

(6) In order to assess whether the person poses a threat to public order, national security or public health, the Police and Border Guard Board may, when deciding on his or her application for temporary right of residence, within three months starting from the day the application was submitted, demand from the person’s member state of origin or from other member states information concerning the criminal record of that person or of a member of his or her family.

(7) Data recorded in the Criminal Record Database concerning the criminal record of a citizen of the European Union or of a member of his or her family are exchanged with member states of the European Union following the procedure provided in the Criminal Record Database Act.

§ 52⁶. Special rules on limitations of the right of residence

(1) If the citizen of the European Union or member of his or her family resides in Estonia on the basis of the permanent right of residence, limitations may be imposed on his or her right of residence only if there is a significant threat to public order or a threat to national security.

(2) If the citizen of the European Union has resided in Estonia for the last ten consecutive years, limitations may be imposed on his or her right of residence only if there is a threat to national security.
[RT I, 03.01.2017, 1 – entry into force 18.01.2017]

§ 52⁷. Imposition of limitations on the right of stay and the right of residence on considerations of public health

(1) For public health protection purposes, in the case of reason to suspect that the citizen of the European Union or member of his or her family has been infected with a communicable disease that must, under subsection
8 of section 21 of the Communicable Diseases Prevention and Control Act, be notified to the World Health Organisation as an international public health emergency, limitations may be imposed on the right of stay or of residence of such a person until the threat is ascertained, but not for more than three months starting from the day of arrival in Estonia. Any disease that manifests itself after three months have elapsed since the person’s arrival in Estonia does not constitute grounds for expulsion.

(2) In order to verify that the citizen of the European Union or member of his or her family has not been infected with a communicable disease that must, under subsection 8 of section 21 of the Communicable Diseases Prevention and Control Act, be notified to the World Health Organisation as an international public health emergency, the person in question may, within three months starting from the day of his or her arrival in Estonia, be required to undergo a medical examination. The medical examination is administered to the person free of charge.


§ 52. Enforcement order to leave

(1) The enforcement order to leave allows the citizen of the European Union or member of his or her family a 30-day period for voluntary compliance that starts to run from the delivery of the order.

(2) In urgent cases where this is justified, the period that is allowed for voluntary compliance may be shorter than the period provided in subsection 1 of this section, or may be subject to reduction.


§ 52. Compulsory execution of the enforcement order to leave

(1) After the time-limit for voluntary compliance has expired, the enforcement order to leave may be executed in a compulsory manner.

(2) Compulsory execution of the enforcement order to leave that is addressed to a citizen of the European Union or a member of his or her family takes place by arresting the person in question and expelling him or her from Estonia.

(3) The arrest and expulsion of the citizen of the European Union or of member of his or her family is subject to the provisions of the Obligation to Leave and Prohibition on Entry Act.

(4) The citizen of the European Union or member of his or her family subject to the ancillary sentence of expulsion from Estonia entered by a court is expelled from Estonia without an enforcement order to leave being addressed to him or her.

(5) In the interests of national security, an enforcement order to leave may be executed immediately in a compulsory manner.

(6) Before proceeding to execute an expulsion, the administrative authority in charge of the expulsion assesses whether there are any facts that prevent the expulsion from Estonia of the citizen of the European Union or member of his or her family.

(7) The citizen of the European Union or member of his or her family are not expelled from Estonia if this is contrary to the provisions of section 17 of the Obligation to Leave and Prohibition on Entry Act.

(8) In the case referred to in subsection 7 of this section, the administrative authority in charge of the expulsion is authorised to request the court to invalidate the expulsion.


§ 52. Prohibition of entry

(1) A prohibition of entry may be imposed on a citizen of the European Union or his or her family member only if there is good reason to believe that he or she poses a threat to public order, national security or public health.

(2) Only a temporary prohibition of entry for a term of up to 10 years may be imposed on a citizen of the European Union or a member of his or her family.

(3) The proceedings on applications to decide the imposition of the prohibition of entry, to vary the term of the prohibition, to suspend the prohibition and to invalidate the prohibition are subject to the provisions of Chapter 5 of the Obligation to Leave and Prohibition on Entry Act. The applications referred to in this subsection are considered within six months starting from the day of their submission.
(4) The submission of the applications referred to in subsection 3 of this section does not create, for the citizen of the European Union or member of his or her family, legal grounds for entry to or stay in Estonia.

