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# Social Welfare Act

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## Chapter 1 General Provisions

### § 1. Scope of regulation of Act

This Act provides the organisational, economic and legal bases for social welfare, and regulates the relations relating to social welfare.

### § 2. Application of General Part of the Social Code Act

The provisions of the General Part of the Social Code Act apply to the social protection prescribed in this Act, taking account of the specifications provided for in this Act.

### § 3. Principles of social welfare

Upon the provision of social welfare assistance:

- 1) the needs of the person shall be taken into consideration first;
- 2) such measures shall be preferred which are aimed at finding possibilities and increasing the ability of the person to organise his or her life as independently as possible;
- 3) the person shall be advised about choosing and adjusting measures and, if necessary, about assistance provided by a specialist with appropriate professional training;
- 4) the efficiency of implementation of measures from the viewpoint of the person in need of assistance and, if necessary, from the viewpoint of the family and community shall be taken as the basis;
- 5) the person in need of assistance and, if necessary, his or her family members shall be involved in all the phases of the provision of assistance if the person has consented thereto;
- 6) measures shall be ensured to be as accessible to a person as possible.

### § 4. Terms

In this Act, the following definitions are used:

- 1) "social welfare" means a system of procedures related to the provision or grant of social services, social benefits, emergency social assistance and other assistance the purpose of which is to support the ability of a person to cope independently, work and participate actively in social life, at the same time preventing social problems from arising or deepening at individual, family or social level;
- 2) "social welfare institution" means an institution providing a social service specified in this Act;
- 3) "social worker" means a person with higher education and appropriate professional training employed in social welfare;

- 4) "child" means a person within the meaning of subsection 3 (2) of the Child Protection Act;  
5) "person working with children" means a person specified in subsection 18 (2) of the Child Protection Act who complies with the requirements provided for in § 20 of the Child Protection Act.

#### **§ 5. Social welfare coverage**

- (1) The local authority of a person's residence entered in the population register is required to organise the provision of social services, social benefits, emergency social assistance and other assistance to the person.
- (2) The provision of emergency social assistance to a person staying outside his or her residence entered in the population register is organised by the local authority in whose administrative territory the person is staying at the time he or she is in need of assistance.
- (3) The provision of social services and other assistance to a person staying outside his or her residence entered in the population register may be organised by the local authority in whose administrative territory the person is staying at the time he or she is in need of assistance in co-ordination with the local authority of the person's residence entered in the population register.
- (4) The provision of social services, emergency social assistance and other assistance to a person whose residence cannot be determined according to the population register is organised by the local authority in whose administrative jurisdiction the person is staying at the time he or she is in need of assistance.
- (5) The provision of emergency social assistance to an alien temporarily staying in Estonia is organised by the local authority in whose administrative territory the person is staying at the time he or she is in need of assistance.

#### **§ 6. Prohibited items upon receipt of social services in social welfare institution**

- (1) The following items are prohibited for a person receiving social services in a social welfare institution:
- 1) weapons within the meaning of the Weapons Act;
  - 2) explosives, pyrotechnic substances and pyrotechnic articles within the meaning of the Explosives Act;
  - 3) substances used for causing narcotic, toxic or alcohol intoxication;
  - 4) other items which may constitute a danger to the life and health of the person receiving the service and other people.
- (2) In the case of suspicion of danger the social welfare institution shall communicate the information concerning the items specified in clause (1) 1) or 2) of this section or a substance used for causing narcotic intoxication specified in clause 3) of the same subsection to the police for ascertainment of the danger.
- (3) If a prohibited item not specified in subsection (2) of this section directly endangers the life or health of the person or other persons, the social welfare institution shall apply measures to reduce or eliminate the immediate danger.

#### **§ 7. Internal evaluation of child welfare institutions**

- (1) Internal evaluation is carried out at child welfare institutions. Internal evaluation is a continuous process the purpose of which is to ensure conditions supporting the development of a child staying at a child welfare institution and consistent development of the institution. In the course of internal evaluation the suitability of the provided care for the child's age and development and the organisation of work and management of the institution shall be evaluated.
- (2) Internal evaluation of a child welfare institution shall be carried out at least once every three years.
- (3) The procedure for the internal evaluation of a child welfare institution shall be established by the head of the institution after submitting it to the keeper of the institution for comments.

#### **§ 8. Emergency social assistance**

- (1) Emergency social assistance is provided to persons who find themselves in a socially helpless situation due to the loss or lack of means of subsistence which guarantees the persons at least food, clothing and temporary accommodation.
- (2) Emergency social assistance shall be provided to a person until he or she is no longer in a socially helpless situation due to the loss or lack of means of subsistence.

#### **§ 9. Provision of assistance based on principle of case management**

- (1) If a person, in order to improve the ability to cope independently, needs long-term and diverse assistance which includes also the need to co-ordinate the co-operation between several organisations upon the provision of assistance, the principle of case management shall be used.
- (2) The provision of assistance shall, *inter alia*, include:

- 1) the preparation of a case plan and co-ordination of the schedule for the activities of the parties which are related to each other;
- 2) the determination of a co-ordinator of the case;
- 3) the agreement on the procedure for mutual exchange of information.

(3) A case plan is a written document consisting of an evaluation to a person's need for assistance and the activity plan for application of measures.

(4) A case plan shall be signed by the co-ordinator of the case and the person for whom the case plan has been prepared.

(5) A case plan may be amended as necessary. The person in need of assistance shall confirm his or her approval of the amendments by a signature.

(6) The list of information contained in a case plan shall be established by a regulation of the minister responsible for the area.

#### **§ 10. Case plan of child**

(1) Case plans for children shall be prepared on the basis of the provisions of § 9 of this Act, taking into account the specifications provided for in this section.

(2) Before referral to a substitute home or foster care specified in § 130 of this Act the local authority performing the duties of or appointed as the guardian of the child or, in the case of a child specified in clauses 128 (1) 6–8) of this Act and subsection (2) of the same section, the Social Insurance Board shall prepare a case plan for each child.

(3) After referral of a child to a substitute home, the local authority performing the duties of or appointed as the guardian or, in the case of a child specified in clauses 128 (1) 6–8) of this Act and subsection (2) of the same section, the Social Insurance Board shall supplement the case plan of the child in accordance with the proposals of the provider of substitute home service. The case plan of a child referred to a substitute home or foster care specified in § 128 of this Act shall be reviewed at least once a year.

(4) A case plan prepared for a child referred to a substitute home shall be an Annex to the contract under public law for the substitute home service. A case plan prepared for a child referred to foster care shall be an Annex to the contract specified in subsection 130 (3) of this Act.

#### **§ 11. Statistics on social welfare**

(1) Social welfare institutions shall submit statistical reports to a local authority, county governor or the Ministry of Social Affairs.

(2) A local authority shall submit the statistical reports submitted to the local authority by social welfare institutions to the county governor as a consolidated report.

(3) The county governor shall submit the statistical reports on the county to the Ministry of Social Affairs as a consolidated report.

(4) The requirements for the preparation, content of data and procedure for the submission of statistical reports on social welfare shall be established by a regulation of the minister responsible for the area.

#### **§ 12. Consideration of person's will**

(1) Upon the provision of social services, social benefits and other assistance, a person's will shall be considered except in the cases provided for in §§ 105, 106 and 107 of this Act.

(2) Resolution of issues pertaining to a child shall be based on the interests of the child pursuant to the provisions of the Child Protection Act.

#### **§ 13. Obligation to notify of need for assistance**

The family members of a person in need of assistance, judges, the police, prosecutors, employees of social welfare, health care and educational institutions and other persons are required to give notice of the person or family in need of social welfare to the local authority of the place of stay of the person or family.

## **Chapter 2**

# Assistance Organised by Local Authorities

## Division 1 General Provisions

### § 14. Procedure for provision of social welfare assistance

(1) Local authorities shall establish the procedure for provision of social welfare assistance which shall contain at least the description and financing of social services and benefits and the conditions and procedure for application for social services and benefits.

(2) Local authorities may organise social services and pay supplementary social benefits from a local authority budget under the conditions and pursuant to the procedure established by the local authority.

### § 15. Assessment obligation and decision on provision of assistance

(1) A local authority shall identify the need for assistance of a person who requests assistance and determine corresponding assistance.

(2) Identification of the need for assistance shall be based on the integrity of the person's need for assistance, taking into account the circumstances affecting his or her ability to cope and participation in social life, including:

- 1) circumstances related to the operational capacity of the person;
- 2) circumstances related to the physical and social environment of the person.

(3) When taking into account the circumstances specified in subsection (2) of this section, the assistance necessary for reducing or eliminating the restrictions caused by the need for assistance of a disabled person within the meaning of subsection 2 (1) of the Social Benefits for Disabled Persons Act shall be ensured, including the organisation of necessary support or translation services.

### § 16. Fee for social services

(1) A fee may be charged for the provision of social services. A local authority shall establish the conditions and amount of the fee charged for social services provided by the local authority. The charging of a fee shall be decided by the authority which pays for or provides the service.

(2) The amount of the fee charged from a person depends on the extent and cost of the social service and the financial situation of the person receiving the service and his or her family.

(3) The amount of the fee charged for social services shall not restrict the receipt of services.

## Division 2 Social Services of Local Authorities

### Subdivision 1 Domestic Service

#### § 17. Objective and content of domestic service

(1) Domestic service is a social service organised by a local authority the objective of which is to ensure independent and safe coping of an adult in his or her home by maintaining and improving his or her quality of life.

(2) Upon provision of the domestic service, assistance is provided to a person in activities which the person is unable to perform without personal assistance due to reasons relating to state of health, operational capacity or physical and social environment but which are essential for living at home, such as heating, cooking, cleaning the dwelling, washing clothes and buying food and household articles and running other errands outside the dwelling.

(3) The Government of the Republic or, on the authorisation thereof, the minister responsible for the area may establish by a regulation detailed requirements for the objective and content of the domestic service, including the activities necessary for the achievement of the objective of the service.

## **§ 18. Obligations of local authorities**

(1) The extent of the need for personal assistance shall be assessed and specified separately for each person. If during the period of providing the service the extent of the need for personal assistance changes due to the person's operational capacity or physical and social environment, a reassessment shall be carried out.

(2) A local authority shall prepare in co-operation with the person receiving the service and the service provider an administrative act or a contract under public law for the provision of the service which shall, *inter alia*, set out the activities arising from the extent of the need for personal assistance which ensure independent coping of the person in his or her home.

## **§ 19. Requirements for persons directly providing services**

The service shall not be provided directly by a person whose criminal record for an intentionally committed criminal offence may endanger the life, health and property of the person entitled to receive the service.

# **Subdivision 2 General Care Service Provided Outside Home**

## **§ 20. Objective and content of general care service provided outside home**

(1) General care service provided outside the home of a person is a social service organised by a local authority the objective of which is to ensure a safe environment and coping of an adult who is temporarily or permanently unable to cope independently at home due to reasons relating to state of health, operational capacity or physical and social environment.

(2) Upon provision of the service the service provider shall ensure care procedures and other activities and services determined in the care plan which support and ensure coping of the recipient of the service.

(3) Upon provision of the service on a 24-hour basis the service provider shall also ensure accommodation and catering of the recipient of the service in addition to the activities specified in subsection (2) of this section.

(4) The Government of the Republic or, on the authorisation thereof, the minister responsible for the area may establish by a regulation detailed requirements for the objective and content of the general care provided outside home, including the activities necessary for the achievement of the objective of the service.

## **§ 21. Care plan**

(1) A local authority shall prepare in co-operation with the person receiving the service and the service provider an administrative act or a contract under public law for the provision of the service which shall, *inter alia*, set out the activities arising from the extent of the need for personal assistance which ensure safety and coping of the person during the receipt of the care service.

(2) The service provider shall prepare in co-operation with the recipient of the service or, if the recipient of the service is not responsive, the person financing the service a care plan for the person within 30 days from commencement of the provision of the service.

(3) Upon preparation of a care plan, the need for health service shall also be assessed in addition to the need for care. An assessment concerning the need for health service shall be provided by a health care professional with an appropriate qualification.

(4) A care plan shall include the objective of the provision of the care service, the activities for the achievement of the objective and the frequency thereof and the assessment of the service provider concerning the performance of the activities.

(5) The service provider shall review the care plan at least once every half-year. If necessary, the service provider shall adjust the care plan as a result of the review.

## **§ 22. Requirements for service providers**

(1) Service providers shall ensure the availability of staff whose qualifications and workload allow to perform activities and procedures in a manner determined in the care plan of persons receiving the care service.

(2) Upon provision of the service on a 24-hour basis the availability of appropriate staff must be ensured for 24 hours a day if it is necessary for the performance of the activities and procedures determined in the care plan of persons receiving the care service.

(3) The care service shall be provided directly by a care worker and assistant care worker. The care worker shall supervise the work of the assistant care worker.  
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(4) A care worker providing the service directly shall comply with one of the following requirements for professional training:

- 1) has completed a study programme of formal vocational education aimed at achieving the learning outcomes described in the professional standard of a care worker;
  - 2) has completed a study programme of in-service training aimed at achieving the learning outcomes described in the professional standard of a care worker;
  - 3) has been awarded the profession of a care worker on the basis of the Professions Act.
- [RT I, 30.12.2015, 5 - entry into force 01.01.2020]

(5) The service shall not be provided directly by a person whose criminal record for an intentionally committed criminal offence may endanger the life, health and property of the person entitled to receive the service.

## **Subdivision 3 Support Person Service**

### **§ 23. Objective and content of support person service**

(1) Support person service is a social service organised by a local authority the objective of which is to support the ability to cope independently in situations where a person needs significant personal assistance in performing his or her obligations and exercising his or her rights due to social, financial, psychological or health problems. Personal assistance includes guidance, motivation and development of greater independence and responsibility of a person.

(2) Upon provision of the support person service to a person raising a child an additional objective is to ensure that the child is cared for and raised in a safe and supportive environment. A person who is raising and caring for a child due to his or her duties, except a caregiver specified in subsection 129 (1) of this Act, is not deemed to be a person raising a child.

(3) The objective of provision of the support person service to a child is to support, in co-operation with the person raising the child, the development of the child, including performance of care procedures in the case of a disabled child, if necessary. The support person shall assist the child in activities which promote development, guide and motivate the child to cope in everyday life and help to communicate with family members and outside the home.

(4) The Government of the Republic or, on the authorisation thereof, the minister responsible for the area may establish by a regulation detailed requirements for the objective and content of the support person service, including the activities necessary for the achievement of the objective of the service.

### **§ 24. Obligations of local authorities**

(1) The extent of the need for personal assistance shall be assessed and specified separately for each person.

(2) Upon submission of a request, a local authority shall assist the recipient of the service in choosing the person providing the service directly. Before determination of the person providing the service directly, the recipient of the service has the right to meet the person in order to assess their compatibility.

(3) A local authority shall prepare in co-operation with the person receiving the service and the service provider an administrative act or a contract under public law for the provision of the service which shall set out the activities arising from the need for personal assistance.

### **§ 25. Requirements for persons directly providing services**

(1) The person providing the service directly shall provide the service on the basis of the administrative act or the contract under public law for the provision of the service.

(2) The service shall not be provided directly by a person:

- 1) whose criminal record for an intentionally committed criminal offence may endanger the life, health and property of the person entitled to receive the service;
- 2) who is an ascendant or descendant of the recipient of the service related in the first or second degree;
- 3) who is permanently living in the same dwelling with the recipient of the service.

## **Subdivision 4**

## Curatorship of Adults

### § 26. Objective and content of curatorship of adults

(1) Curatorship is established by a local authority for an adult who due to mental or physical disability needs assistance in the exercise of his or her rights and the performance of his or her obligations on the basis of an application of the person. The duties of a curator shall be determined upon establishment of the curatorship.

(2) Curatorship is exercised by a person appointed by a local authority. Curatorship is established and a curator is appointed with the consent of the person under curatorship.

