

Obligation to Leave and Prohibition on Entry Act

passed on 21 October 1998

(RT I 1998, 98/99, 1575; consolidated text RT I 2001, 68, 407),

entered into force on 1 April 1999,

(emphasis added)

Legislationline Comment: although this Act does not contain provisions that specifically pertain to the phenomenon of trafficking in human beings, it is part of the overall legal set-up, which affects the legal status of victims of trafficking.

amended by the following Act:

06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352;

17.01.2001 entered into force 16.02.2001 - RT I 2001, 16, 68;

14.06.2000 entered into force 01.12.2000 - RT I 2000, 58, 376;

17.05.2000 entered into force 01.08.2000 - RT I 2000, 40, 254;

26.10.99 entered into force 25.11.99 - RT I 1999, 84, 762.

Chapter 1

General Provisions

§ 1. Scope of application of Act

This Act provides the bases and procedure for the application to aliens of the obligation to leave Estonia and the prohibition on entry into Estonia.

§ 2. Legal bases for aliens to stay in Estonia

(1) A legal basis must exist for an alien to stay in Estonia. Aliens are prohibited from staying in Estonia without a legal basis.

(2) The legal bases for an alien to stay in Estonia (hereinafter bases for stay) are provided for in the Aliens Act (RT I 1993, 44, 637; 1999, 50, 548; 54, 582; 71, 686; 88, 808; 101, 900; 2000, 25, 148; 33, 197; 40, 254; 2001, 16, 68; 58, 352).

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 3. Obligation to leave

(1) Obligation to leave is the obligation of an alien to leave Estonia which arises directly from law or from administrative legislation passed on the basis of law.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

(2) An alien is required to leave Estonia if expressly provided by law, if his or her basis for stay expires and is not extended, and if he or she has no other basis for stay.

(3) An alien who is required to leave Estonia pursuant to law shall leave Estonia within the period of validity of his or her basis for stay.

§ 4. Precept

(1) A precept is an administrative act which imposes on an alien staying in Estonia without any basis for stay an obligation to leave Estonia or to legalise his or her stay in Estonia in the cases and pursuant to the procedure provided for in this Act.

(2) An alien is required to comply with a precept within the shortest possible period.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 5. Expulsion

Expulsion is the enforcement of an obligation to leave in the cases and pursuant to the procedure provided by law.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 6. Prohibition on Entry

Prohibition on entry is a preventive measure, the aim of which is to prevent undesirable aliens from entering Estonia and staying in Estonia.

Chapter 2

Precept

§ 7. Precept to leave

(1) A precept to leave Estonia (hereinafter precept to leave) shall be issued to an alien who is staying in Estonia without a basis for stay.

(2) A precept to leave shall include a warning of compulsory execution of the precept upon failure to comply with the precept.

(3) If an alien fails to comply with a precept to leave due to good reason independent of the alien and proved by him or her, compulsory execution shall not be imposed until the good reason ceases to exist. The processing of the basis of stay of the alien or an application for the extension thereof does not constitute good reason.

(4) A precept to leave need not be issued to an alien who leaves Estonia within fifteen days as of the expiry of the basis of stay.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 8. Terms for compulsory execution of precept to leave

(1) A precept to leave issued to an alien who is staying in Estonia without a basis for stay shall be subject to compulsory execution after the fifteenth day as of the date of issue of the precept.

(2) A precept to leave issued to an alien who is staying in Estonia without a basis for stay, whose residence permit is revoked or whose residence permit has expired shall be subject to compulsory execution after the sixtieth day as of the date of issue of the precept.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 9. Precept to legalise

(1) A precept imposing an obligation to apply for a residence permit pursuant to the established procedure in order to legalise the stay in Estonia (hereinafter precept to legalise) shall be issued to an alien who is staying in Estonia without a basis of stay and who:

1) leads family life in Estonia protected by law;

2) is of Estonian origin;

3) settled in Estonia before 1 July 1990 and has not left Estonia to reside in another country and whose continued stay in Estonia does not damage the interests of the Estonian state.

(2) A precept to legalise shall include a warning to impose penalty payment on the alien upon failure to comply with the precept.

The amount of penalty payment shall be indicated in the warning. The upper limit of penalty payment is 10 000 kroons.