(5) When making the decision on the imposition of a prohibition of entry, the provisions of sections 525–527 of this Act are taken into account.


§ 521. Special rule concerning the statement of factual grounds for administrative decisions

Administrative decisions made under this Act do not state factual grounds insofar as this is contrary to the interests of national security.


§ 522. Challenges

(1) Administrative decisions made under this Act may be challenged following the procedure provided in the Code of Administrative Court Procedure.

(2) Challenging the administrative decision does not create, for the citizen of the European Union or member of his or her family, legal grounds for entry to or stay in Estonia.

(3) Where the person concerned has applied to a court to suspend compulsory execution of the enforcement order to leave, compulsory execution of the order is stayed until the making of the decision concerning the order, except where the person’s expulsion is the subject of a court order that has become final or where the person’s expulsion is required in the interests of national security.


§ 523. Bearing of the costs of leaving Estonia

(1) The citizen of the European Union or member of his or her family is obligated to bear the costs of his or her leaving Estonia, including the costs of compulsory execution of the obligation to leave and the costs of detention in a detention centre and arrest house that are incurred on account of his or her expulsion.

(2) In order to recover the costs provided for in subsection 1 of this section, an enforcement order is addressed to the citizen of the European Union or member of his or her family, which sets a time-limit for voluntary compliance.

(3) If the enforcement order is not complied with within the time-limit, the administrative authority is authorised to seek compulsory execution of the order following the procedure provided in the Code of Enforcement Procedure.

(4) The minister responsible for the area makes regulations to establish a list of the costs of leaving Estonia, the procedure for their recovery and the cost rates.


Chapter 5

EQUAL TREATMENT

[RT I, 26.04.2017, 6 - entry into force 06.05.2017]

§ 524. Equal treatment

(1) Regardless of their citizenship, workers who are citizens of a member state of the European Union or of the European Economic Area must enjoy equal treatment with the citizens of the Republic of Estonia with regard to the following matters, as provided in Articles 1 to 10 of Regulation (EU) No 492/2011 of the European Parliament and of the Council on freedom of movement for workers (OJ L 141, 27.05.2011, pp. 1–12):

1) access to employment;
2) conditions of employment and work, in particular as regards remuneration, termination of employment, health and safety at work, and, when becoming unemployed, reinstatement or re-employment, and appointment to a position or dismissal;
3) access to social and tax advantages;
4) membership of trade unions and eligibility for workers' representative bodies;
5) access to training;
6) access to housing;
7) access to education, apprenticeship and vocational training for the children of workers;
8) assistance afforded by the employment offices.

(2) The provisions of subsection 1 of this section also apply to officials, without prejudice to special rules provided by law.
§ 52. Defence of rights

Workers or officials who are citizens of a member state of the European Union or of the European Economic Area and members of their family who consider that they have suffered or are suffering from unjustified restrictions and obstacles to their right to free movement or who consider themselves wronged by a failure to apply the principle of equal treatment to them, even if the relationship in relation to which the restriction, obstacle or discrimination is alleged to have occurred has ended, may have recourse to any legal remedy on the same grounds and to the same extent as the citizens of the Republic of Estonia.

[RT I, 26.04.2017, 6 – entry into force 06.05.2017]

Chapter 6
NOTIFICATION OBLIGATION
AND EXERCISE OF SCRUTINY

§ 53. Notification obligation

(1) A citizen of the European Union who enjoys a right of residence in Estonia is required to notify the Police and Border Guard Board of any the following:
   1) acquisition of a right of residence in another member state of the European Union;
   2) leaving Estonia for a period longer than 183 days in a year in relation to performing compulsory military service, in connection with pregnancy, childbirth, serious illness, studies, continuing education or posting;
   3) loss of citizenship of the European Union;
   4) divorce or annulment of marriage if this is registered outside Estonia and the spouse of the citizen of the European Union enjoys a right of residence in Estonia;
   5) termination of employment;
   6) retirement;
   7) a partial or total incapacity for work.
[RT I, 23.03.2015, 5 – entry into force 01.07.2015]

(2) A family member who enjoys a right of residence in Estonia is required to notify the Police and Border Guard Board of any the following:
   1) acquisition of a right of residence in another member state of the European Union;
   2) failure to fulfil the definition of family member provided in section 3 of this Act;
   3) leaving Estonia for a period longer than 183 days in a year in relation to performing compulsory military service, in connection with pregnancy, childbirth, serious illness, studies, continuing education or posting;
   4) acquisition of the citizenship of the European Union;
   5) the death of the citizen of the European Union if that death has been registered outside Estonia.