## Subdivision 5 Personal Assistant Service

### § 27. Objective and content of personal assistant service

(1) Personal assistant service is a social service organised by a local authority the objective of which is to increase the independent coping ability and participation in all areas of life of an adult who needs physical assistance due to a disability within the meaning of subsection 2 (1) of the Social Benefits for Disabled Persons Act and reduce the care burden of the legal curators of the person receiving the service.

(2) Upon provision of the service, assistance is provided to the recipient of the service in activities for the performance of which the person needs physical assistance due to a disability. A personal assistant shall assist the person in his or her everyday life activities, such as moving about, eating, cooking, clothing, hygiene, housework and other activities in which the person needs guidance or personal assistance.

(3) The Government of the Republic or, on the authorisation thereof, the minister responsible for the area may establish by a regulation detailed requirements for the objective and content of the personal assistant service, including the activities necessary for the achievement of the objective of the service.

### § 28. Obligations of local authorities

(1) The extent of the need for personal assistance shall be assessed and specified separately for each person. If during the period of providing the service the extent of the need for personal assistance changes due to the person's state of health or physical and social environment, a reassessment shall be carried out.

(2) A local authority shall prepare in co-operation with the person receiving the service and the service provider an administrative act or a contract under public law for the provision of the service which shall, *inter alia*, set out the activities arising from the extent of the need for personal assistance and the general instructions of the recipient of the service.

(3) A recipient of the service has the right to choose the person providing the service directly. Upon submission of a request, a local authority shall assist the recipient of the service in finding the person providing the service directly. Before determination of the person providing the service directly, the recipient of the service has the right to meet the person in order to assess their compatibility.

### § 29. Requirements for persons directly providing services

(1) A person providing the service directly shall provide the service on the basis of the administrative act or the contract under public law for the provision of the service and the instructions of the recipient of the service.

(2) The service shall not be provided directly by a person:

- 1) whose criminal record for an intentionally committed criminal offence may endanger the life, health and property of the person entitled to receive the service;
- 2) who is an ascendant or descendant of the recipient of the service related in the first or second degree;
- 3) who is permanently living in the same dwelling with the recipient of the service.

## Subdivision 6

# Shelter Service

## § 30. Objective and content of shelter service

(1) Shelter service is a social service organised by a local authority the objective of which is to provide a place of temporary overnight stay to an adult who is unable to find a place of overnight stay. Beds, washing facilities and a safe environment shall be ensured at a place of temporary overnight stay.

(2) The Government of the Republic or, on the authorisation thereof, the minister responsible for the area may establish by a regulation detailed requirements for the objective and content of the shelter service, including the activities necessary for the achievement of the objective of the service.

## § 31. Obligations of local authorities

(1) The organisation of the shelter service shall be ensured by the local authority where the person is staying at the time the need for the service arises.

(2) The local authority may, by a contract under public law, authorise legal persons in private law or natural persons or agencies of other local authorities to decide on the provision of the shelter service.

## § 32. Requirements for service providers

A provider of shelter service shall establish internal rules and inform the person upon commencement of the provision of the service of the internal rules and the rights of the person and the restrictions during the receipt of the service in such a way that the person is able to understand these.

# Subdivision 7 Safe House Service

## § 33. Objective and content of safe house service

(1) Safe house service is a social service organised by a local authority the objective of which is to ensure temporary housing, a safe environment and basic assistance to the persons specified in subsection (2) of this section. Upon provision of basic assistance, the person shall be ensured crisis assistance, if necessary, which restores the person's mental balance and operational capacity in everyday life and informed of other possibilities to receive assistance. Based on the age and needs of the person, his or her care and development shall also be ensured.

(2) A local authority shall ensure the availability of the service to the following persons during the period of time when it is necessary for ensuring safety and organising their future life:

- 1) a child who needs assistance due to deficiencies in his or her care which endanger his or her life, health or development;
- 2) an adult who needs a safe environment.

(3) A person who brings a child or an adult to a provider of safe house service is required to provide the service provider with information necessary for the provision of the service which is known to the person.

(4) The Government of the Republic or, on the authorisation thereof, the minister responsible for the area may establish by a regulation detailed requirements for the objective and content of the safe house service, including the activities necessary for the achievement of the objective of the service.

## § 34. Obligations of service provider

A service provider is required to inform:

- 1) the local authority of its place of activity of the arrival of a child at the safe house not later than on the next working day, unless the child has been referred to the safe house by a decision of the local authority;
- 2) the local authority of its place of activity and, if necessary, a regional victim support worker of the Social Insurance Board of the arrival of an adult at the safe house within five working days with his or her written consent.

## § 35. Obligations of local authorities

(1) Upon provision of the safe house service to a child, the local authority of the child's residence entered in the population register is required to provide information necessary for the provision of the service at the request of the service provider.

(2) Upon provision of the safe house service to a child who is staying at the safe house without parents and who has not been referred to the safe house by a decision of the local authority, an official of the local authority of the child's residence entered in the population register engaged in social affairs is required, within five working days



as of the arrival of the child in the safe house, to assess the well-being of the child and plan further activities necessary for ensuring the further well-being of the child.

### **§ 36. Requirements for persons directly providing services**

- (1) A person providing the service to a child directly shall comply with the following requirements:
- 1) the person has not been deprived of the right of custody over a child in full and it has not been restricted;
  - 2) the person has not been removed from performance of the obligations of a guardian or caregiver;
  - 3) the person is not dependent on alcohol, narcotic drugs or psychotropic substances.

(2) A person providing the service to a child directly shall comply with one of the following requirements for professional training:

- 1) has acquired at least secondary education and state-recognised vocational or higher education in education, psychology or social work;
- 2) has acquired at least secondary education and completed in-service training in social work and education established on the basis of subsection (3) of this section.

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(3) The plan of the in-service training in social work and education, including the detailed scope, structure and content of the in-service training shall be established by a regulation of the minister responsible for the area.

### **§ 37. Conditions for provision of safe house service**

(1) The service shall be provided to children and adults in separate premises, unless a child is staying at the safe house together with an adult family member.

(2) If the safe house service and substitute home service are provided in the same building, the specified services shall not be provided in the same premises.

(3) Upon provision of the safe house service to a child, the premises, furnishings, land and service shall comply with requirements for the provision of the service established on the basis of clause 8 (2) 9) of the Public Health Act.

(4) An activity licence is required for the provision of the safe house service pursuant to clause 151 3) of this Act. A separate activity licence is granted for the provision of the service to children and adults.

## **Subdivision 8 Social Transport Service**

### **§ 38. Objective and content of social transport service**

(1) Social transport service is a social service organised by a local authority the objective of which is to enable a person, who suffers from a disability within the meaning of subsection 2 (1) of the Social Benefits for Disabled Persons Act and whose disability hinders the use of a personal or public transport vehicle, to use a means of transport which corresponds to his or her needs in order to get to work or an educational institution or use public services.

(2) The Government of the Republic or, on the authorisation thereof, the minister responsible for the area may establish by a regulation detailed requirements for the objective and content of the social transport service, including the activities necessary for the achievement of the objective of the service.

### **§ 39. Requirements for service providers**

A service provider shall establish a safe operating procedure and ensure the availability thereof to persons using the service and persons providing the service directly.

### **§ 40. Fee for social transport service**

(1) A fee may be charged for the social transport service provided as a regular service in an amount the person would spend on travelling the same distance by the least expensive existing means of transport if the person had no restrictions caused by the disability.

(2) A fee may be charged for the social transport service provided as an occasional service or taxi service in an amount exceeding the amount specified in subsection (1) of this section.

## **Subdivision 9**

## **Provision of Dwelling**

### **§ 41. Objective and content of provision of dwelling**

(1) Provision of dwelling is a social service organised by a local authority the objective of which is to ensure the possibility to use a dwelling to a person who due to socio-economic situation is unable to provide a dwelling which corresponds to the needs of the person and his or her family.

(2) The Government of the Republic or, on the authorisation thereof, the minister responsible for the area may establish by a regulation detailed requirements for the objective and content of the provision of dwelling, including the activities necessary for the achievement of the objective of the service.

### **§ 42. Provision of dwelling to disabled persons**

(1) Persons who have difficulties moving about, caring for themselves or communicating in a dwelling as a result of a disability within the meaning of subsection 2 (1) of the Social Benefits for Disabled Persons Act shall be assisted by a local authority in adapting their dwelling or in obtaining a more suitable dwelling.

(2) Ensuring the possibility to use a dwelling shall be based on the principle that the disabled person would be able to live at home for as long as possible.

### **§ 43. Requirements for provided dwellings**

(1) A dwelling granted in the use of a person shall comply with the following:

- 1) the requirements for dwellings established on the basis of subsection 11 (4) of the Building Code, except for socially justified standards for dwellings;
- 2) the justified needs of the person and his or her family, and the size of the family.

(2) A local authority may offer the possibility to use the same dwelling only to persons who wish to live in the same dwelling.

## **Subdivision 10 Debt Counselling Service**

### **§ 44. Objective and content of debt counselling service**

(1) Debt counselling service is a social service organised by a local authority the objective of which is to assist a person in identifying his or her financial situation, conducting negotiations with creditors and satisfying claims, avoid the creation of new debts through enhancing the ability to cope and resolve other problems related to debt.

(2) A situation in which a claim has been submitted to a person to perform a financial obligation arising from a relationship under the law of obligations or the law which has fallen due but which the person is unable to perform independently is deemed to be a debt for the purposes of the debt counselling service.

(3) Debt counselling service includes counselling and guidance of a person and prevention of further debts.

(4) In the case of a person with restricted active legal capacity, the service is provided to his or her legal representative on the basis of an application of the legal representative.

(5) The Government of the Republic or, on the authorisation thereof, the minister responsible for the area may establish by a regulation detailed requirements for the objective and content of the debt counselling service, including the activities necessary for the achievement of the objective of the service.

### **§ 45. Requirements for persons directly providing services**

(1) A person providing the service directly shall comply with one of the following requirements for professional training:

- 1) the person has been awarded the profession of a debt counsellor on the basis of the Professions Act;
- 2) the person has acquired state-recognised higher education and completed in-service training of a debt counsellor.

(2) The plan of the in-service training of a debt counsellor, including the detailed scope, structure and content of the in-service training shall be established by a regulation of the minister responsible for the area.

## **Subdivision 11 Childcare Service**

### **§ 45<sup>1</sup>. Objective and content of childcare service**

(1) The objective of childcare service is to support the ability of a person who has the right of custody over a child or a caregiver specified in subsection 129 (1) of this Act to cope or work.

(2) If the service specified in subsection (1) of this section is provided regardless of whether or not the service is wholly or partially financed from the state or local authority budget, the requirements provided for in §§ 45<sup>3</sup> and 45<sup>4</sup> of this Act apply to the service.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

### **§ 45<sup>2</sup>. Obligations of local authorities**

(1) A local authority shall provide the opportunity to receive childcare service on the basis of subsection 10 (1) of the Preschool Child Care Institutions Act.

(2) In the case of children with a severe or profound disability, a local authority shall assess the need for childcare service separately for each child.

(3) Upon submission of a request, a local authority shall advise the recipient of the service in choosing the provider of childcare service.

(4) A local authority shall prepare in co-operation with the person receiving the service and the service provider an administrative act or a contract under public law for the provision of the service which shall set out the activities arising from the need for childcare service and the essential conditions concerning the provision of the service which are at least the time and place of provision of the service.

(5) A local authority may, by a contract under public law, authorise legal persons in private law, sole proprietors or agencies of other local authorities to provide childcare service.

(6) In the case of a child specified in subsection (2) of this section, provision of the service is ensured until the term provided for in subsection 156 (3<sup>3</sup>) of this Act.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

### **§ 45<sup>3</sup>. Requirements for childcare service**

(1) Upon provision of the service the service provider shall guarantee the care, development and safety of the child.

(2) A person directly providing the service (hereinafter *childcarer*) may care for:

- 1) up to five children at a time in the dwelling of the child receiving the childcare service, including the childcarer's own persons who need care at the same time;
- 2) up to ten children at a time outside the dwelling of the child receiving the childcare service, including the childcarer's own persons who need care at the same time.

(3) If the childcare service is provided for more than five children at a time, each child with a severe or profound disability, a child under three years of age and the childcarer's own person with a severe or profound disability and child under three years of age who need care at the same time shall be deemed as two children.

(4) If the childcare service is provided in a dwelling other than the dwelling of the child receiving the childcare service, a person living in the same dwelling shall:

- 1) comply with the requirements provided for in clauses 129 (1) 3)–6) of this Act;
- 2) undergo regular medical examination for communicable diseases, including chest radiography in every two years, and hold a health certificate issued by the family physician concerning the undergone medical examination for communicable diseases.

(5) If the childcare service is provided outside the dwelling of the child receiving the childcare service, the following shall be complied with:

- 1) the premises shall comply with the health protection requirements for the childcare service established on the basis of the Public Health Act;
- 2) the premises and the evacuation routes of the premises shall comply with the requirements established on the basis of subsection 11 (4) of the Building Code.

(6) Upon provision of the childcare service in the case specified in subsection 45<sup>1</sup>(2) of this Act, the service provider shall hold an activity licence pursuant to clause 151 1) of this Act.  
[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

#### **§ 45<sup>4</sup>. Requirements for persons directly providing services**

(1) A childcarer shall:

- 1) have active legal capacity;
- 2) have physical and mental health required for the provision of the childcare service;
- 3) comply with the requirements provided for in clauses 129 (1) 2)–6) of this Act.

(2) In order to act as a childcarer, a person shall have:

- 1) the profession of a childcarer awarded on the basis of the Professions Act or
- 2) acquired at least secondary or vocational education, work experience with children and suitable personal characteristics which shall be assessed by the employer;
- 3) undergone at least a 16-hour first aid training during the preceding 36 months.

(3) Persons who have acquired foreign professional qualifications may also act as childcarers if their professional qualifications have been recognised in accordance with the Recognition of Foreign Professional Qualifications Act. The competent authority provided for in subsection 7 (2) of the Recognition of Foreign Professional Qualifications Act is the Ministry of Social Affairs.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

## **Chapter 3 Assistance Organised by State**

### **Division 1 Assumption by State of Obligation to Pay Fee upon Purchase or Lease of Technical Aid**

#### **Subdivision 1 Right to Apply for Assumption by State of Obligation to Pay Fee upon Purchasing or Leasing Technical Aid**

#### **§ 46. Assumption by State of Obligation to Pay Fee upon Purchase or Lease of Technical Aid**

Upon purchasing or leasing a technical aid entered in the list of technical aids, the state shall assume from the entitled person the obligation to pay the fee (hereinafter *assumption of obligation to pay fee*) provided that:

- 1) the entitled person and the seller or lessor of the technical aid agree on the sale or lease of the technical aid on conditions which as a minimum comply with the requirements provided for in this Division;
- 2) the seller or lessor of the technical aid and the state have entered into a contract specified in § 54 of this Act.

#### **§ 47. Entitled persons**

(1) The following persons have the right to apply for the assumption of the obligation to pay the fee:

- 1) minors;
- 2) persons of working age as of the age of 18 who have a disability within the meaning of § 2 of the Social Benefits for Disabled Persons Act or who have been established to have partial or no work ability on the basis of the Work Ability Allowance Act;

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

- 3) persons who have attained the pensionable age provided for in § 7 of the State Pension Insurance Act.

(2) In addition to the persons specified in subsection (1) of this section, the following persons have also the right to apply for the assumption of the obligation to pay the fee:

- 1) persons for the purchase of breast prosthesis;
- 2) persons whose decrease of auditory ability has been established to be 30 decibels and more, for the purchase of hearing aids and sound transmission systems;
- 3) persons for the purchase of eye sphere implants;
- 4) adults with a disability within the meaning of § 2 of the Social Benefits for Disabled Persons Act, for the purchase of self-care and protective technical aids.

(3) Persons staying at a social welfare institution, imprisoned or in custody pending trial shall not have the right to apply for the assumption of the obligation to pay the fee, except in the case of a personal technical aid.