(3) A precept to legalise shall also be deemed to be complied with if the alien leaves Estonia.

(4) A precept to legalise shall not be issued to an alien specified in subsection (1) of this section whose residence permit or an application for the extension thereof is being processed until a decision is made in respect of his or her residence permit or the application for the extension thereof.

(5) A precept to legalise need not be issued to an alien who leaves Estonia within fifteen days as of the expiry of the basis of stay.

(6) A precept to leave shall be issued to an alien specified in clause (1) 1) or 3) of this section if it is necessary to ensure the protection of public order, security, health or moral standards, or to prevent an offence. A precept to leave shall be issued to an alien specified in clause (1) 2) of this section if it is necessary to protect national security or to prevent an offence.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 10. Ensuring compliance with precept

(1) In order to ensure compliance with a precept, the Citizenship and Migration Board may, by a precept or a reasoned decision, require an alien to comply with surveillance measures and to make a penalty payment.

(2) Surveillance measures are:

1) residing in a determined place of residence;

2) appearing for registration at the Citizenship and Migration Board at prescribed intervals;

3) appearing at the Citizenship and Migration Board to establish circumstances ensuring compliance with a precept;

4) notifying the Citizenship and Migration Board of changes of residence of the alien and of his or her prolonged absence from the place of residence;

5) notifying the Citizenship and Migration Board of changes in the alien's marital status.

(3) A police officer has the right to check that an alien is residing in the determined place of residence.

(4) Penalty payment shall be imposed after the ninetieth day as of the date of issue of a precept.

(5) Penalty payment shall be imposed pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283) unless otherwise provided by this Act. Penalty payment may be applied again after the ninetieth day as of the date of the previous enforcement order issued to impose penalty payment.

(6) Border guard authorities shall notify the Citizenship and Migration Board of the departure from the country of aliens who stayed in Estonia without any basis for stay pursuant to the procedure established by the Minister of Internal Affairs.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 11. Procedure for issue of precept

(1) Precepts shall be issued by the Citizenship and Migration Board. The Director General of the Citizenship and Migration Board may authorise officials of the same government agency to issue precepts in the name of the Citizenship and Migration Board.

(2) If a precept is issued, the alien has the right to an oral hearing conducted by an official and the right to present objections and applications. A representative of the alien may be present at the oral hearing and issue of the precept. The alien shall furnish proof of the circumstances specified in subsection 9 (1) of this Act.

(3) Upon the issue of a precept, the following information on the alien shall be processed:

1) personal data;

- 2) circumstances of entry into Estonia;
- 3) social and family ties in Estonia and foreign states;
- 4) circumstances which are the basis for the issue of the precept;
- 5) the existence of means of subsistence.

(4) If necessary, an alien is called to be present at the issue of a precept by a written notice. The notice shall be delivered to the alien against a signature or forwarded by post with advice of delivery. If an alien who is called to be present at the issue of a precept fails to appear for the issue of the precept, compelled attendance by a police escort may be imposed on the alien.

(5) A precept shall be prepared in writing and shall set out the time and place of issue of the precept, the official title, given name and surname of the official who issues the precept, the given name, surname and date and place of birth of the alien, the date and place of issue of his or her identity document or travel document, his or her country of nationality or country of habitual residence, his or her place of residence, the obligation imposed on the alien by the precept, a warning regarding the consequences of failure to comply with the precept, surveillance measures to be applied, the factual circumstances which are the basis for the issue of the precept, and applied legislative or regulatory provisions and a reference to the possibilities and place of and terms and procedure for the contestation of the precept. The official who issues the precept shall sign the precept.

(6) A precept shall be delivered to an alien against a signature. Upon the issue of a precept, the right to appeal against the issue of the precept and the consequences of failure to comply with the precept shall be explained to the alien. The content of the precept shall be explained to the alien in a language which he or she understands. If the alien refuses to give a signature concerning receipt of the precept or if the alien fails to appear for the issue of the precept, a notation concerning the refusal and the reasons therefor or concerning the failure to appear shall be made on the copy of the precept or in the corresponding book.

(7) If an alien has received notice to appear for the issue of a precept and if he or she fails to appear at the specified time, the precept may be issued in the absence of the alien. In such case, the precept shall be forwarded to the alien by registered post.

The date on which the decision is forwarded by post shall be indicated on the precept.