(3) In addition to the information specified in subsection 2 of this section, a spouse of a citizen of the European Union must notify the Police and Border Guard Board if the facts related to the grant of the right of residence or the use of such a right require clarification, and shall submit to the Board any documents and other evidence in their possession that bear relevance to the clarification of the facts related to the grant of the right of residence or the use of such right.

[RT I, 26.04.2017, 6 – entry into force 06.05.2017]

§ 54. Exercise of scrutiny

(1) A family member must provide proof of his or her fulfilment of the preconditions and requirements which serve as the basis for granting a temporary right of residence or an extension thereof.

(2) In the case of justified doubts, the Police and Border Guard Board shall be entitled to scrutinise whether a citizen of the European Union and his or her family member duly perform the obligations and fulfil the conditions specified in this Act and make sure that they have not abused any rights prescribed by this Act or resorted to deception.
[RT I, 23.03.2015, 5 – entry into force 01.07.2015]

(3) A citizen of the European Union and any member of his or her family shall cooperate with the Police and Border Guard Board if the facts related to the grant of the right of residence or the use of such a right require clarification, and shall submit to the Board any documents and other evidence in their possession that bear relevance to the clarification of the facts related to the grant of the right of residence or the use of such right.
(4) The requirements of the Tourism Act shall apply to accommodation of citizens of the European Union in accommodation establishments. At the request of the Police and Border Guard Board or Security Police Board, an accommodation establishment shall submit a visitor’s card showing the data of an accommodated person to the authority which requested the information. [RT I 2009, 62, 405 – entry into force 01.01.2010]

(5) If an employer intends to offer employment to a family member of a citizen of the European Union, he or she must determine whether that person possesses a residence permit card. [RT I, 09.12.2010, 1 – entry into force 01.01.2011]

Chapter 6
PUBLIC OVERSIGHT
[RT I 2009, 62, 405 - entry into force 01.01.2010]

§ 54 § 54. Public oversight
[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(1) If there is cause to regard the circumstances as suspicious, the Police and Border Guard Board and the Security Police Board may verify whether the stay or residence in Estonia of a citizen of the European Union or of any member of his or her family is in accordance with the provisions of this Act, as well as whether these persons perform the obligations and fulfil the preconditions provided in this Act and whether they have not abused the rights granted by this Act or resorted to deception.

(2) In accordance with the provision of subsection 1 of this section and in the course of performing the tasks assigned to it by the Security Authorities Act, the Security Police Board exercises public oversight over the circumstances of the stay or residence in Estonia of the citizen of the European Union and of any member of his or her family in order to prevent the commission of a criminal offence. [RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 54 § 54. Special measures of public oversight
[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

(1) When exercising oversight in relation to any facts connected to the stay or residence in Estonia of a citizen of the European Union or of any member of his or her family, the Police and Border Guard Board and the Security Police Board may apply the measures provided in sections 30–33 and 45–53 of the Law Enforcement Act without prejudice to the special rules established by this Act.

(2) The special measures of public oversight provided in sections 50 and 51 of the Law Enforcement Act may only be applied if there is good reason to believe that without applying these measures it is impossible to effectively prevent the presumably illegal stay in Estonia of a citizen of the European Union or any member of his or her family and provided that other measures have been exhausted.

(3) The measure provided in section 45 of the Law Enforcement Act may only be applied by a police official.