- (4) [Repealed - RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(5) The minister responsible for the area shall establish by a regulation the identifiers of the need for a technical aid depending on the complexity of the technical aid.  
[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(6) If a technical aid is in the use of a person specified in subsection (1) or (2) of this section for which the obligation to pay the fee has been assumed, the person has the right to apply for the assumption of the obligation to pay the fee for a new technical aid with the same name after the end of the service life of the technical aid in the use of the person.

(7) The Social Insurance Board may, as an exception, decide on the assumption of the obligation to pay the fee prior to the end of the service life of the technical aid in the use of a person if:

- 1) it is impossible to use the technical aid until the end of its service life due to its wear;
- 2) the technical aid is destroyed due to reasons independent of the person;
- 3) the person needs the technical aid in a quantity which exceeds the limit or
- 4) the person needs the technical aid in other justified cases.

(8) The specific conditions, cases and procedure for the assumption of the obligation to pay the fee for the technical aid in the use of a person prior to the end of the service life shall be established by a regulation of the minister responsible for the area.

(9) Upon application for the assumption of the obligation to pay the fee for a technical aid the name of which has not been entered in the list of technical aids but which is defined to the accuracy of the category included in the list, the Social Insurance Board shall involve an expert in the procedure.

## **Subdivision 2**

### **List of Technical Aids and Limits for Assumption of Obligation to Pay Fee**

#### **§ 48. List of technical aids**

(1) For the purposes of this Act, a technical aid is a product or device which allows to prevent the aggravation of an occurred or congenital damage or disability, compensate for functional impairment caused by the damage or disability, improve or maintain physical and social independence, operational capacity and work ability.

(2) The list of technical aids which shall include the information specified in subsection (3) of this section shall be established by a regulation of the minister responsible for the area.

(3) The following shall be included in the list of technical aids:

- 1) name of the category of technical aids;
- 2) ISO code of the technical aid;
- 3) the name of the technical aid;
- 4) the service life of the technical aid depending on the level of wear;
- 5) a notation with regard to whether the technical aid is sold;
- 6) a notation with regard to whether the technical aid is leased;
- 7) in the case of leased technical aids the minimum frequency of maintenance;
- 8) quantitative limit by years or months;
- 9) a notation with regard to whether the technical aid is personal;
- 10) the limit for an obligation to pay the fee assumed from an entitled person;
- 11) the maximum price of the technical aid;
- 12) in the list of urine-absorbing aids the size and absorption capacity of the product;
- 13) the identifier of the need for the technical aid;
- 14) a description specifying the functional impairment or health problem for which the technical aid is suitable;
- 15) specification of the ISO code of the technical aid or specification of the category of the technical aid.

(4) For the purposes of this Act, a category of technical aids includes technical aids with similar function and intended purpose in the list of technical aids.

(5) For the purposes of this Act, the name of a technical aid includes technical aids with the same function and intended purpose.

(6) For the purposes of this Act, the service life of a technical aid is the time period established for the technical aid at the end of which the technical aid is deemed to have lost its useful value. In the case of leasing a technical aid, the service life of the technical aid shall also constitute as the leasing period upon assumption of the obligation to pay the fee. The state shall not assume the obligation to pay the fee for a technical aid the service life of which has ended.

(7) Upon purchasing a technical aid for which quantitative limit has been established per month for the purposes of this Act, the service life shall be deemed to be the period at the end of which the assumption of the obligation to pay the fee terminates.

#### **§ 49. Amendment of list of technical aids**

The following criteria shall be taken into account upon entry of a technical aid in the list of technical aids or deletion of a technical aid from the list of technical aids:

- 1) medically justified reason for the use of the technical aid and existence of alternative technical aids;
- 2) conformity with the financial resources allocated from the state budget for the cost of purchasing and leasing technical aids;
- 3) the cost-effectiveness of the technical aid.

#### **§ 50. Maximum price, limit and own contribution**

(1) Maximum price is the maximum retail price which constitutes as the basis for the assumption of the obligation to pay the fee for a technical aid with the same function and intended purpose entered in the list of technical aids.

(2) Upon sale the calculation of the maximum price shall be based on the selling price of the technical aid which was bought the most in the previous year. Formation of maximum prices shall be based on the principle that one-third of the technical aids for sale would be more expensive than the maximum price and two-thirds of the technical aids for sale would be of equivalent price or less expensive.

(3) Upon lease the calculation of the maximum price shall be based on the formation of the maximum price upon sale specified in subsection (2) of this section. Formation of maximum prices upon lease shall also be based on the service life, frequency of maintenance during service life and costs of maintenance and repair of the technical aid established in the list of technical aids.

(4) Revaluation of maximum prices shall be based on the following:

- 1) sales data of the previous period;
- 2) market price lists for sale, lease and maintenance;
- 3) own contribution of the user of the technical aid.

(5) Information on the maximum prices in force shall be available to the user of a technical aid upon submission of an application.

(6) Limit is a percentage of the obligation to pay the fee assumed from an entitled person which is calculated on the basis of the retail price of the technical aid or the maximum price of the technical aid if the retail price exceeds the maximum price.

(7) Limits shall be established on the basis of the following criteria:

- 1) probability of aggravation of disability or need for assistance;
- 2) relief of difficulties in coping caused by a disability or need for assistance, and other humane considerations;
- 3) conformity with the financial resources allocated for technical aids.

(8) The following exceptions shall apply in respect of the limits established in the list of technical aids:

- 1) the limit of 50 per cent in the case of a person of up to 18 years of age on the basis of a certificate of a medical specialist providing specialised medical care;
- 2) the limit of 90 per cent in the case of a person of up to 18 years of age who has been established to have a disability within the meaning of the Social Benefits for Disabled Persons Act or whose decrease of auditory ability is 30 decibels and more;
- 3) the limit of 90 per cent in the case of a person of up to 26 years of age who is enrolled in a basic school, upper secondary school, vocational educational institution, institution of professional higher education or university and who complies with the provisions of clause 47 (1) 2) of this Act or clause (2) 4) of the same section;
- 4) the limit pursuant to the list established in subsection 48 (2) of this Act in the case of a person of 16–17 years of age who has been established to have partial or no work ability on the basis of the Work Ability Allowance Act.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(9) Own contribution of a person is the difference between the cost of the technical aid and the amount of the state participation, but not less than 7 euros. At the request of a person, the Social Insurance Board may, as an exception, reduce the own contribution for the technical aid to 5 per cent of the total cost of the technical aid if:

- 1) the person is unable to pay own contribution due to his or her financial situation;
- 2) the person incurs additional significant expenses due to acquisition of the technical aid;
- 3) the person is unable to pay own contribution in full in other justified cases.

(10) The specific conditions, cases and procedure for reducing own contribution for technical aids shall be established by a regulation of the minister responsible for the area.

(11) The provisions of subsection (9) of this section shall not apply in respect of products for skin protection and skin cleaning, urine diverters, urine collectors and assistive products for absorbing urine and upon lease of technical aids.

### **Subdivision 3**

## **Application for and Deciding on Assumption of Obligation to Pay Fee and Waiting List for Technical Aid**

#### **§ 51. Application for assumption of obligation to pay fee**

(1) In order to apply for the assumption of the obligation to pay the fee, a person specified in clause 47 (1) 2) and clauses 47 (2) 1)–3) of this Act shall submit an application to the Social Insurance Board. In the case of applying for the first time or applying for the exceptions specified in subsection 47 (7) and subsection 50 (9) of this Act, all the persons specified in subsections 47 (1) and (2) of this Act shall submit an application.

(2) The list of information included in the application specified in subsection (1) of this section and the documents to be appended thereto shall be established by a regulation of the minister responsible for the area.

(3) Upon deciding on the assumption of the obligation to pay the fee for a technical aid, the Social Insurance Board has the right to obtain from the Estonian Unemployment Insurance Fund information on whether the person specified in clause 47 (1) 2) of this Act has been provided special aids and equipment. If a person applies for the assumption of the obligation to pay the fee as an exception, the Social Insurance Board has the right to make inquiries and receive data from other state or local government databases.

(4) In the case a person specified in subsections 47 (1) and (2) of this Act contacts a seller or lessor of a technical aid together with the documents required for the purchase or lease of the technical aid, it shall be deemed to be equal to the submission of an application for the assumption of the obligation to pay the fee.

#### **§ 52. Deciding on assumption of obligation to pay fee**

(1) The Social Insurance Board shall decide on the assumption of the obligation to pay the fee within 30 calendar days from the submission of an application and required documents.

(2) In the cases specified in subsection 51 (4) of this Act, the state shall assume the obligation to pay the fee after the completion of the electronic technical aid card by the seller or lessor of the technical aid.  
[RT I, 30.12.2015, 5 - entry into force 01.01.2018]

(3) The composition of data on electronic technical aid cards shall be established by a regulation of the minister responsible for the area.

#### **§ 53. Waiting list for technical aid**

(1) If there are no sufficient funds in the state budget, the Social Insurance Board shall enter an entitled person in the waiting list for the assumption of the obligation to pay the fee.

(2) The Social Insurance Board shall notify the person when his or her turn arrives. Priority shall be given to persons specified in clauses 47 (1) 1) and 2) of this Act.

(3) An entitled person shall lose the right to the assumption of the obligation to pay the fee if the person does not contact a seller or lessor of the technical aid for entry into a contract for the purchase or lease of the technical aid within 60 calendar days from the delivery of the decision specified in § 52 of this Act or the notice specified in subsection (2) of this section.

(4) The provisions of subsection (3) of this section shall not apply to the sale of technical aids for which a quantitative limit per month has been established.

(5) The Social Insurance Board has the right to distribute the state budget funds differently by ISO codes of technical aids.

### **Subdivision 4**

# Contract for Assumption of Obligation to Pay Fee

## § 54. Contract for assumption of obligation to pay fee

(1) A contract for the assumption of obligation to pay the fee is an agreement by which the Social Insurance Board and the seller or lessor of a technical aid agree on the procedure under which the Social Insurance Board assumes from the entitled person the obligation to pay the fee.

(2) The Social Insurance Board shall enter into a contract with the seller or lessor of a technical aid who complies with the requirements provided for in § 55 of this Act.

(3) The Social Insurance Board shall verify the absence of tax arrears before entry into a contract. If it becomes evident that the seller or lessor of the technical aid has tax arrears, the Social Insurance Board may refuse to enter into the contract.

(4) The Social Insurance Board shall enter into a contract for a term of up to three years, but not for less than one year.

## Subdivision 5 Requirements upon Sale or Lease of Technical Aid

### § 55. Requirements for seller or lessor of technical aid

(1) A seller or lessor of a technical aid who wishes to enter into a contract specified in § 54 of this Act or who has a contract in force with the Social Insurance Board pursuant to § 54 of this Act and who sells or leases technical aids for which the obligation to pay is assumed by the state shall:

- 1) ensure the presence of employees who comply with the requirements provided for in subsection (2) of this section in every sales facility of the undertaking;
- 2) ensure the capability necessary for the maintenance of all technical aids sold and leased in compliance with the requirements;
- 3) ensure upon delivery of the technical aid training of the entitled person in the use of the technical aid at least to the extent established in subsection (3) of this section;
- 4) ensure that the place for the provision of the service complies with fire safety and health protection requirements;
- 5) ensure access to the place for the provision of the service in compliance with the requirements established on the basis of subsection 11 (4) of the Building Code;  
[RT I, 30.12.2015, 5 - entry into force 01.01.2018]
- 6) ensure processing of sensitive personal data pursuant to the procedure established by the Personal Data Protection Act;
- 7) ensure accessibility of the information concerning the prices and maximum prices of technical aids sold and leased;
- 8) forward information to the Social Insurance Board concerning the technical aids sold and leased;
- 9) have established an internal procedure for the submission of complaints.

(2) The seller or lessor of a technical aid shall ensure the presence of at least one specialist at every sales facility of the undertaking who has been awarded the profession of an assistive technology specialist on the basis of the Professions Act.

[RT I, 30.12.2015, 5 - entry into force 01.01.2018]

(3) The specific procedure for and scope of the training in the use of a technical aid shall be established by a regulation of the minister responsible for the area.

(4) A seller or lessor of a technical aid shall ensure during the term of the contract specified in § 54 of this Act that the Medical Devices and Appliances Database established on the basis of § 29 of the Medical Devices Act shall contain the following information concerning the technical aids provided by the seller or lessor:

- 1) retail prices and leasing prices;
- 2) the contact details of the place for the provision of the service;
- 3) descriptions of technical aids.

(5) A person whose obligation to pay the fee was assumed by the state and who is the user of the technical aid at the end of the service life has a preferential right to purchase or continue leasing the technical aid.

(6) After the end of the service life of a technical aid, the seller or lessor of the technical aid shall ensure that the technical aid can be returned free of charge.

## Division 2



# **Assumption of Obligation to Pay Fee for Social Rehabilitation Service**

## **Subdivision 1 Right to Apply for Assumption of Obligation to Pay Fee for Social Rehabilitation Service**

### **§ 56. Assumption of obligation to pay fee for social rehabilitation service**

(1) The state shall assume from an entitled person the obligation to pay the fee for the social rehabilitation service, provided that:

- 1) the entitled person and the provider of social rehabilitation service agree on the provision of the social rehabilitation service which complies with the requirements provided for in this Division;
- 2) the provider of the social rehabilitation service and the state have entered into a contract specified in § 65 of this Act.

(2) The state shall assume the obligation to pay the fee on the basis of a decision specified in § 63 of this Act for up to two years.

(3) The social rehabilitation service is a set of rehabilitation services provided on the basis of an activity plan, rehabilitation plan or rehabilitation programme prepared upon identification of the need for the service or for the purposes specified in subsection 62 (2) of this Act.

### **§ 57. List of rehabilitation services**

The list and prices of services provided under the social rehabilitation service for which the state assumes the obligation to pay the fee shall be established by a regulation of the minister responsible for the area.

### **§ 58. Amount of fee for social rehabilitation service assumed**

The maximum amount of the fee for the social rehabilitation service which is assumed per year and the procedure for the calculation of the fee shall be established by a regulation of the minister responsible for the area.

### **§ 59. Entitled persons**

(1) The following persons have the right to apply for the assumption of the obligation to pay the fee:

- 1) persons of up to 16 years of age with a disability within the meaning of § 2 of the Social Benefits for Disabled Persons Act;
- 2) persons specified in subsections 1 (2) and (3) of the Juvenile Sanctions Act;
- 3) persons of working age who have a disability within the meaning of § 2 of the Social Benefits for Disabled Persons Act or who have been declared permanently incapacitated for work on the basis of the State Pension Insurance Act or whose category of disability has been determined for an unspecified term on the basis of the State Allowances Act or who have been established to have partial work ability on the basis of the Work Ability Allowance Act and whose need for the social rehabilitation service has been identified;  
[RT I, 30.12.2015, 5 - entry into force 01.07.2016]
- 4) persons of working age with no work ability whose need for the social rehabilitation service has been identified;  
[RT I, 30.12.2015, 5 - entry into force 01.07.2016]
- 5) persons of pensionable age provided for in § 7 of the State Pension Insurance Act who have a disability within the meaning of § 2 of the Social Benefits for Disabled Persons Act and whose need for the social rehabilitation service has been identified;
- 6) persons who receive early retirement pension provided for in § 9 of the State Pension Insurance Act who have a disability within the meaning of § 2 of the Social Benefits for Disabled Persons Act and whose need for the social rehabilitation service has been identified;
- 7) persons who receive the allowance of a rescue servant waiting for the old-age pension provided for in § 19 of the Rescue Service Act who have a disability within the meaning of § 2 of the Social Benefits for Disabled Persons Act and whose need for the social rehabilitation service has been identified;
- 8) persons specified in § 2<sup>1</sup> of the Social Benefits for Disabled Persons Act.

(2) For the purposes of this Subdivision, a person of working age is a person between the age of 16 and the pensionable age who does not receive an early retirement pension or the allowance of a rescue servant waiting for old-age pension.