(8) The Citizenship and Migration Board shall, in accordance with the standard format established by the Minister of Internal Affairs, enter a notation concerning the issue of a precept in the travel document of an alien which the alien uses to cross the border.

(9) Upon making a reasoned decision specified in subsection 10 (1) of this Act, the provisions of subsections (1)-(6) of this section apply.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 12. Issue of precept to minors

(1) If an alien to whom a precept is issued is accompanied in Estonia by his or her minor alien child or alien ward (hereinafter minor) and if the minor does not have a basis for stay in Estonia, an obligation to organise compliance with the precept with respect to the minor shall be imposed by the same precept on the parent, guardian or other person responsible for the minor (hereinafter parent).

(2) A precept is issued to a minor staying in Estonia without a parent and compliance therewith shall be organised by a guardianship authority.

(3) The provisions of subsections (1) and (2) of this section concerning minors also apply to adults without active legal capacity.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 13. Validity and contestation of precept

(1) A precept shall be valid as of the date of issue of the precept until the obligation imposed on an alien by the precept is performed or until basis for stay in Estonia is obtained.

(2) The Citizenship and Migration Board shall declare a precept invalid if basis for the issue of the precept ceases to exist.

(3) An appeal against a decision to issue a precept or a decision made to ensure compliance with a precept may be filed with an administrative court pursuant to the procedure provided for in the Code of Administrative Court Procedure (RT I 1999, 31, 425; 96, 846; 2000, 51, 321) within ten days as of the date of notification of the precept or decision.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

Chapter 3

Expulsion

§ 14. Bases for expulsion

(1) An alien shall be expelled from Estonia upon expiry of the term for compulsory execution of a precept to leave.

(2) An alien may be expelled with the permission of an administrative court prior to expiry of the term for compulsory execution of a precept to leave or expiry of the term for contestation thereof or without a previous precept if it is necessary to ensure the protection of public order, security, health or moral standards, or to prevent an offence and upon failure to comply with the surveillance measures provided for in subsection 10 (2) of this Act. An administrative court shall grant permission pursuant to the procedure provided for in Chapter 4 of the Code of Administrative Court Procedure.

(3) An alien who entered Estonia illegally may be expelled without issuing a precept and without the permission of an administrative court.

(4) Expulsion shall not be applied if:

1) a precept is annulled or declared invalid or it has expired;

2) expulsion is no longer possible;

3) expulsion may result in the alien's torture, inhuman or degrading punishment or treatment, or death or persecution for nationality, racial, religious, social or political reasons.

(5) Expulsion shall be suspended:

1) if a court suspends compulsory execution of a precept to leave;

2) in the case provided for in subsection 7 (3) of this Act.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 15. Expulsion order

(1) In the case provided for in subsection 14 (1) of this Act, a competent official of the Citizenship and Migration Board shall request the expulsion of an alien by the police who shall detain the alien and organise the alien's departure from Estonia.

(2) In the case provided for in subsection 14 (2) of this Act, the application to be granted permission for the expulsion of an alien shall be submitted to an administrative court by a Border Guard official, police officer or a security police officer.

(3) In the case provided for in subsection 14 (3) of this Act, the expulsion of an alien shall be organised by a Border Guard official or police officer.

(4) The Citizenship and Migration Board shall process the following data concerning an alien who is subjected to expulsion (hereinafter person to be expelled) with the aim of ensuring enforcement of the expulsion:

1) personal data;

2) circumstances of entry into Estonia;

3) social and family ties in Estonia and foreign states;

4) circumstances which are the basis for expulsion;

5) the existence of means of subsistence.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 16. Contestation of expulsion

(1) Expulsion may be contested pursuant to the procedure provided for in the Code of Administrative Court Procedure. The contestation of expulsion shall not postpone expulsion for the time of judicial proceedings.

(2) After expiry of the term for contestation of a precept for the compulsory execution of which expulsion is applied, expulsion cannot be contested based on the unlawfulness of the precept.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 17. Admitting country

(1) A person to be expelled shall be expelled to the state from which he or she arrived in Estonia, to the country of his or her nationality or to his or her country of habitual residence, or to a third state with the consent of the third state. If there is more than one option, the reasoned preference of the person to be expelled shall be the primary consideration, if such preference does not significantly impede enforcement of the expulsion.