(4) When exercising public oversight, the Security Police Board may resort to direct coercion on the grounds and following the procedure provided in the Law Enforcement Act. [RT I, 13.03.2014, 4 – entry into force 01.07.2014]

Chapter 7
LIABILITY

§ 55 § 55. Stay and residence in Estonia without a legal basis of a family member of a citizen of the European Union
[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 55 § 55. Stay in Estonia of a citizen of the European Union or member of his or her family during the period of validity of the prohibition of entry

The stay in Estonia of a citizen of the European Union or a member of his or her family, while the citizen of the European Union or member of his or her family is the subject of a valid prohibition of entry, is punishable by a fine of up to 300 fine units, or by detention. [RT I, 17.12.2015, 3 – entry into force 27.12.2015]
§ 56. Employment of a family member of a citizen of the European Union in Estonia without a legal basis

Any employment of a family member of a citizen of European Union in Estonia without a legal basis is punishable by a fine of up to 100 fine units or by detention.

§ 57. Making it possible for a family member of a citizen of the European Union to be employed in Estonia without a legal basis

(1) Making it possible for a family member of a citizen of the European Union to be employed in Estonia without a legal basis is punishable by a fine of up to 100 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 1100 euros.

§ 58. Procedure

Extra-judicial proceedings in respect of the misdemeanours created by this Chapter shall be conducted by the Police and Border Guard Board.
[RT I, 12.07.2014, 1 – entry into force 01.01.2015]

Chapter 8
IMPLEMENTING PROVISIONS

§ 59. Transitional provisions

(1) Upon entry into force of this Act, a citizen of the European Union who holds a temporary residence permit is deemed to have acquired a temporary right of residence. The term of the right of residence is the residence permit’s period of validity. The validity of the said temporary right of residence is not affected by the existence of a registered residence in Estonia.

(2) Upon entry into force of this Act, a citizen of the European Union who holds a long-term residence permit is deemed to have acquired a permanent right of residence.

(3) Upon entry into force of this Act, a family member who holds a temporary residence permit is deemed to have acquired a temporary right of residence. The term of the right of residence is the residence permit’s period of validity.

(4) An applications for a residence permit submitted before entry into force of this Act shall be processed under the conditions and pursuant to the provisions in force at the time of submission of the application.

(5) The provisions of subsection 1 of this section shall apply to the issue of a residence permit to a citizen of the European Union in the case specified in subsection 4 of this section, and the data related to the person’s right of residence shall be shown on the identity card.

(6) The provisions of subsection 3 of this section shall apply to the issue of a residence permit to a family member in the case specified in subsection 4 of this section, and the data related to the person’s right of residence shall be entered on the identity card.

(7) The period before the entry into force of this Act during which a citizen of the European Union or a member of his or her family resided in Estonia shall be deemed part of the eligibility period required for acquiring a permanent right of residence.

§ 591. Transitional provisions related to issuing residence permit cards

(1) A family member’s application for a temporary right of residence, extension of the temporary right of residence or for registration of a permanent right of residence submitted before 1 January 2011 shall be processed under the conditions and pursuant to the provisions in force at the time of submission of the application.

(2) If a family member’s application for a temporary right of residence, extension of the temporary right of residence or for the registration of a permanent right of residence has been submitted before 1 January 2011, and the decision regarding the family member’s application for a temporary right of residence, extension of the temporary right of residence or for the registration of a permanent right of residence is made after that date,
the information pertaining to the decision to grant or extend a temporary right of residence, or to register a permanent right of residence shall be indicated on the residence permit card.

(3) If a family member submits an application for a temporary right of residence, an extension of the temporary right of residence or for registration of a permanent right of residence before 1 January 2011, and the decision regarding the grant of a temporary right of residence, an extension of the temporary right of residence or registration of a permanent right of residence is made after that date, the residence permit card issued to the family member on the basis of that application is not required to show the fingerprints of the card’s holder, provided it is issued before 20 May 2012.
[RT I, 09.12.2010, 1 – entry into force 01.01.2011]

§ 59. Persons who are permanently incapacitated for work

(1) Persons who have been declared permanently incapacitated for work under the National Pension Insurance Act are deemed to meet the requirement of partial or total incapacity for work provided in section 40 of this Act.

(2) Citizens of the European Union who hold the right of residence in Estonia and who have been declared permanently incapacitated for work under the National Pension Insurance Act must notify this to the Police and Border Guard Board following section 53 of this Act.

§ 60.–§ 86. [Omitted from this version.]

§ 87. Entry into force of this Act

(1) This Act shall enter into force on 1 August 2006.

(2) Clause 2 of subsection 10(2) and clause 1 of section 73 of this Act shall enter into force upon Estonia’s full accession to the common visa area of the European Union.