(3) A person specified in clause (1) 3) of this section has the right to apply for the assumption of the obligation to pay the fee if:

- 1) the person is not registered as unemployed on the basis of the Labour Market Services and Benefits Act or
- 2) the person is not engaged in an activity specified in clauses 6 (5) 3)–5<sup>1</sup>) of the Labour Market Services and Benefits Act and is not acquiring basic, general secondary, vocational or higher education.

#### **§ 60. Right to receive compensation for travel and accommodation expenses**

(1) An entitled person and, if necessary, a person who accompanies the person, whose residence is outside of the local authority where the social rehabilitation service is provided, shall be compensated for the expenses incurred while travelling to the place of provision of the service and back. An entitled person and, if necessary, a person who accompanies the entitled person under 16 years of age shall be compensated for accommodation expenses during the receipt of the service.

(2) If the social rehabilitation service must be provided in the daily environment of the entitled person, the provider of the social rehabilitation service shall be compensated for the travel expenses incurred while travelling from the place of provision of the service to the location of the entitled person and back.

(3) Upon accommodation under the social rehabilitation service, the provider of the social rehabilitation service shall ensure accommodation in an environment which complies with the following:

- 1) the requirements for hospitals;
- 2) at least the requirements for visitor's apartments included in the requirements for accommodation requirements established on the basis of subsection 19 (4) of the Tourism Act or
- 3) the health protection requirements for social welfare institutions established on the basis of the Public Health Act.

(4) [Repealed - RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(5) The maximum travel and accommodation expenses and the conditions and procedure for compensation of travel and accommodation expenses of an entitled person and a person who is accompanying an entitled person per calendar year shall be established by a regulation of the minister responsible for the area.  
[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

## **Subdivision 2 Application for and Deciding on Assumption of Obligation to Pay Fee**

#### **§ 61. Application for assumption of obligation to pay fee**

(1) In order to apply for the assumption of the obligation to pay the fee, a person specified in § 59 of this Act, except a person specified in clauses (1) 2) and 8) of the same section, shall submit an application to the Social Insurance Board.

(2) The list of information included in the application specified in subsection (1) of this section and the documents to be appended thereto shall be established by a regulation of the minister responsible for the area.

#### **§ 62. Identification of need for social rehabilitation service**

(1) The Social Insurance Board shall identify the need of the persons specified in clauses 59 (1) 3)–7) of this Act for the social rehabilitation service on the basis of the following:

- 1) purposes under which the provision of the social rehabilitation service is justified;
- 2) the ability to cope;
- 3) the operational capacity;
- 4) the ability to participate;
- 5) the state of health;
- 6) information concerning the labour market services provided by the Estonian Unemployment Insurance Fund.

(2) There is no need to provide the social rehabilitation service to a person specified in clauses 59 (1) 3)–7) of this Act if the social rehabilitation service cannot be provided for at least one of the following purposes:

- 1) in everyday life to increase motivation and readiness for participation in the activities of the community in accordance with the person's abilities, develop cognitive and physical abilities and teach and develop everyday skills as a result of which the person is living as independently as possible;
- 2) in studying to offer support necessary in the study process as a result of which the person acquires education in accordance with his or her abilities or additional skills necessary for work;
- 3) in communication and leisure to increase self-awareness, develop self-regulation, communication and co-operation skills as a result of which the person participates in social life in accordance to his or her abilities;
- 4) in development of prerequisites for work ability to develop the readiness of the person to commence employment in accordance with his or her abilities.

### **§ 63. Deciding on assumption of obligation to pay fee**

(1) The Social Insurance Board shall decide on the assumption of the obligation to pay the fee in the case of a person specified in clauses 59 (1) 1), 2) and 8) of this Act within ten working days and in the case of a person specified in clauses 3)–7) of the same subsection within 40 working days as of the receipt of the application.

(2) Upon deciding on the assumption of the obligation to pay the fee for the social rehabilitation service, an employee of the Social Insurance Board has the right to receive the following:

1) from the Estonian Unemployment Insurance Fund the expert opinion provided upon assessment of work ability and information concerning registration of the person as unemployed and provision of coaching for working life, work practice, career counselling, working with support person, special aids and equipment and occupational rehabilitation service to the person;

[RT I, 30.12.2015, 5 - entry into force 01.07.2016]

2) in the case of establishment of a disability the opinion of a person who has completed medical training concerning the degree of severity of the disability and the information concerning the decision on determination of the degree of severity of the disability;

3) in the case of establishment of incapacity for work the opinion of a person who has completed medical training concerning the percentage of loss of capacity for work and the information concerning the decision on the establishment of incapacity for work.

(3) A person for whom the right to receive the occupational rehabilitation service pursuant to § 23<sup>1</sup> of the Labour Market Services and Benefits Act arises during the receipt of the social rehabilitation service shall have the right to receive the social rehabilitation service to which he or she has been referred to.

### **§ 64. Rehabilitation waiting list**

(1) If there are no sufficient funds in the state budget, the Social Insurance Board shall enter an entitled person in the waiting list for the assumption of the obligation to pay the fee. The waiting list for the assumption of the obligation to pay the fee shall not be longer than one year.

(2) The Social Insurance Board shall maintain a separate rehabilitation waiting list for persons of up to 15 years of age and for persons not less than 16 years of age.

(3) A person specified in clauses 59 (1) 2) and 8) of this Act has the right to apply for the assumption of the obligation to pay the fee outside the rehabilitation waiting list.

(4) The Social Insurance Board shall notify the entitled person when his or her turn arrives according to the rehabilitation waiting list.

(5) An entitled person shall lose the right to the assumption of the obligation to pay the fee if the person does not contact a provider of social rehabilitation service for entry into a contract for the provision of the social rehabilitation service within 60 calendar days as of the communication of the decision specified in subsection 63 (1) of this Act or the notice specified in subsection (4) of this section.

## **Subdivision 3 Contract for Assumption of Obligation to Pay Fee**

### **§ 65. Contract for assumption of obligation to pay fee**

(1) A contract for the assumption of the obligation to pay the fee is an agreement by which the Social Insurance Board and a provider of social rehabilitation service agree on the procedure under which the Social Insurance Board assumes from the entitled person the obligation to pay the fee.

(2) The Social Insurance Board shall enter into a contract with a provider of social rehabilitation service who holds an activity licence.

(3) The Social Insurance Board shall verify the absence of tax arrears before entry into a contract. If it becomes evident that the provider of social rehabilitation service has tax arrears, the Social Insurance Board may refuse to enter into the contract.

(4) The Social Insurance Board shall enter into a contract for a term of up to five years.

## **Subdivision 4**

# Requirements for Provision of Social Rehabilitation Service

## § 66. Requirements for provider of social rehabilitation service

A provider of social rehabilitation service who provides the social rehabilitation service for which the state assumes the obligation to pay the fee shall:

- 1) have formed a rehabilitation team in compliance with the requirements provided for in § 68 of this Act;
- 2) ensure that the person providing the social rehabilitation service directly complies with the requirements provided for in § 68 of this Act;
- 3) apply a certified quality management system which adheres to at least the following principles: accessibility to information, person-centeredness, orientation towards outcomes, co-operation, needs-based approach, involvement of the person, empowering nature of the service, guaranteed work organisation and management quality of the organisation;  
[RT I, 30.12.2015, 5 - entry into force 01.07.2018]
- 4) ensure that the place for the provision of the service complies with fire safety and health protection requirements;
- 5) ensure access to the place for the provision of the service in compliance with the requirements established on the basis of subsection 11 (4) of the Building Code;
- 6) ensure processing of sensitive personal data pursuant to the procedure established by the Personal Data Protection Act;
- 7) have established an internal procedure for the settlement of complaints;
- 8) organise the provision of the service in such a way that the person is able to receive all the services provided under the social rehabilitation service necessary for the person at the same service provider.

## § 67. Requirements for social rehabilitation service

If the obligation to pay the fee for the social rehabilitation service is assumed by the state, it is required to do the following in the course of the provision of the social rehabilitation service:

- 1) to prepare a rehabilitation plan for the entitled person or amend the activity plan and rehabilitation plan or programme prepared upon identification of the need for the service or, on the basis of the activity plan prepared upon identification of the need for the service, provide rehabilitation services in order to achieve the objective of social rehabilitation;
- 2) to introduce to the entitled person his or her rights and obligations, the procedure for the submission of complaints, the procedure for the provision of the social rehabilitation service and the documents prepared in the course thereof;
- 3) to give a written assessment concerning the achievement of or the reasons for failure to achieve the objective of social rehabilitation of the entitled person and submit it to the Social Insurance Board together with the last invoice at the latest;
- 4) to give a written assessment in order to justify the amendment of the rehabilitation plan or rehabilitation programme if the rehabilitation plan or rehabilitation programme has been amended in the course of the provision of the social rehabilitation service.

## § 68. Requirements for rehabilitation team

(1) A rehabilitation team shall comprise at least three different specialists of whom one has been awarded the profession of a social worker on the basis of the Professions Act, acquired state-recognised higher education in social work or qualifications equal thereto.

(2) The remaining specialists of a rehabilitation team shall have the following:

- 1) a profession in the area of psychology awarded on the basis of the Professions Act, state-recognised higher education in psychology or qualifications equal thereto;
- 2) the profession of a physiotherapist awarded on the basis of the Professions Act, state-recognised higher education in physiotherapy or qualifications equal thereto;
- 3) the profession of a speech therapist awarded on the basis of the Professions Act, state-recognised higher education in speech therapy or qualifications equal thereto;
- 4) state-recognised higher education in medical science or qualifications equal thereto, and are registered as health care professionals with the Health Board;
- 5) state-recognised secondary specialized or higher education in nursing or qualifications equal thereto, and are registered as health care professionals with the Health Board;
- 6) the profession of an occupational therapist awarded on the basis of the Professions Act, state-recognised higher education in occupational therapy or qualifications equal thereto;
- 7) the profession of a creative arts therapist awarded on the basis of the Professions Act, state-recognised higher education in art therapy (creative arts therapy) or qualifications equal thereto or
- 8) the profession of a special education teacher awarded on the basis of the Professions Act, state-recognised higher education in special needs education or qualifications equal thereto.

(3) Persons who have acquired foreign professional qualifications may also be specialists of a rehabilitation team if their professional qualifications have been recognised in accordance with the Recognition of Foreign Professional Qualifications Act. The competent authority provided for in subsection 7 (2) of the Recognition of Foreign Professional Qualifications Act is the Social Insurance Board.

[RT I, 30.12.2015, 5 - entry into force 18.01.2016]

(4) A peer counsellor may be included in a rehabilitation team who has experienced a disability, health damage or special needs similar to the disability, health damage or special needs of the entitled person and who has undergone the initial training of a peer counsellor established by a regulation of the minister responsible for the area.

(5) The study programme and content of the initial training of a peer counsellor shall be established by a regulation of the minister responsible for the area.

(6) At least one of the specialists of a rehabilitation team shall have undergone training in rehabilitation established by a regulation of the minister responsible for the area or, upon acquisition of a speciality specified in subsection (2) of this section, completed the subjects specified in the modules of the study programme of the training in rehabilitation.

(7) The study programme and content of the training in rehabilitation shall be established by a regulation of the minister responsible for the area.

### **§ 69. Preparation of rehabilitation plan and rehabilitation programme**

(1) A rehabilitation plan is a document prepared by the rehabilitation team with the participation of the entitled person and his or her legal representative which reflects an evaluation of the operational capacity of the person, objective of social rehabilitation, rehabilitation services necessary for the achievement of the objective and assessment concerning the achievement of the objective of social rehabilitation.

(2) A rehabilitation programme is a document prepared by the rehabilitation team for a determined target group which reflects the objective of social rehabilitation, rehabilitation services necessary for the achievement of the objective and the volume of the services, and which sets out the period during which the programme is applied to entitled persons.

(3) Upon preparation of a rehabilitation plan, the rehabilitation team shall consist of the following:

- 1) a social worker;
- 2) a physiotherapist or occupational therapist if the operational capacity of a person with mobility disorder or mobility impairment is evaluated;
- 3) a special education teacher, speech therapist or occupational therapist if the operational capacity of a person with visual, hearing or speech impairment or intellectual disability is evaluated;
- 4) a special education teacher if the operational capacity of a minor is evaluated;
- 5) a psychiatrist or psychologist if the operational capacity of a person referred by a juvenile committee is evaluated;
- 6) a psychiatrist and occupational therapist if the operational capacity of a person not less than 16 years of age with a severe, profound or permanent mental disorder is evaluated;
- 7) a psychiatrist and occupational therapist if the need for special care services of a person not less than 16 years of age with a mental disorder is evaluated.

(4) Upon preparation and implementation of a rehabilitation programme, the provisions of subsection (3) of this section concerning a rehabilitation team shall apply.

(5) A rehabilitation plan and rehabilitation programme may be amended in the course of the provision of the social rehabilitation service if it is necessary for achievement of the objective of rehabilitation.

(6) The list of information contained in the activity plan, rehabilitation plan and rehabilitation programme prepared upon identification of the need for the service shall be established by a regulation of the minister responsible for the area.

(7) In order to assess the compliance of a rehabilitation programme with the criteria, the minister responsible for the area shall form an advisory committee for assessing rehabilitation programmes at the Social Insurance Board whose opinion is not binding on the Social Insurance Board upon approval of the rehabilitation programme.

(8) The advisory committee for assessing rehabilitation programmes shall include a representative of the Social Insurance Board, the Ministry of Social Affairs, the Estonian Unemployment Insurance Fund, a state agency administered by the Ministry of Social Affairs and an organisation representing the interests of disabled persons. The advisory committee for assessing rehabilitation programmes shall involve at least two specialist experts in the assessment of every programme.

(9) The Social Insurance Board shall assess a rehabilitation programme on the basis of the following criteria:  
1) the rehabilitation programme and the objectives established and activities planned therein correspond to the needs of the target group;  
2) the rehabilitation programme complies with modern rehabilitation principles and is evidence-based;

- 3) the results planned in the rehabilitation programme are measurable and increase the active participation of the person in social life and the results planned and achieved in the course of previous programmes are included;
- 4) the rehabilitation programme is planned cost-effectively and the budget thereof is transparent.

(10) The specific assessment criteria for rehabilitation programmes shall be established by a regulation of the minister responsible for the area.

(11) The Social Insurance Board shall approve a rehabilitation programme if the criteria specified in subsection (9) of this section are fulfilled.

## **Division 3 Special Care Services**

### **Subdivision 1 General Provisions**

#### **§ 70. Application for special care services and making of decisions**

(1) A person shall submit an application to the Social Insurance Board in order to receive a special care service.

(2) The Social Insurance Board shall assess the need of a person for a special care service based on the following:

- 1) objectives under which the provision of the special care service is justified;
- 2) the ability to cope;
- 3) the operational capacity;
- 4) the ability to participate;
- 5) the state of health;
- 6) information concerning the labour market services provided by the Estonian Unemployment Insurance Fund.

(3) If a person has been referred to receive the 24-hour special care service on the basis of a court ruling, the legal representative of the person or the local authority of the residence of the person shall immediately submit the court ruling on placing the person in a social welfare institution without his or her consent to the Social Insurance Board.

(4) The Social Insurance Board shall decide on the provision or refusal to provide special care services, except in the case of a person placed in a social welfare institution by a court ruling, within 15 working days as of the receipt of the application and all the required documents.

(5) The Social Insurance Board has the right to refer a person to a provider of the social rehabilitation service specified in subsection 65 (2) of this Act for preparation of a rehabilitation plan to assess the need for a special care service.

(6) The maximum term for the provision of a special care service, during which a person has the right to receive the service, may be equal to the term set upon identification of the need for the special care service but, as a general rule, shall not exceed five years. In exceptional cases, a term of up to ten years may be set.

(7) The content of information to be presented in an application and the list of required documents shall be established by a regulation of the minister responsible for the area.

(8) Upon deciding on the provision of a special care service, the Social Insurance Board has the right to receive from the person and the Estonian Unemployment Insurance Fund information concerning registration of the person as unemployed and provision of coaching for working life, work practice, working with support person and occupational rehabilitation service to the person.