(2) An alien may not be expelled to a state to which expulsion may result in his or her torture, inhuman or degrading punishment or treatment, or death or persecution for nationality, racial, religious, social or political reasons.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 18. Term for expulsion

(1) Expulsion shall be completed within forty-eight hours after the alien is detained.

(2) If a person to be expelled is being punished by administrative detention, expulsion shall be completed within forty-eight hours after the administrative detention has been served.

(3) A person to be expelled who is a suspect, an accused or an accused at trial in a criminal matter shall be expelled within forty-eight hours after completion of the proceedings or the entry into force of a court judgment. In the case of an appeal against a court judgment, a person to be expelled shall be expelled within forty-eight hours after the return of the appeal or the entry into force of a judgment of a higher court. Until the completion of the proceedings or the making of a judgment, the preventive measures provided for in the Code of Criminal Procedure (ENSV ÜT 1961, 1, 4 and appendix; RT I 2000, 56, 369, 75, correction notice; 84, 533; 86, 542; 2001, 3, 9) shall be applied with regard to a person to be expelled, or the person to be expelled shall be placed in an expulsion centre on the basis of a judgment of an administrative court judge.

(4) If a person to be expelled is being punished by detention or imprisonment, or if an alien who is detained or imprisoned is to be expelled, expulsion shall be completed within forty-eight hours after the detention or imprisonment has been served.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 19. Detention and transportation to border checkpoint of person to be expelled

(1) Until the completion of expulsion, aliens shall be detained by way of administrative procedure for the terms provided for in § 18 of this Act.

(2) An administrative court judge may extend the terms provided for in § 18 of this Act by up to three days and grant permission for the detention of an alien during such term.

(3) The procedure for transportation to a border checkpoint of persons to be expelled and the competence of the government agencies enforcing expulsion in the performance of activities provided for in this Act shall be established by the Minister of Internal Affairs.

(4) A competent police officer shall, in accordance with the standard format established by the Minister of Internal Affairs, enter a notation concerning expulsion in the travel document of an alien which the alien uses to cross the border.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 20. Expulsion activities at border checkpoint

(1) A notation with regard to crossing the border shall be entered in the travel document of a person to be expelled at a border checkpoint, and the alien shall be sent to a foreign state or handed over to a representative of the admitting country.

(2) A border representative of the Republic of Estonia, a border representative of the admitting country, an official of the Ministry of Foreign Affairs and a representative of the admitting country may be present when expulsion activities are performed at a border checkpoint.

(3) A person to be expelled who is suspected or convicted of a criminal offence shall be handed over at a border checkpoint at the request of a foreign state and pursuant to the procedure provided for in an international agreement.

§ 21. Expulsion of minors

The expulsion of a minor shall be organised in co-ordination with the competent state agencies of the admitting country and, if necessary, of the transit country and protection of the rights of the minor shall be ensured.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 22. Readmission of person to be expelled

If the admitting country refuses to admit a person to be expelled or if other circumstances impeding the completion of expulsion become evident during the transportation to a border checkpoint of the person to be expelled or at the border checkpoint, the person to be expelled shall be detained by way of administrative procedure until the completion of his or her expulsion or until he or she is placed in an expulsion centre, but the person to be expelled shall not be detained for longer than forty-eight hours.

§ 221. Expulsion centre

(1) Expulsion centres are government agencies in the area of government of the Ministry of Internal Affairs the function of which is to enforce the judgments on the detention of persons to be expelled.

(2) The provisions of the Imprisonment Act concerning the imposition of custody pending trial with the specifications provided for in this Act apply to the detention of persons to be expelled in expulsion centres.

(14.06.2000 entered into force 01.12.2000 - RT I 2000, 58, 376)

Chapter 4

Detention in Expulsion Centre

§ 23. Placement in expulsion centre

(1) If it is not possible to complete expulsion within the term provided for in this Act, the person to be expelled shall, at the request of the government agency which applied for or which is enforcing the expulsion of the alien and on the basis of a judgment of an administrative court judge, be placed in an expulsion centre until his or her expulsion, but for not longer than two months.

(2) (Repealed - 06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

(3) (Repealed - 06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 24. Release from expulsion centre

(1) If enforcement of the expulsion of an alien who is staying in an expulsion centre becomes possible, the alien shall be released from the expulsion centre and shall be expelled at the request of the government agency enforcing the expulsion pursuant to the procedure provided for in this Act.