#### **§ 71. Issue of referral decisions**

(1) If an applicant complies with the requirements for persons entitled to receive a service specified in this Division, the Social Insurance Board shall issue a referral decision to the person if:

- 1) there are funds in the state budget for the provision of a special care service to the person;
- 2) the provider of special care services to whom the person wishes to go to receive a special care service has a vacant place.

(2) A referral decision shall set out:

- 1) the name, personal identification code or date of birth and contact details of the person referred to receive a special care service and his or her legal representative, if the legal representative exists;
- 2) the service to which the person is referred;
- 3) the term during which the person is entitled to receive the service;

- 4) the name and contact details of the provider of special care services to whom the person has been referred to for the receipt of the service;
- 5) the objective of the receipt of the service;
- 6) recommended activities for the achievement of the objective;
- 7) recommended minimum frequency of the provision of the service;
- 8) other information related to the provision of the service to the person placed in a social welfare institution by a court ruling.

(3) In a referral decision to the community living service and 24-hour special care service, the Social Insurance Board shall indicate, in addition to the information specified in subsection (2) of this section, that the person is entitled to receive the indicated service if he or she pays the amount of own contribution specified in § 73 of this Act or the amount of own contribution less the deficit in the own contribution the compensation obligation of which has been assumed by the state. A person has the right to receive the service also if a third person assumes the obligation to pay the amount of own contribution and the amount of own contribution of the person is covered to an agreed extent. This subsection does not apply to persons placed in a social welfare institution by a court ruling.

(4) The Social Insurance Board shall issue a referral decision to a person placed in a social welfare institution by a court ruling and the legal representative of the person immediately after entry into force of the court ruling or declaring the court ruling to be subject to execution.

(5) A provider of special care services suitable for a person shall be selected and the date of commencement of the provision of the service shall be agreed upon by the Social Insurance Board, the person entitled to receive the service and the provider of special care services. The Social Insurance Board takes the request of the person placed in a social welfare institution by a court ruling into account in the selection of a service provider if it is possible for the service provider requested by the person to provide the 24-hour special care service to the person during the term indicated in the court ruling.

(6) A person referred to receive a special care service shall turn to the provider of special care services on the date agreed for the provision of the service indicated in the referral decision, but not later than within three days in the case of everyday life support service, employment support service and supported living service and within seven days in the case of community living service and 24-hour special care service as of the agreed date. If a person fails to turn to the service provider within the specified term, he or she no longer has the right to receive the service on the basis of the same referral decision.

(7) A person referred to receive a special care service by a court ruling who is released from coercive treatment or treatment against will shall turn to a provider of special care services on the date agreed for the provision of the service indicated in the referral decision, but not later than within ten days.

(8) If the term agreed upon in the referral decision was allowed to expire with good reason, the Social Insurance Board may, at the request of the person and upon agreement with the provider of special care services, agree upon a new date from which the provision of the special care service shall commence.

(9) A person placed in a social welfare institution by a court ruling shall be placed in the social welfare institution immediately after issue of the referral decision.

(10) If the Social Insurance Board cannot issue a referral decision to a person entitled to receive a special care service pursuant to clause (1) 1) of this section, the Social Insurance Board shall notify the person of the satisfaction of the application and entry of the person in the waiting list in a format which can be reproduced in writing.

(11) If the Social Insurance Board cannot issue a referral decision to a person entitled to receive a special care service pursuant to clause (1) 2) of this section, the Social Insurance Board shall notify the person of the satisfaction of the application, existence of vacant places at another service provider or entry of the person in the waiting list in a format which can be reproduced in writing if the person referred to receive the service is unwilling to receive the service from another provider of special care services.

## **§ 72. Funding of special care services**

(1) Special care services provided to persons entitled to receive special care services shall be financed from the state budget through the budget of the Social Insurance Board, by the persons entitled to receive the community living service or 24-hour special care service and, in the case specified in § 89 of this Act, by the local authority.

(2) The provision of special care services, except the 24-hour special care service, shall not be financed from the state budget to the following persons:

- 1) persons who have attained the pensionable age specified in § 7 of the State Pension Insurance Act and have been diagnosed with dementia and who do not have any other severe, profound or permanent mental disorder in addition to dementia;

2) persons who have a dependency on alcohol or narcotic drugs as the primary mental disorder.

(3) Special care services are financed on the basis of a contract under public law entered into between the service provider and the Social Insurance Board, the invoices submitted by the service provider and the referral decision issued to the person, unless the provider of special care services is a governmental authority or a state authority administered by a governmental authority.

(4) In the case the provider of special care services is a governmental authority or a state authority administered by a governmental authority, the provision of special care services shall be financed from the budget of the area of government of the Ministry of Social Affairs.

(5) The minister responsible for the area shall establish by a regulation:

- 1) the maximum cost of special care services financed from the state budget per person in one calendar month;
- 2) the components of the expenses of special care services which are covered from the state budget within the maximum cost;
- 3) the components of the expenses of own contribution of the community living service and 24-hour special care service by the person.

(6) The maximum cost of the 24-hour special care service per person placed in a social welfare institution by a court ruling in one calendar month shall be established by the state budget for each budgetary year. The established maximum cost shall not be less than the cost in force.

### **§ 73. Own contribution**

(1) A person referred to receive the community living service or 24-hour special care service is required to pay his or her own contribution for catering and accommodation.

(2) If the own contribution of a person is covered from the person's state pension within the meaning of the State Pension Insurance Act, funded pension within the meaning of the Funded Pensions Act, work ability allowance within the meaning of the Work Ability Allowance Act, income subject to social tax within the meaning of the Social Tax Act, income from rent or lease or any other income from delivery of objects to use (hereinafter *income*), at least fifteen per cent of the person's income which would have remained to be used by the person after the payment of the income tax, unemployment insurance premium, contribution to funded pension and support should remain for personal use after the payment of his or her contribution, income tax, unemployment insurance premium, contribution to funded pension and support.  
[RT I, 30.12.2015, 5 - entry into force 01.07.2016]

(3) If the deficit in own contribution is less than 2 euros per calendar month, an amount of the income decreased by the amount of the deficit may be left for personal use.

(4) A person's income subject to social tax specified in subsection (2) of this section which is equal to the basic exemption pursuant to § 23 of the Income Tax Act in a calendar month accounted for shall not be included in the person's income for the purposes of this Division.

(5) The maximum amount of own contribution of a person referred to receive the community living service or 24-hour special care service shall be established by the state budget for each budgetary year.

(6) If, upon agreement with a person referred to receive a special care service, accommodation and catering is offered in conditions better than the conditions determined by the health protection requirements for the community living service and 24-hour special care service established on the basis of the Public Health Act, the provider of special care services may charge a fee from the person which exceeds the maximum fee. The fee shall correspond to the value of the additional benefits.

(7) A person referred to receive a special care service has the right to demand from the service provider accommodation and catering in compliance with the minimum requirements provided for in the health protection requirements established for special care services.

### **§ 74. Covering deficit of own contribution from state budget**

(1) If a person entitled to receive a service does not have sufficient financial resources to pay own contribution taking into account the provisions of subsections 73 (2) and (4) of this Act, the deficit in the maximum amount of own contribution established by the state budget (hereinafter *deficit*) shall be covered by the state budget through the budget of the Social Insurance Board unless the deficit is less than 2 euros per calendar month.

(2) For the deficit to be covered from the state budget, a person shall submit an application to the Social Insurance Board which shall, *inter alia*, set out the projected income of the person and the amount of support to be paid by the person in the calendar month of the submission of the application or in the calendar month preceding the commencement of the receipt of the service, if the application is submitted before the issue of the referral decision, together with all the required documents.

(3) The Social Insurance Board shall cover the deficit from the state budget on the basis of the income of the person entitled to receive the service in the calendar month of the submission of the application from which the



amount of the income tax, unemployment insurance premium, contribution to funded pension and support shall be deducted, taking into account the provisions of subsections 73 (2) and (3).

(4) If an application for covering the deficit is submitted before the issue of a referral decision, the projected income of the person and the amount of support to be paid by the person in the calendar month preceding the commencement of the receipt of the service shall be taken into account.

(5) The deficit means the difference between the maximum amount of a person's own contribution and the person's income from which income tax pursuant to the Income Tax Act, unemployment insurance premium, contribution to funded pension, support to be paid and fifteen per cent of the person's income which remains to be used by the person after the payment of the taxes have been deducted.

(6) If an application for covering the deficit is submitted before the issue of a referral decision, the Social Insurance Board shall make a decision on covering the deficit from the state budget by the time of issue of the referral decision. If the application is submitted to the Social insurance Board less than ten working days before the issue of the referral decision or after the issue of the referral decision, the Social Insurance Board shall make a decision on covering the deficit from the state budget within ten working days as of the receipt of the application and all the required documents.

(7) The decision specified in subsection (6) of this section shall be communicated also to the service provider at whom the person wishes to receive a special care service.

(8) The Social Insurance Board shall pay the deficit to the provider of community living service or 24-hour special care service at whom the person receives the special care service each month for the previous calendar month on the basis of the referral decision and the invoices submitted by the service provider.

(9) If the person's income changes or the obligation to pay support changes after submission of the application specified in subsection (2) of this section or other circumstances arise as a result of which the deficit changes, the person for whom the deficit is covered or his or her legal representative, if the representative exists, is required to notify the Social Insurance Board thereof immediately in writing.

(10) The list of information to be presented in the application specified in subsection (2) of this section and the list of required documents shall be established by a regulation of the minister responsible for the area.

#### **§ 75. Covering deficit for person placed in social welfare institution by court ruling**

(1) The provisions of § 74 of this Act apply to covering the deficit for a person placed in a social welfare institution by a court ruling, taking account of the specifications provided for in this section.

(2) After entry into force of a court ruling or declaring a court ruling concerning placement of a person in a social welfare institution to be subject to immediate execution, the Social Insurance Board shall ascertain the financial viability of the person placed in a social welfare institution by a court ruling to pay the own contribution provided for in § 73 of this Act based on the provisions of subsections 74 (3)–(6) of this Act and shall make a decision which shall set out the obligation of the person to pay his or her own contribution. If a person does not have sufficient financial resources to pay for own contribution, taking into account the provisions of §§ 73 and 74 of this Act, the Social Insurance Board shall make a decision concerning covering the deficit from the state budget.

(3) The Social Insurance Board shall make the decisions specified in subsection (2) of this section within ten working days after the issue of the referral decision specified in subsection 71 (4) of this Act.

#### **§ 76. Waiting lists for special care services**

(1) In the cases provided for in subsection 71 (10) of this Act, the Social Insurance Board shall enter a person entitled to receive a special care service in the waiting list for the receipt of the service as of the date of making the decision on provision of the special care service and shall prepare a corresponding list.

(2) The procedure and requirements for making waiting lists for special care services shall be established by a regulation of the minister responsible for the area.

(3) The Social Insurance Board may enter a person of at least 16 years of age in the waiting list for a special care service if the person complies with the requirements for persons entitled to receive the special care service.

(4) A person who has been entered in the waiting list for the provision of the 24-hour special care service but whose rehabilitation plan has expired by the time he or she gets the opportunity to receive the service may receive the special care service on the basis of the activity plan planned in the rehabilitation plan until preparation of a new rehabilitation plan but not longer than during one year.

(5) A person entered in the waiting list for a special care service is required to commence the use of the service within three months as of the date of making the decision on the provision of the service if there are funds in the state budget for the provision of the special care service to the person and the provider of special care services to whom the person wishes to go to receive the special care service has a vacant place. If the person refuses, without a good reason, to receive the special care service, the person shall be deleted from the waiting list.

#### **§ 77. Entry into contract under public law for provision of special care services**

(1) The Social Insurance Board shall, by a contract under public law, authorise one or several sole proprietors, legal persons or local authorities acting or wishing to act as a provider of special care services to provide special care services.

(2) The provisions of the Administrative Co-operation Act, except the provisions of § 5 of the Administrative Co-operation Act, apply to the entry into a contract under public law specified in subsection (1) of this section, taking account of the specifications provided for in this Act.

(3) The Social Insurance Board shall publish a notice concerning an intention to enter into a contract under public law on the website of the Social Insurance Board. If necessary, the Social Insurance Board may publish additional notices concerning an intention to enter into a contract under public law during a calendar year.

(4) A service provider shall submit a written application for entry into a contract under public law to the Social Insurance Board within one month after the publication of the notice specified in subsection (3) of this section.

(5) The Social Insurance Board shall enter into a contract under public law with service providers who hold an activity licence for the provision of a service specified in this Division within three months after the proclamation of the annual State Budget Act. If the Social Insurance Board publishes an additional notice concerning an intention to enter into a contract during a calendar year, the Social Insurance Board shall enter into a contract with the service providers who hold an activity licence for the provision of a service specified in this Division within three months after the publication of the notice specified in subsection (3) of this section.

(6) The Social Insurance Board may refuse to enter into a contract under public law with a service provider if the issuer of the activity licence has issued a precept to the service provider due to non-compliance with the requirements provided for in this Act or established on the basis thereof.

#### **§ 78. Contract under public law for provision of special care services**

(1) A service provider has the right to refuse to perform the obligation to provide the community living service or 24-hour special care service arising from a contract under public law if the person entitled to receive the service refuses to enter into a written agreement concerning the payment of own contribution or if the person has failed to pay the own contribution specified in § 73 of this Act in the amount agreed upon for two consecutive calendar months. If another person has assumed the obligation to pay own contribution for the person, the service provider shall not refuse to provide the service. This subsection does not apply to the provision of services to persons placed in a social welfare institution by a court ruling.

(2) The provision of a special care service to a person who has turned to a service provider in order to receive the service shall commence on the date the person turned to the service provider but not earlier than on the date agreed upon in the referral decision.

(3) If a service provider wishes to terminate a contract under public law prematurely, the service provider is required to inform the Social Insurance Board of such intention:

- 1) at least six months before the planned date of the termination of the contract in the case of the provision of the supported living service, community living service and 24-hour special care service;
- 2) at least three months before the planned date of the termination of the contract in the case of the provision of the everyday life support service and employment support service.

#### **§ 79. Reimbursement of expenses to providers of special care services**

(1) By a contract under public law the Social Insurance Board undertakes to reimburse a provider of special care services for the expenses of the provision of a special care service each month on the basis of the submitted invoices to the extent indicated in the invoices but not more than in the amount of the maximum cost of the service established on the basis of subsection 72 (5) of this Act, if:

- 1) the service was provided to a person entitled to receive a special care service who turned to the service provider with a referral decision made by the Social Insurance Board;
- 2) the service provided complied with the requirements established by this Act;
- 3) the service was provided by the service provider indicated in the referral decision;
- 4) the service indicated in the referral decision was provided to the person during the term indicated in the referral decision.

(1<sup>1</sup>) In addition to the provisions of subsection (1) of this section, the Social Insurance Board may, on the basis of a contract under public law, reimburse a provider of special care services who provides a service to persons placed in a social welfare institution by a court ruling for the expenses of vacant places for receipt of special care services. Expenses shall be reimbursed each month on the basis of the submitted invoices to the extent

indicated in the invoices but not more than 95 per cent of the maximum cost of the service established on the basis of subsection 72 (5) of this Act. A provider of special care services who provides a service to minors shall be reimbursed not more than 45 per cent of the maximum cost of the service established on the basis of subsection 72 (5) of this Act.

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(2) If a person referred to receive a special care service fails to turn to the service provider during the term for the commencement of the provision of the service provided for in subsections 71 (6) and (7) of this Act, the Social Insurance Board shall pay remuneration to the service provider for the provision of the special care service the person is referred to from the state budget on the basis of a submitted invoice. Remuneration shall be paid at most for three days in the case of everyday life support service, employment support service and supported living service, for seven days in the case of community living service and 24-hour special care service and for ten days in the case of a person who is released from coercive treatment or treatment against will and who is referred to receive a special care service by a court ruling.

(3) The Social Insurance Board shall continue to pay a provider of supported living service, community living service and 24-hour special care service for the provision of the service the person is entitled to receive from the state budget if:

- 1) the person does not use the special care service up to two consecutive months – for the time the person did not use the service, but not more than for two months in a calendar year;
- 2) the person does not use the special care service more than six consecutive months due to the receipt of an in-patient health service – during the time of the receipt of the in-patient health service, but not more than for six months in a calendar year;
- 3) the person does not use the special care service due to the receipt of in-patient treatment for tuberculosis – until the end of receipt of the in-patient treatment for tuberculosis.

(4) In the cases specified in subsections (2) and (3) of this section, the service provider shall be paid 95 per cent of the maximum cost of the service provided to the person established on the basis of subsection 72 (5) of this Act, but not more than in the amount indicated in the invoice.

(5) The specific conditions and procedure for the submission of invoices shall be agreed upon in a contract under public law entered into between the Social Insurance Board and the service provider.

(6) The specific conditions and procedure for the payment of remuneration from the state budget by the Social Insurance Board shall be established by a regulation of the minister responsible for the area.

#### **§ 80. Termination of provision of special care services and notification thereof**

(1) A service provider shall terminate the provision of a special care service based on a referral decision in the case:

- 1) the person does not use the service for more than two consecutive months, except in the case of the provision of an in-patient health service;
- 2) the contract under public law entered into between the service provider and the Social Insurance Board expires and the same parties do not enter into a new contract under public law for the provision of the same special care service or
- 3) the Social Insurance Board revokes a decision specified in subsection 70 (4) of this Act.

(2) The provision of a service to a person placed in a social welfare institution by a court ruling shall be terminated in the case provided for in clause (1) 2) of this section and in the case the court suspends or terminates placing the person in a social welfare institution based on a court ruling or in the case the term for placing the person in a social welfare institution provided for in the court ruling expires.

(3) A person who receives a special care service shall notify the service provider at whom he or she receives the special care service in writing of his or her wish to:

- 1) suspend the receipt of the community living service or 24-hour special care service at the service provider for more than one day;
- 2) terminate the receipt of the service at the service provider prior to the date specified in the referral decision.

(4) If a person fails to use a special care service for more than two consecutive months due to the receipt of an in-patient health service and wishes to receive the service indicated in the referral decision after the receipt of the in-patient health service, the person or his or her legal representative, if the representative exists, shall submit to the Social Insurance Board through the provider of special care services at whom the person received the service indicated in the referral decision a written confirmation concerning the fact that the person received the in-patient health service the previous calendar month by the third day of each calendar month from the second month of the receipt of the in-patient health service until the end of the receipt of the health service.

(5) If a person is not able to submit a written confirmation specified in subsection (4) of this section, the confirmation shall be submitted to the Social Insurance Board by the service provider at whom the person

received the special care service if the service provider is aware that the person received an in-patient health service.

(6) A provider of 24-hour special care service shall notify the Social Insurance Board of the provision of an in-patient health service to a person placed in a social welfare institution by a court ruling by submitting the corresponding written confirmation pursuant to the procedure and by the date provided for in subsection (4) of this section.

(7) A provider of special care services is required to notify the Social Insurance Board of the following persons in writing within three working days after becoming aware of the following circumstances:

- 1) a person who wishes to terminate the use of the special care service before the end of the term indicated in the referral decision;
- 2) a person who has not used the special care service for more than two consecutive months;
- 3) a person who fails to turn to the service provider during the term for the use of the special care service provided for in subsections 71 (6) and (7) of this Act as of the agreed date or
- 4) a person who uses the special care service dies.

#### **§ 81. Change of provider of special care services**

(1) If a person referred to receive a special care service wishes to change the service provider before turning to the provider of special care services or during the receipt of the service, he or she shall submit a written application to the Social Insurance Board which shall set out the service provider to whom the person wishes to turn to for the receipt of the special care service and the date from which the person wishes to receive the service at the new service provider.

(2) The Social Insurance Board shall issue a new referral decision to the person entitled to receive a special care service to the service provider requested by the person, if the service provider provides the service indicated in the decision specified in subsection 70 (4) of this Act and the service provider has a vacant place to offer for the person.

(3) If the service provider requested by the person entitled to receive a special care service does not have a vacant place, the person shall be entered in the waiting list for the requested special care service based on the provisions of § 76 of this Act.

(4) If a person who is placed in a social welfare institution by a court ruling wishes to change the service provider but there is no vacant place at the service provider requested by the person, provision of the special care service shall be continued at the service provider where the person is receiving the special care service until a place becomes vacant at the requested service provider.

(5) If a contract under public law is terminated and the same parties do not enter into a new contract under public law for the provision of the same special care service, the Social Insurance Board shall issue a new referral decision to the person to whom the abovementioned service provider provided the special care service. If there is no vacant place at the service provider requested by the person, the provisions of subsection (3) of this section apply, except in the case of a person placed in a social welfare institution by a court ruling, who shall be placed to receive the special care service at a service provider who has a vacant place.

#### **§ 82. Decision to terminate provision of special care service**

(1) Upon receipt of information that the special care service provided to a person does not correspond to the needs of the person, the Social Insurance Board shall verify whether the person complies with the requirements for persons entitled to receive the special care service and whether the service provided corresponds to the needs of the person. In order to assess the need for the special care service, the Social Insurance Board may refer the person to the preparation of a rehabilitation plan or the amendment of the rehabilitation plan and assessment of the results of the service.

(2) If a person does not comply with the requirements for persons entitled to receive a special care service valid for persons entitled to receive a special care service at the time the decision specified in subsection 70 (4) of this Act is made or the special care service provided to the person does not correspond to his or her needs, the Social Insurance Board shall declare the decision specified in subsection 70 (4) of this Act invalid (hereinafter *decision to terminate the provision of a special care service*), except in the case of a person placed in a social welfare institution by a court ruling.

(3) In case of the supported living service, community living service and 24-hour special care service, a decision to terminate the provision of the special care service enters into force on the date the person terminates the use of the service, but not later than six months as of the date of notification of the person who receives the special care service of the decision.

(4) A decision to terminate the provision of a special care service for a person who uses the supported living service, community living service or 24-hour special care service enters into force on the date when provision of the special care service to a person, in the waiting list for which the person was entered, is commenced, if the person:

- 1) has been referred again to receive the supported living service, community living service or 24-hour special care service;
- 2) has been entered in the waiting list for the service requested by the person six months after notification of the person of the decision to declare the decision invalid.

### **§ 83. Requirements for providers of special care services**

- (1) A provider of special care services is required to:
  - 1) notify upon the commencement of the provision of a special care service to a person, orally or in writing, the person and his or her legal representative, if the representative exists, of its rules of procedure and the rights of the person and restrictions during the receipt of the service;
  - 2) introduce the premises required for the provision of the service to the person upon commencement of the provision of the special care service, if the service is provided in the premises of the service provider;
  - 3) ensure collection and preservation of the information and documents concerning the person receiving the special care service and related to the provision of the service;
  - 4) prepare in writing the procedure for settlement of complaints of the institution which sets out the internal and external methods of submission and settlement of complaints and contact details of other relevant institutions to turn to, and explain this to the person and his or her legal representative;
  - 5) ensure that the person providing the service directly who is in a contractual relationship therewith complies with the requirements provided for in § 86 of this Act;
  - 6) prepare an activity plan for the person referred to receive the special care service;
  - 7) work actively with the person during the provision of the special care service by involving him or her in the performance of the activities provided for as the content of the service in accordance with the person's abilities and needs;
  - 8) notify the person, his or her legal representative and the Social Insurance Board of the arrival of the due date of the termination of the provision of the special care service, the need for the continuation of the provision of the service and expiry of the contract under public law or intention to terminate the contract under public law prematurely at least three months before the due date of the termination of the provision of the service in the case of the everyday life support service and employment support service and at least six months before the due date of the termination of the provision of the service in the case of the supported living service, community living service and 24-hour special care service;
  - 9) notify, at the earliest opportunity, the person receiving the service, the Social Insurance Board and the legal representative of the person, if the representative exists, of a doubt arisen during the provision of the special care service concerning the fact that the service provided to the person does not correspond to the person's needs;
  - 10) notify the person referred to receive the community living service or 24-hour special care service, who has difficulties paying his or her contribution, of the possibility to cover the deficit in own contribution from the state budget;
  - 11) assess, upon the termination of the provision of the service, in written form the achievement of the objective established for the person in the referral decision and submit the assessment and the explanation concerning the achievement of the objective or the reasons for the failure to achieve the objective to the Social Insurance Board together with the last invoice at the latest;
  - 12) prepare statistical reports pursuant to the procedure established on the basis of § 11 of this Act and submit these to the county governor of the place of business;
  - 13) ensure the provision of special care services, the compliance of the premises and the area necessary for the provision of services with the health protection requirements for special care services established on the basis of the Public Health Act, if services are provided in the area or in the premises in the ownership or use of the service provider.

(2) The list of documents to be collected and preserved by providers of special care services shall be established by a regulation of the minister responsible for the area.

### **§ 84. Documents of persons receiving special care services**

- (1) A person referred to receive a special care service or his or her legal representative shall submit a copy of the rehabilitation plan to the service provider specified in the referral decision to receive the service.
- (2) A person referred to receive the supported living service, community living service or 24-hour special care service is required to submit, in addition to the rehabilitation plan, a certificate concerning his or her state of health, which shall set out the occurrence of somatic illnesses which require treatment and also, at the request of the service provider, the occurrence of infectious diseases.
- (3) A copy of a rehabilitation plan need not be submitted in the following cases:
  - 1) a person has been referred to receive the everyday life support service, employment support service, supported living service or community living service and no rehabilitation plan has been prepared for him or her;
  - 2) a person has been placed in a social welfare institution on the basis of a court ruling and no rehabilitation plan has been prepared for him or her.

(4) Upon the termination of a special care service, the service provider shall, at the request of the person who received the service or his or her legal representative, return the documents concerning the person collected and preserved during the provision of the service, including the activity plan prepared for the person.

#### **§ 85. Activity plan**

(1) In order to achieve the objective set out in the referral decision, a provider of special care services shall prepare an activity plan for the performance of specific activities together with the person and his or her legal representative, if the representative exists, within 30 days after arrival of the person to receive a service.

(2) An activity plan shall include:

- 1) the objective established for the person and the recommended activities for the achievement of the objective;
- 2) the schedule and description of the performance of the activities which correspond to the needs of the person and assessment of the service provider concerning the performance of the activities at least once per quarter.

(3) An activity plan shall be prepared for a person for the time of the provision of special care services and the plan shall be reviewed and, if necessary, specified at least once a year.

#### **§ 86. Requirements for persons directly providing services**

(1) Special care services may be provided directly by a natural person (hereinafter *activity supervisor*), who complies with at least one of the following requirements:

- 1) the person has acquired at least secondary education and has undergone training in accordance with the plan established on the basis of subsection (7) of this section;
- 2) the person has acquired at least secondary education and state-recognised vocational or higher education in social work or has been awarded the profession of a social worker on the basis of the Professions Act;
- 3) the person has acquired state-recognised higher education in special needs education or social pedagogy;
- 4) the person has acquired state-recognised higher education in occupational therapy or has been awarded the profession of an occupational therapist on the basis of the Professions Act;
- 5) the person has acquired secondary education and state-recognised vocational education in activity supervision or has been awarded the profession of an activity supervisor on the basis of the Professions Act;
- 6) the person has acquired at least secondary education and state-recognised vocational or higher education in mental health nursing.

(2) If the 24-hour special care service is provided to a person with a mental disorder who has a profound multiple disability, the 24-hour presence of one activity supervisor may be replaced by the 24-hour presence of a care worker if the care worker:

- 1) has completed a study programme of formal or continuing vocational education aimed at achieving the learning outcomes described in the professional standard of a care worker;
- 2) has been awarded the profession of a care worker on the basis of the Professions Act.

(3) A special care service shall not be provided directly by an activity supervisor whose criminal record for an intentionally committed criminal offence may endanger the life, health and property of the person entitled to receive the service.

(4) Upon the provision of the employment support service, the activity supervisor shall, in addition to compliance with the requirements specified in subsections (1) and (3) of this section, have undergone in-service training of employment support service in accordance with the plan established on the basis of subsection (7) of this section.

(5) An activity supervisor who is providing the 24-hour special care service directly to a person placed in a social welfare institution by a court ruling shall, in addition to compliance with the requirements specified in subsections (1) and (3) of this section, have undergone in-service training for work with persons with higher risk rate in accordance with the plan established on the basis of subsection (7) of this section.

(6) An activity supervisor who is providing the 24-hour special care service directly to a person with a profound multiple disability or severe, profound or permanent mental disorder with unstable remission shall, in addition to compliance with the requirements specified in subsections (1) and (3) of this section, have undergone in-service training for work with persons with profound multiple disability or severe, profound or permanent mental disorder with unstable remission in accordance with the plan established on the basis of subsection (7) of this section.

(7) The plans of the trainings and in-service trainings specified in subsections (1), (4), (5) and (6) of this section, including the detailed scope and content of trainings, the obligation to undergo practical training and prepare a final paper and the conditions for the completion of studies shall be established by a regulation of the minister responsible for the area.

(8) Persons who have acquired foreign professional qualifications may also provide special care services directly if their professional qualifications have been recognised in accordance with the Recognition of Foreign Professional Qualifications Act. The competent authority provided for in subsection 7 (2) of the Recognition of Foreign Professional Qualifications Act is the Social Insurance Board.

[RT I, 30.12.2015, 5 - entry into force 18.01.2016]

## **Subdivision 2**

### **Everyday Life Support Service**

#### **§ 87. Everyday life support service**

(1) The objective of the everyday life support service is the best possible independent coping and development of a person through supporting psycho-social coping, the development of everyday life coping skills and working skills and counselling of the people close to and people living together with the person.

(2) Upon the provision of the everyday life support service, a service provider is required, based on the person's needs and the objective of the receipt of the service specified in the referral decision, to:

- 1) develop the person's personal and everyday life skills by involving the person in the activities developing the abovementioned skills, taking account of the person's state of health;
- 2) supervise the person in the creation, preservation and development of social relationships;
- 3) supervise the person in time-planning and spending spare time;
- 4) supervise the person in using health, social, postal, financial and other services and in finding and implementing the possibilities to acquire education;
- 5) develop the person's working skills and enable the person to practice working;
- 6) advise the people close to the person, including people living in the same dwelling with the person, in the specificities of the behaviour of the person entitled to receive the service and in communication with the person;
- 7) support the activity of support groups for persons who receive the service and have similar diagnosis and related problems through supervising and advising of the persons;
- 8) involve the person in other activities necessary for the achievement of the objective of the everyday life support service.

#### **§ 88. Persons entitled to receive everyday life support service financed from state budget**

An adult, except a person specified in subsection 72 (2) of this Act, is entitled to receive the everyday life support service if he or she complies with the following conditions:

- 1) the person has a severe, profound or permanent mental disorder;
- 2) no community living service or 24-hour special care service is provided to the person at the same time.

#### **§ 89. Coverage of expenses of premises for provision of everyday life support service**

A local authority is required to ensure coverage of the expenses related to the premises used or owned by a service provider to the extent established by the local government.

#### **§ 90. Requirements for everyday life support service**

(1) The everyday life support service may be provided in the dwelling of the person entitled to receive the service or any other place suitable for the provision of the abovementioned service.

(2) A psychiatrist or a provider of rehabilitation services shall provide an assessment of the duration of the provision of the everyday life support service and the recommended frequency of the activities in a month and indicate the existence of a severe, profound or permanent mental disorder, including a diagnosis, in its written evaluation or rehabilitation plan submitted to the Social Insurance Board.

(3) The activities forming the content of the everyday life support service shall be carried out with respect to the person referred to receive the service either directly or the people close to the person, including persons living together with the person, shall be advised to the recommended extent specified in the referral decision but at least four hours a month. A service provider is required to keep records of the hours during which the service is provided directly to the person or people close to the person.