(2) If a person to be expelled is taken into custody as a suspect or an accused in a criminal matter, he or she shall be released from the expulsion centre on the basis of the ruling to take him or her into custody.

(3) If a precept is annulled or declared invalid or a decision is made to grant an alien the basis for stay, the alien shall be released from the expulsion centre on the basis of the decision to annul the precept or to declare it invalid or to grant the basis for stay.

(4) The Citizenship and Migration Board shall immediately notify the alien and the expulsion centre of the annulment of a precept or the declaration of a precept invalid or the grant of basis for stay in Estonia.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 25. Extension of term for detention in expulsion centre

If it is impossible to enforce expulsion within the term of detention in an expulsion centre, an administrative court shall, at the request of a competent official of the Citizenship and Migration Board, extend the term of detention in the expulsion centre of a person to be expelled by up to two months at a time until expulsion is enforced or until the alien is released pursuant to subsections 24 (2) or (3) of this Act.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 26. Making of judgment

(1) Judgments concerning the detention of persons to be expelled and extension of the term of detention shall be made by an administrative court pursuant to the procedure provided for in Chapter 4 of the Code of Administrative Court Procedure.

(2) Placement in an expulsion centre and extension of the term of detention in the expulsion centre shall be decided in a court session.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

Chapter 5

Prohibition on Entry

§ 27. Period of validity of prohibition on entry

(1) A prohibition on entry shall be temporary or permanent. A temporary prohibition on entry may have a period of validity of up to ten years.

(2) The period of validity of a prohibition on entry is a period of time calculated in years or months, within which the legal consequences provided for in § 28 of this Act apply to an alien.

(3) The period of validity of a prohibition on entry shall commence on the date on which the order to apply the prohibition on entry is made, if the order does not prescribe a later date for the commencement of the period of validity of the prohibition on entry.

(4) The period of validity of a prohibition on entry shall end upon the expiry thereof or upon annulment of the prohibition on entry.

§ 28. Legal consequences of prohibition on entry

(1) An alien with regard to whom a prohibition on entry applies shall not be granted permission to enter Estonia at a border checkpoint.

(2) An alien with regard to whom a prohibition on entry applies shall not be granted a basis for stay and his or her basis for stay shall not be extended within the period of validity of the prohibition on entry, and the alien is also not permitted to stay in Estonia regardless of whether he or she has a basis for stay.

(3) Upon application of a prohibition on entry with regard to an alien who holds a residence permit, a visa or other permission to stay in Estonia granted by administrative legislation, the corresponding basis for stay shall be annulled.

(4) A prohibition on entry does not deprive an alien of the right to apply for asylum in Estonia.

§ 29. Bases for application of prohibition on entry

(1) A prohibition on entry may be applied with regard to an alien if:

1) there is good reason to believe that his or her stay in Estonia may endanger the security of the Republic of Estonia, or public order, public safety, moral standards or the health of other persons;

2) **there is information or good reason to believe that he or she belongs to a criminal organisation, that he or she is connected with the illegal conveyance of narcotics, psychotropic substances or persons across the border**, that he or she is a member of a terrorist organisation or has committed an act of terrorism, or that he or she is involved in money laundering;

3) he or she is or has been employed by an intelligence or security service of a foreign state, or there is good reason to believe that he or she is or has been employed by an intelligence or security service of a foreign state;

4) he or she has received or there is good reason to believe that he or she has received special training in landing operations or in diversion or sabotage activities, or other special training, and if the knowledge and skills acquired in the process of such training can be directly applied in the formation or training of illegal armed units;

5) he or she incites or there is good reason to believe that he or she incites racial, religious or political hatred in Estonia or a foreign state;

6) he or she has been punished or there is good reason to believe that he or she has been punished for a serious crime against humanity or for a war crime, regardless of whether the criminal record has expired or been expunged, and regardless of the expungement of data concerning punishment from the punishment register;

7) he or she has been punished for an intentionally committed criminal offence or for another offence in Estonia or a foreign state, and if the criminal record has neither expired nor been expunged or if data concerning the punishment have not been expunged from the punishment register;

8) the alien has violated legislation regulating the stay of aliens in Estonia or the crossing of the state border by aliens.

(2) A permanent prohibition on entry may be applied in the cases provided for in clauses (1) 1)-6) of this section.

(3) If it is impossible for the family of an alien to live together outside Estonia or if the resettlement of the family in a foreign state would involve difficulties on a disproportionate scale in comparison with the need to establish a prohibition on entry, a prohibition on entry with regard to the alien may be applied only in the cases provided for in clauses (1) 1)-6) of this section.

(4) The following persons living legally in Estonia together with an alien in the same family shall be deemed to be the family members of the alien:

1) spouse;

2) minor child;

3) parent, if the alien is a minor.

(5) If the bases for application of a prohibition on entry provided for in subsection (1) of this section become evident during the proceedings for the grant or extension of a basis for stay, the grant or extension of the basis for stay shall be refused and a prohibition on entry shall be applied with regard to the alien.

§ 30. Non-application of prohibition on entry

Prohibition on entry shall not be applied:

- 1) with regard to an alien less than 13 years of age;
- 2) with regard to an alien who is of Estonian origin;
- 3) with regard to an alien whose application for asylum in Estonia has been accepted for hearing or with regard to an alien who has been granted asylum in Estonia.

§ 31. Order to apply prohibition on entry

(1) The application of a prohibition on entry shall be ordered by the Minister of Internal Affairs after considering the position of the advisory committee formed by him or her.

(26.10.99 entered into force 25.11.99 - RT I 1999, 84, 762)

(2) The procedure for ordering application of a prohibition on entry shall be established by the Government of the Republic.

(26.10.99 entered into force 25.11.99 - RT I 1999, 84, 762)

(3) Upon an order to apply a prohibition on entry and the determination of the period of validity of a prohibition on entry, all of the following circumstances shall be taken into account:

- 1) the duration of the alien's legal stay in Estonia;
- 2) personal, economic and other ties which the alien has with Estonia and which are deserving of protection;
- 3) the consequences of the application of the prohibition on entry for the family members of the alien;
- 4) the circumstances which are the basis for application of a prohibition on entry;
- 5) other relevant considerations.

(4) An order to apply a prohibition on entry shall be formalised in writing as reasoned administrative legislation.

(26.10.99 entered into force 25.11.99 - RT I 1999, 84, 762)

(5) An alien or his or her representative may appeal against an order to apply a prohibition on entry pursuant to the procedure provided for in the Code of Administrative Court Procedure if application of the prohibition on entry violates the rights of the alien prescribed by law or restricts the freedoms of the alien granted by law.

§ 32. Amendment of period of validity of prohibition on entry

(1) The Minister of Internal Affairs, after considering the position of the advisory committee formed by him or her, shall annul the prohibition on entry or shorten the period of validity of the prohibition on entry at the request of the alien or on the initiative of a government agency if the basis for application of the prohibition on entry has changed or ceased to exist.

(26.10.99 entered into force 25.11.99 - RT I 1999, 84, 762)

(2) The Minister of Internal Affairs, after considering the position of the advisory committee formed by him or her, may annul the prohibition on entry or shorten the period of validity of the prohibition on entry at the request of the alien or on the initiative of a government agency:

(26.10.99 entered into force 25.11.99 - RT I 1999, 84, 762)

- 1) if the circumstances listed in subsection 31 (1) of this Act have changed;
- 2) on humane considerations if national security and public order are not endangered thereby.

(3) The Minister of Internal Affairs, after considering the position of the advisory committee formed by him or her, may extend the period of validity of the prohibition on entry, or replace a temporary prohibition on entry with a permanent prohibition on entry, on the initiative of a government agency and if additional bases for the application of a prohibition on entry provided for in subsection 29 (1) of this Act become evident with regard to the alien. The provisions of subsections 31 (3)-(5) of this Act apply with regard to extension of the period of validity or with regard to replacement of a temporary prohibition on entry with a permanent prohibition on entry.

(26.10.99 entered into force 25.11.99 - RT I 1999, 84, 762)

§ 33. Register of prohibitions on entry

(1) The National Register of Prohibitions on Entry shall be maintained pursuant to the procedure established by the Government of the Republic concerning aliens with regard to whom prohibitions on entry apply.