(4) Upon commencement of the provision of the everyday life support service, the service provider shall inform the entitled person on which days and at which time the service is provided.

(5) A provider of everyday life support service shall ensure the presence of one full-time activity supervisor per ten persons referred to receive the service.

## **Subdivision 3**

# Employment Support Service

## § 91. Employment support service

(1) The objective of the employment support service is to supervise and advise a person in order to support the person's ability to cope independently and improve the quality of life during search for a job corresponding to the person's abilities and during employment.

(2) Upon the provision of the employment support service, a service provider is required, based on the person's needs and the objective of the receipt of the service specified in the referral decision, to:

- 1) motivate the person to commence work;
- 2) find a job based on the person's interests and corresponding to his or her abilities;
- 3) support the person, supervise the person in accordance with the work instructions of the employer and advise the person during employment;
- 4) supervise and advise the person's employer with the consent of the latter upon employment of a person entitled to receive the service;
- 5) supervise the person and the people working together with the person with their consent in the relationships created between them during employment;
- 6) prepare the person to work independently without support.

## § 92. Persons entitled to receive employment support service financed from state budget

An adult, except a person specified in subsection 72 (2) of this Act, is entitled to receive the employment support service if he or she complies with the following conditions:

- 1) the person has a severe, profound or permanent mental disorder;
- 2) the person requires continuous support and supervision during working;
- 3) no 24-hour special care service is provided to the person at the same time.

## § 93. Requirements for employment support service

(1) [Repealed - RT I, 30.12.2015, 5 - entry into force 01.07.2016]

(2) A psychiatrist or a provider of rehabilitation services shall provide an assessment of the duration of the provision of the employment support service and the recommended frequency of the activities in a month and indicate the existence of a severe, profound or permanent mental disorder, including a diagnosis, in its written evaluation or rehabilitation plan submitted to the Social Insurance Board.

(3) A provider of employment support service shall find a suitable job for a person referred to receive the service at least within one year after the commencement of the provision of the service to the person.

(4) If a person referred to receive the employment support service has not accepted any of the jobs offered to him or her within one year as of the commencement of the provision of the employment support service, provision of the service based on the referral decision shall be terminated.

(5) A provider of employment support service shall notify the Social Insurance Board of the expiry of the term specified in subsection (3) of this section after which the Social Insurance Board shall repeal proactively the administrative act whereby the person was referred to receive the employment support service.

(6) The activities specified in clauses 91 (2) 1) and 3)–6) of this Act which form the content of the employment support service shall be carried out directly in respect of the person referred to receive the employment support service, his or her employer or persons working together with the person to the recommended extent set out in the referral decision but at least four hours a month. A service provider is required to keep records of the hours during which the employment support service is provided directly to the employer, the person or persons working together with the person.

(7) A provider of employment support service shall ensure the presence of one full-time activity supervisor per ten persons referred to receive the employment support service.

## Subdivision 4 Supported Living Service

### § 94. Supported living service

(1) The supported living service means supporting social coping and integration of a person together with supervision in the organisation of household and everyday life to ensure as independent coping of the person as possible when living independently.

(2) Upon the provision of the supported living service, a service provider is required, based on the person's needs and the objective of the receipt of the service specified in the referral decision, to:



- 1) supervise the person in the organisation of household and everyday life, including in the preparation of the budget related to everyday life;
- 2) supervise the person in the use of the services related to the use and maintenance of a dwelling, including the use of postal and financial services;
- 3) assist in making agreements in the rules of common mode of life and in the implementation of the agreements if one dwelling is shared by at least two persons receiving the service;
- 4) prepare the person for independent life and supervise and assist the person in the procurement of a dwelling.

#### **§ 95. Persons entitled to receive supported living service financed from state budget**

An adult, except a person specified in subsection 72 (2) of this Act, is entitled to receive the supported living service if he or she complies with the following conditions:

- 1) the person has a severe, profound or permanent mental disorder;
- 2) the person can take care of himself or herself;
- 3) the person can cope, in case of supervision, with everyday life activities.

#### **§ 96. Requirements for supported living service**

(1) The activities specified in subsection 94 (2) of this Act which form the content of the supported living service may be carried out in a dwelling the use of which has been granted to the person entitled to receive the supported living service or any other place suitable for the provision of the abovementioned service.

(2) A psychiatrist or a provider of rehabilitation services shall provide an assessment of the duration of the provision of the supported living service and the recommended frequency of the activities in a month and indicate the existence of a severe, profound or permanent mental disorder, including a diagnosis, in its written evaluation or rehabilitation plan submitted to the Social Insurance Board.

(3) A dwelling the use of which is granted to a person under the supported living service shall comply with the requirements established on the basis of subsection 11 (4) of the Building Code and clause 7 (1) 2) of the Dwelling Act.

(4) In addition to the requirements specified in subsection (3) of this section, a dwelling shall include the following:

- 1) at least one bedroom per person receiving the service;
- 2) upon the request of the persons who receive the service, two persons receiving the service may live in one bedroom;
- 3) a kitchen or a kitchen corner;
- 4) the possibility to use a toilet and shower or bath.

(5) The supported living service is provided in separate premises to persons with intellectual disabilities and persons with mental disorders.

(6) The activities specified in subsection 94 (2) of this Act shall be carried out in respect of a person referred to receive the supported living service at least two hours a week.

(7) A provider of supported living service shall ensure the presence of one full-time activity supervisor per ten persons referred to receive the supported living service.

## **Subdivision 5 Community Living Service**

#### **§ 97. Community living service**

(1) The community living service means the creation of a mode of life similar to a family favourable for the satisfaction of the basic needs and for the development of a person together with accommodation and catering in order to increase the person's ability to cope independently and to develop the skills of the organisation of everyday life activities through participation in joint activities.

(2) A psychiatrist or a provider of rehabilitation services shall provide an assessment of the duration of the provision of the community living service and the recommended frequency of the activities in a month and indicate the existence of a severe, profound or permanent mental disorder, including a diagnosis, in its written evaluation or rehabilitation plan submitted to the Social Insurance Board.

(3) Upon the provision of the community living service, a service provider is required, based on the person's needs and the objective of the receipt of the service specified in the referral decision, to:

- 1) create a safe living environment and mode of life similar to a family and favourable for development;

- 2) develop the person's personal and everyday life skills and involve the person in the activities developing the abovementioned skills, taking account of the person's state of health;
- 3) supervise the person in time-planning and spending spare time;
- 4) develop the person's working skills and capacity for work;
- 5) provide a possibility for the person to work in the service provider's territory based on the abilities and skills of the person receiving the service or involve the person in a work-like activity in the joint household and to supervise the person in the performance of work or carrying out work-like activities;
- 6) carry out other activities required for the achievement of the objective of the community living service.

(4) A provider of community living service shall ensure the presence of one activity supervisor per ten persons receiving the service outside of night time according to the needs of the person. During the remainder of the 24 hours, the availability of an activity supervisor shall be ensured to all the persons receiving the service at the service provider.

#### **§ 98. Persons entitled to receive community living service financed from state budget**

An adult, except a person specified in subsection 72 (2) of this Act, is entitled to receive the community living service if he or she complies with the following conditions:

- 1) the person has a severe, profound or permanent mental disorder;
- 2) the person can take care of himself or herself and is able to participate in housework;
- 3) no everyday life support service, supported living service or 24-hour special care service is provided to the person at the same time.

#### **§ 99. Requirements for community living service**

(1) The activities specified in subsection 97 (3) of this Act shall be carried out with respect to the person receiving the community living service every day.

(2) A psychiatrist or a provider of rehabilitation services shall provide an assessment of the objectives forming the content of the community living service, the activities recommended for the achievement thereof, the duration of the provision of the community living service and the recommended frequency for the performance of the activities in a month and indicate the existence of a severe, profound or permanent mental disorder in its written evaluation or rehabilitation plan submitted to the Social Insurance Board.

(3) The community living service is provided in separate premises to persons with intellectual disabilities and persons with mental disorders.

(4) A provider of community living service shall ensure the compliance with the requirement provided for in clause 83 (1) 13) of this Act, if the community living service is provided for more than ten persons with special needs.

(5) A provider of community living service shall ensure the presence of one activity supervisor per ten persons receiving the service. At night, a provider of community living service shall ensure the availability of one activity supervisor to all the persons receiving the service at the service provider.

## **Subdivision 6 24-hour Special Care Service**

#### **§ 100. 24-hour special care service**

(1) The 24-hour special care service means 24-hour care and development of a person together with accommodation and catering to ensure preservation and increase of independent coping of the person receiving the service and safe living environment in the territory of the service provider.

(2) Upon the provision of the 24-hour special care service, the service provider is required, based on the person's needs and the objective of the receipt of the service specified in the referral decision, to:

- 1) perform the obligations provided for in subsection 87 (2) of this Act;
- 2) ensure the security of the person receiving the 24-hour special care service;
- 3) assist the person in taking care of himself or herself;
- 4) adhere to the treatment schedule prepared for the person by a health care provider;
- 5) create possibilities for the person placed in a social welfare institution by a court ruling for working or for a work-like activity in the service provider's territory;
- 6) carry out other activities required to achieve the objective of the 24-hour special care service.

(3) A person who turns to a provider of 24-hour special care service on the basis of a referral decision, except a person placed in a social welfare institution by a court ruling, who stays on the premises or in the territory for the provision of the 24-hour special care service used or owned by the provider of 24-hour special care service shall be deemed to be a person receiving the service under this service.

(4) A person placed in a social welfare institution by a court ruling shall be deemed to be a person receiving the service during the whole term specified in the court ruling regardless of the location of the person.

### **§ 101. Persons entitled to receive 24-hour special care service financed from state budget**

(1) An adult, except a person specified in subsection 72 (2) of this Act, is entitled to receive the 24-hour special care service if he or she complies with the following conditions:

- 1) the person has a severe, profound or permanent mental disorder;
- 2) it has been established on the basis of the Social Benefits for Disabled Persons Act that the person has a severe or profound disability;
- 3) the person under 18 years of age until attaining the pensionable age provided for in § 7 of the State Pension Insurance Act has been established to have no work ability on the basis of the Work Ability Allowance Act; [RT I, 30.12.2015, 5 - entry into force 01.07.2016]
- 4) the rehabilitation plan of the person sets out the need for the 24-hour special care service;
- 5) the coping of the person cannot be ensured by any other social service specified in this Act;
- 6) no everyday life support service, employment support service, supported living service or community living service is provided to the person at the same time;
- 7) the person needs assistance in taking care of himself or herself;
- 8) the person cannot cope with everyday life activities or needs significant regular assistance or supervision for this purpose.

(2) In addition to the persons specified in subsection (1) of this section, an adult who has a severe, profound or permanent mental disorder with unstable remission, except a person specified in subsection 72 (2) of this Act, is entitled to receive the 24-hour special care service if:

- 1) the person complies with the conditions provided for in clauses (1) 4)–6) of this section;
- 2) the person has been established to have no work ability on the basis of the Work Ability Allowance Act, except in the case of a person who has attained the pensionable age provided for in § 7 of the State Pension Insurance Act, or [RT I, 30.12.2015, 5 - entry into force 01.07.2016]
- 3) the person has attained the pensionable age provided for in § 7 of the State Pension Insurance Act and it has been established on the basis of the Social Benefits for Disabled Persons Act that the person has a profound degree of disability.

(3) In addition to the persons specified in subsections (1) and (2) of this section, an adult who has a profound multiple disability, except a person specified in subsection 72 (2) of this Act, is entitled to receive the 24-hour special care service if:

- 1) the person complies with the conditions provided for in clauses (1) 4), 5) and 6) of this section;
- 2) the person has been established to have no work ability on the basis of the Work Ability Allowance Act, except in the case of a person who has attained the pensionable age provided for in § 7 of the State Pension Insurance Act, and [RT I, 30.12.2015, 5 - entry into force 01.07.2016]
- 3) it has been established on the basis of the Social Benefits for Disabled Persons Act that the person has a profound degree of disability.

(4) A person with a severe or profound intellectual disability and in addition to that any other disability within the meaning of subsection 2 (1) of the Social Benefits for Disabled Persons Act shall be deemed to be a person with a profound multiple disability for the purposes of the 24-hour special care service.

(5) In addition to the persons specified in subsections (1)–(3) of this section, the expenses related to the 24-hour special care service provided to persons placed in a social welfare institution by a court ruling, except own contribution, shall be paid from the state budget.

### **§ 102. Requirements for 24-hour special care service**

(1) A provider of 24-hour special care service is required to:

- 1) have an overview of the whereabouts of a person receiving the 24-hour special care service;
- 2) ensure inspection of entry into and exit from the premises for the provision of the 24-hour special care service;
- 3) ensure the safety and security of the persons receiving the service and the provision of the service if the 24-hour special care service is provided to persons specified in subsection 101 (1) of this Act, persons with a profound multiple disability and persons with a severe, profound or permanent mental disorder with unstable remission in the same premises;
- 4) ensure provision of the 24-hour special care service in premises separate from the premises where other 24-hour care services are provided.

(2) A provider of 24-hour special care service shall ensure the compliance with the requirement provided for in clause 83 (1) 13) of this Act, if the 24-hour special care service is provided for more than ten persons with special needs.

(3) If a provider of 24-hour special care service wishes to take a person receiving the 24-hour special care service outside a place indicated on the activity licence, the service provider shall obtain the consent of the person and the legal representative thereof, if the representative exists, therefor.

(4) A provider of 24-hour special care service shall ensure the availability of independent nursing care per 40 persons receiving the service at least 40 hours a week.

(5) If the 24-hour special care service is provided to a person with a severe, profound or permanent mental disorder with unstable remission, the service provider shall ensure the availability of independent nursing care per 30 persons receiving the service at least 40 hours a week.

(6) If the 24-hour special care service is provided to persons placed in a social welfare institution by a court ruling, the service provider shall ensure the availability of nursing care per 20 persons receiving the service placed in a social welfare institution by a court ruling at least 40 hours a week.

(7) If the 24-hour special care service is provided only to persons with intellectual disabilities, including persons with intellectual disabilities placed in a social welfare institution by a court ruling, the service provider shall ensure the availability of independent nursing care per 40 persons receiving the service at least 40 hours a week.

(8) The 24-hour special care service, except accommodation, may be provided to persons placed in a social welfare institution by a court ruling in the same premises and at the same time with the persons specified in subsection 101 (1) of this Act, persons with a profound multiple disability and persons with a severe, profound or permanent mental disorder with unstable remission, taking into account the provisions of § 103 of this Act.

### **§ 103. Requirements for 24-hour special care service in case of person placed in social welfare institution by court ruling**

If the 24-hour special care service is provided to a person placed in a social welfare institution by a court ruling, the provider of 24-hour special care service is, in addition to the requirements provided for in § 102 of this Act, required to ensure:

- 1) that the person placed in the social welfare institution by a court ruling does not leave the premises or territory where the service is provided without being accompanied by a person ensured by the service provider;
- 2) 24-hour continuous surveillance and overview of the movement, location and activities of the person placed in a social welfare institution by a court ruling;
- 3) that the person placed in a social welfare institution by a court ruling does not put himself or herself or other people in danger.

### **§ 104. Persons providing 24-hour special care service directly**

(1) A provider of 24-hour special care service shall ensure 24-hour presence of at least one activity supervisor per 30 persons receiving the specified service and in addition to that, according to the needs of the persons, the presence of at least one activity supervisor outside of night time.

(2) If the 24-hour special care service is provided to a person with a severe, profound or permanent mental disorder with unstable remission or a person with a mental disorder who has a profound multiple disability, the provider of 24-hour special care service shall ensure 24-hour presence of at least one activity supervisor per 15 persons receiving the specified service and in addition to that, according to the needs of the persons, the presence of at least one activity supervisor outside of night time.

(3) If the 24-hour special care service is provided to a person placed in a social welfare institution by a court ruling, the provider of 24-hour special care service shall ensure 24-hour presence of at least one activity supervisor per 20 persons receiving the service and in addition to that, according to the needs of the persons, the presence of at least one activity supervisor outside of night time.