(2) An excerpt from the register of prohibitions on entry may be used upon refusal to grant a basis for stay, refusal to extend a basis for stay, annulment of a basis for stay or prevention of the entry of an alien into Estonia.

Chapter 6

Implementing Provisions

§ 34. Application of prohibition on entry to alien whose entry into Estonia was prevented prior to entry into force of this Act

A prohibition on entry with regard to an alien whose entry into Estonia was prevented prior to the entry into force of this Act applies in accordance with Chapter 5 of this Act.

§ 34¹. Application of decisions concerning detention of persons to be expelled until construction of expulsion centre

Until an expulsion centre is constructed and accepted, the judgments concerning the detention of persons to be expelled shall be enforced in isolated wards of maximum-security prisons. Persons to be expelled may also be detained in police houses of detention, however not for longer than for ten consecutive days.

(14.06.2000 entered into force 01.12.2000 - RT I 2000, 58, 376)

§ 34². Implementation of penalty payment

Penalty payment prescribed in this Act is implemented as of 1 January 2002.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 352)

§ 35. Amendments to Aliens Act

The Aliens Act (RT I 1993, 44, 637; 1999, 50, 548; 54, 582; 71, 686; 88, 808; 101, 900; 2000, 25, 148; 33, 197; 40, 254; 2001, 16, 68; 58, 352) is amended as follows:

1) subsection 3 (1) is amended and worded as follows:

«(1) For the purposes of this Act, an alien is a person who is not an Estonian citizen.»;

2) subsection 9 (1) is amended and worded as follows:

«(1) A legal basis must exist for an alien to enter Estonia or stay in Estonia. An alien shall hold a work permit to work in Estonia. The legal bases for an alien to stay in Estonia are:

- 1) a residence permit;
- 2) a visa, within the term for stay in Estonia prescribed thereby;
- 3) the right to stay in Estonia arising from an international agreement;

4) the right to stay in Estonia arising from a resolution of the Government of the Republic to forego the visa requirement;

5) other permission arising from law, or permission granted by administrative legislation on the basis of law for the alien to stay in Estonia.";

3) subsection (4) is added to section 10 worded as follows:

«(4) The Government of the Republic shall establish a list of states whose citizens are unilaterally relieved of the visa requirement in Estonia.";

4) clause 8) is added to subsection 12 (4) worded as follows:

«8) with regard to whom a prohibition on entry applies.";

5) clause 3) is added to subsection 14 (3) worded as follows:

«3) upon application of a prohibition on entry.";

6) section 16 is amended and worded as follows:

«§ 16. Legal liability

(1) An alien shall bear administrative liability for violation of this Act, pursuant to the procedure provided for in the Code of Administrative Offences (RT 1992, 29, 396; RT I 1999, 41, 496; 50, 548; 58, 608; 60, 616; 87, 792; 92, 825; 95, 843; 2000, 10, 58; 25, 141; 28, 167; 29, 169; 40, 247; 45, 279; 49, 301; 305; 51, 321; 54, 346; 348; 351; 55, 361; 58, 376; 84, 533; 86, 544; 548; 89, 578; 95, 609; 613; 2001, 3, 5; 9, 41; 17, 76; 18, 87; 21, 115; 116; 31, 174; 42, 236; 52, 303; 53, 312; 313; 314; 56, 333; 335; 339; 58, 356).

(2) An alien may be required to leave the territory of the Republic of Estonia and his or her entry into Estonia may be prohibited pursuant to the procedure provided for in the Obligation to Leave and Prohibition on Entry Act."

§ 36. Amendments to Surveillance Act

Subsection 16 (1) of the Surveillance Act (RT I 1994, 16, 290; 1995, 15, 173; 1996, 49, 955; 1997, 81, 1361; 93, 1557; 1998, 47, 698; 50, 753; 51, 756; 61, 981; 98/99, 1575; 101, 1663; 1999, 16, 271; 31, 425; 95, 845; 2000, 35, 222; 40, 251; 102, 671; 2001, 3, 9; 7, 17; 58, 353) is amended by adding the words ", and to apply prohibitions on entry" after the words "to revoke residence permits and work permits".

§ 37. Entry into force of Act

This Act enters into force on 1 April 1999.

1 RT = Riigi Teataja = State Gazette

2 ENSV Ülemnõukogu Teataja = ESSR Supreme Council Gazette