[RT I, 08.07.2016, 1 - entry into force 18.07.2016]

## **Division 4 Care without Consent of Person**

### **§ 105. Placing persons in social welfare institution on basis of court ruling**

(1) A person is placed in a social welfare institution to receive the 24-hour special care service without his or her consent (hereinafter *care without consent*) upon the existence of all the following circumstances:

- 1) the person has a severe mental disorder which restricts his or her ability to understand or control his or her behaviour;
- 2) the person is dangerous to himself or herself or others, if he or she is not placed in a social welfare institution to receive the 24-hour special care service;
- 3) the application of earlier measures has not been sufficient or the use of other measures is not possible.

(2) If a person is incapable of exercising his or her will, it is deemed that he or she has not granted his or her consent for the receipt of the service.

(3) The consent of the legal representative of a person is not a substitute for the consent of the person.

(4) Placing a person in a social welfare institution without the consent of the person, care without consent, the extension, suspension and termination thereof shall be decided by a court pursuant to the procedure prescribed in the Code of Civil Procedure for a proceeding for placing a person in a closed institution, unless otherwise provided by this Act.

(5) A court may place a person to a social welfare institution for care-giving without his or her consent for a period of up to one year as of the making of the court ruling. If the circumstances listed in subsection (1) of this section have not ceased to exist at the end of such term, the court may extend the term of the person's care in a social welfare institution without his or her consent at the request of the rural municipality or city government of the person's residence or his or her legal representative for up to one year at a time.

(6) The provider of 24-hour special care service, at whom the person receives care without consent on the basis of a court judgement, shall immediately notify the guardian of the person or the rural municipality or city government of the person's residence of the need to extend, suspend or terminate care in a social welfare institution without the person's consent and append the opinion of a psychiatrist concerning the justification of the suspension, extension or termination of care in a social welfare institution without the person's consent to the notification. The following are required to notify immediately a court of the need to suspend or terminate care without the person's consent:

- 1) the provider of 24-hour special care service at whom the person receives care without consent on the basis of a court judgement;
- 2) the rural municipality or city government of the person's residence;
- 3) the legal representative of the person, if he or she is aware of the need to suspend or terminate the care of a person without his or her consent.

#### **§ 106. Restriction on freedom of movement of persons receiving social services**

(1) The restriction on free movement may be applied to persons who:

- 1) are placed in a social welfare institution on the basis of a court ruling in accordance with § 105 of this Act;
- 2) receive the 24-hour special care service, if this is necessary for the protection of the rights and freedoms of such person and other persons.

(2) A provider of 24-hour special care service may restrict the right of a person with a mental disorder receiving the 24-hour special care service to move freely only insofar as it is necessary for the protection of the life and health of such person and other persons.

#### **§ 107. Isolation of person**

(1) A provider of 24-hour special care service may use only isolation as a restriction on freedom of movement with respect to persons who have not been placed to receive the 24-hour special care service by a court ruling. Isolation may be used also with respect to persons placed in a social welfare institution by a court ruling.

(2) Placing a person in an isolation room is deemed to be isolation. The person shall be constantly under the supervision of the provider of 24-hour special care service during the person's stay in an isolation room.

(3) The requirements for isolation rooms and the furnishing of isolation rooms shall be established by a regulation of the minister responsible for the area.

(4) Isolation may be used with respect to a person receiving the 24-hour special care service only if:

- 1) there is immediate danger arising from the person to the life, physical integrity or physical freedom of the person himself or herself or other persons;
- 2) verbal calming of a person or application of other measures known to the service provider and indicated by the doctor with respect to the specific person has been insufficient;
- 3) to the service provider's knowledge the doctor has not excluded the use of isolation with respect to the specific person.

(5) If circumstances specified in subsection (4) of this section become evident and before isolation the provider of 24-hour special care service shall notify the provider of emergency medical care or the police. In the case of the need for immediate isolation, the service provider may isolate the person before notification, taking account of the provisions of subsection (4) of this section.

(6) A person may be isolated from other persons receiving the service until the arrival of the provider of emergency medical care or the police, but not for longer than three consecutive hours.

(7) A provider of 24-hour special care service shall adopt a reasoned written decision concerning the isolation. The service provider shall notify the legal representative of the person, if the representative exists, of the isolation of the person.

(8) A provider of 24-hour special care service who uses isolation is required to prepare a written report which shall set out:

- 1) the given name and surname of the person isolated;
- 2) the time of the beginning and end of isolation;
- 3) the detailed description of the situation prior to isolation, including the measures taken to calm the person;
- 4) the reasons for isolation;
- 5) the name of the person who made the decision on isolation;
- 6) information concerning the injury suffered by a person specified in clause 1) of this subsection, the provider of 24-hour special care service or a person with whom the service provider is in contractual relationship in order to provide the 24-hour special care service and concerning the premises for provision of the service or furnishings thereof damaged by the person.

(9) After the termination of isolation the provider of 24-hour special care service is required to explain the purpose and reason for isolation to the person who was isolated.

(10) A provider of 24-hour special care service shall prepare instructions for managing problem behaviour and isolation of restless and violent persons.

## **Division 5 Childcare Service**

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

§ 108.–§ 115.[Repealed - RT I, 21.12.2016, 2 - entry into force 01.01.2017]

## **Division 6 Substitute Home Service**

### **§ 116. Substitute home service**

Substitute home service means ensuring family-like living conditions to a child for meeting his or her basic needs, the creation of a secure physical and social environment promoting his or her development and preparation of the child for coping in accordance with his or her abilities as an adult.

### **§ 117. Persons entitled to receive substitute home service**

(1) A child who meets the requirements provided for in subsection 128 (1) of this Act and whose care and raising is neither arranged by a guardian nor performed by a caregiver specified in subsection 129 (1) of this Act is entitled to receive the substitute home service.

(2) A child specified in subsection 128 (2) of this Act is also entitled to receive the substitute home service under the conditions provided for in the same subsection.

(3) A person staying at a substitute home is entitled to receive the substitute home service:

- 1) until he or she attains 18 years of age;
- 2) from the acquisition of education or interruption of studies until the beginning of the following school year if he or she has commenced acquisition of education before attaining 18 years of age and continues the acquisition of education in daytime or, for medical reasons, in another form of study at a basic school, upper secondary school or vocational educational institution in case of acquiring basic or secondary education, or
- 3) until the end of the initial standard period of study established by the corresponding curriculum, if he or she continues studying at a vocational educational institution, institution of professional higher education or in Bachelor's study or Master's study or integrated Bachelor's and Master's studies at a university at the latest in the following academic year after acquisition of basic, secondary, vocational or higher education.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(4) If a person has commenced acquisition of education on the basis of clause (3) 2) or 3) of this section, the provision of the substitute home service is ensured to the necessary extent during the time the person is not staying in the substitute home and, in justified circumstances, the provision of the service may be continued to the full extent until the acquisition of education but not more than from the interruption of studies until the beginning of the following school year or until the person attains 25 years of age if:

- 1) the person continued the acquisition of education after returning from conscript service or custodial institution;
- 2) the person continued the acquisition of education after justified health reasons ceased to exist.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

### **§ 118. Provision of substitute home service**

The substitute home service may be provided by sole proprietors or legal persons who hold a valid activity licence granted by the county governor of the place of business of the service provider pursuant to clause 151 2) of this Act and agencies of local authorities or authorities administered by governmental authorities which, according to their statutes, provide the substitute home service and which are registered as providers of substitute home service in the register of economic activities.

### **§ 119. Referral to receive substitute home service**

(1) The local authority performing the duties of or appointed as the guardian of a child entitled to receive the substitute home service (hereinafter *local authority*) shall make a decision concerning the referral of the child to the substitute home service taking account of the requirements provided for in subsection 12 (2) of this Act. The local authority shall choose a suitable provider of substitute home service for the child and submit the application for financing the substitute home service to the county governor of its location (hereinafter *county governor*) together with a copy of the child's identity document and a copy of at least one of the following documents:

- 1) a document certifying that the child's parent is deceased, declared to be a fugitive or missing;
- 2) a court ruling concerning appointment of a guardian to the child's parent;
- 3) a judicial decision concerning suspension, restriction or deprivation of the right of custody from the child's parent in full;
- 4) a judicial decision concerning separation of the child from the parents;
- 5) a document concerning custody pending trial or imprisonment of a parent.

(2) The county governor shall enter into a contract under public law on the basis of § 98 of the Administrative Procedure Act for the provision of the substitute home service (hereinafter *contract under public law for the provision of the substitute home service*) with the local authority and the provider of substitute home service.

(3) The local authority shall provide the service provider with information concerning the child for the caring of whom the contract under public law for the provision of the substitute home service has been entered into.

(4) An official of the local authority engaged in social affairs shall visit the child staying at the substitute home for the examination of the development and evaluation of the welfare of the child at least twice a year.

### **§ 120. Financing of substitute home service**

(1) The service provided to a child entitled to receive the substitute home service shall be financed from the state budget. The Ministry of Social Affairs shall ensure financing through county governments.

(2) The minister responsible for the area shall establish by a regulation:

- 1) the minimum and maximum cost of the state-funded substitute home service per child in one calendar month and calendar year;
  - 2) the conditions and procedure for distribution of the funding of the state-funded substitute home service.
- [RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(3) The county governor shall pay for the provision of the substitute home service to a child on the basis of the invoices submitted pursuant to the contract entered into on the basis of subsection 119 (2) of this Act to the extent of the maximum cost established on the basis of subsection (2) of this section.

(4) The county governor has the right to delegate, on the basis of a contract under public law provided for in the Administrative Co-operation Act, the organisation of financing of the substitute home service together with the right of entry into a contract under public law to a local authority.

(5) The local authority may use, under the conditions and pursuant to the procedure established by the local authority, the excess of funds transferred by a contract under public law specified in subsection (4) of this section for the provision and development of social services related to children and their families the objective of which is to preclude a child from becoming an entitled subject of the substitute home service.

### **§ 121. Documents of child receiving substitute home service**

(1) The local authority shall collect and store the documents of a child staying at a substitute home.

(2) After entry into a contract under public law for the provision of the substitute home service the local authority of the child referred to receive the substitute home service shall transfer the documents required for the provision of the substitute home service to the service provider.

(3) The list of the documents specified in subsections (1) and (2) of this section shall be established by a regulation of the minister responsible for the area.

(4) Upon termination of the contract under public law for the provision of the substitute home service, the provider of substitute home service shall transfer the documents in its possession of the child who stayed at the substitute home to the local authority.

(5) Upon adoption of a child entitled to receive the substitute home service, appointment of a guardian to him or her or becoming an adult, the local authority shall transfer the documents in its possession of the child who stayed at the substitute home to the legal representative of the child or to the child who has become an adult against signature.

#### **§ 122. Requirements for substitute home service**

(1) A substitute home family consists of up to six children referred to receive the substitute home service.

(2) Each family of a substitute home shall have at least one education employee or a family parent complying with the requirements provided for in subsection 123 (5) of this Act.

(3) If the children of a substitute home family stay in a substitute home at least one education employee or a family parent shall stay there per each family on a 24-hour basis. If one-half or more of the children of a substitute home family are under three years of age or with severe or profound disabilities, two education employees or a family parent and an education employee shall stay in the substitute home family for at least 12 hours a day which shall not include night time.

(4) If a child of a substitute home family stays outside the substitute home, the provider of substitute home service shall guarantee opportunities to the child not staying in the substitute home to contact an education employee or a family parent, if necessary.

(5) A provider of substitute home service is required to:

- 1) guarantee care, education, development and safety of a child staying at a substitute home;
- 2) guarantee collection of the information and required documents concerning a child staying at a substitute home;
- 3) immediately report a fatal accident of a child to the police and the parties to the contract entered into on the basis of subsection 119 (2) of this Act;
- 4) provide the substitute home service or be prepared for the provision of the substitute home service for at least four children;
- 5) guarantee that the education employee who is in a contractual relationship with the provider of substitute home service complies with the requirements provided for in subsections 123 (1)–(6) of this Act and the family parent complies with the requirements provided for in subsection 124 (2) of this Act;
- 6) prepare statistical reports concerning the substitute home service pursuant to the procedure established on the basis of § 11 of this Act and submit these to the county governor of the location of provision of the substitute home service.

(6) The detailed contents of the duties specified in clauses (5) 1) and 2) of this section shall be established by a regulation of the minister responsible for the area.

#### **§ 123. Requirements for education employees of substitute homes**

(1) An education employee shall be a person with active legal capacity who complies with the requirements provided for in clauses 129 (1) 2)–6) of this Act.

(2) An assistant educator is an education employee who shall, in addition to the requirements provided for in clauses 129 (1) 2)–6) of this Act, comply with the following requirements:

- 1) he or she has acquired at least secondary education;
- 2) he or she has undergone in-service training in social work and education established on the basis of subsection (8) of this section or is registered for the training.

(3) If an assistant educator has registered for the abovementioned in-service training established on the basis of subsection (8) of this section upon entry into an employment contract, he or she shall undergo the training at least within three years from commencing employment in the position of assistant educator.

(4) A junior educator is an education employee who shall, in addition to the requirements provided for in clauses 129 (1) 2)–6) of this Act, comply with the following requirements:

- 1) he or she has acquired at least secondary education and state-recognised vocational or higher education in education or social work or
- 2) he or she has acquired at least secondary education and completed in-service training in social work and education established on the basis of subsection (8) of this section.

(5) An educator is an education employee who shall have at least one year of work experience with children and he or she shall, in addition to the requirements provided for in clauses 129 (1) 2)–6) of this Act, comply with the following requirements:

- 1) he or she has acquired at least secondary education and state-recognised vocational or higher education in education and undergone in-service training in social work established on the basis of subsection (8) of this section;



2) he or she has acquired at least secondary education and state-recognised vocational or higher education in social work and undergone in-service training in education established on the basis of subsection (8) of this section or

3) he or she has acquired at least secondary education and completed in-service training in social work and education established on the basis of subsection (8) of this section.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(6) A senior educator is an education employee who shall, in addition to the requirements provided for in clauses 129 (1) 2)–6) of this Act and clauses (5) 1) or 2) of this section, comply with the following requirements:

- 1) he or she has at least three years of work experience in child welfare;
- 2) he or she has instructed trainees, junior educators or educators for at least three months;
- 3) he or she has prepared a professional research paper or participated in the development of child welfare.

(7) The compliance of education employees with the requirements provided for in subsections (1)–(5) of this section shall be verified by the provider of substitute home service.

(8) The procedure for organising the in-service trainings in social work and education specified in subsections (2)–(5) of this section, the detailed scope and the curricula of in-service trainings shall be established by a regulation of the minister responsible for the area.

(9) Persons who have acquired foreign professional qualifications may be employed as education employees of substitute homes if their professional qualifications have been recognised in accordance with the Recognition of Foreign Professional Qualifications Act. The competent authority provided for in subsection 7 (2) of the Recognition of Foreign Professional Qualifications Act is the Ministry of Social Affairs.

[RT I, 30.12.2015, 5 - entry into force 18.01.2016]

#### **§ 124. Requirements for family parents and for persons with whom they use common dwellings**

(1) A family parent is a natural person who lives together with the substitute home family 24 hours a day.

(2) A family parent shall be a person who:

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

1) complies with the requirements provided for in clauses 129 (1) 1)–6) of this Act;

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

2) is at least 25 years of age;

3) complies with the requirements for educators provided for in subsection 123 (5) of this Act.

(3) A family parent may raise and care for up to six children at a time.

(4) Each family parent shall have an assistant working full-time or part-time and complying at least with the requirements established for junior educators.

(5) A family parent may be employed under an employment contract or provide services on the basis of other contracts with the consent of the local authority performing the duties of or appointed as the guardian of the child staying at the substitute home, if the employment or provision of services does not prevent the family parent from performing the duties arising from this Act.

(6) [Repealed - RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(7) The compliance of family parents with the requirements provided for in this section shall be verified by the provider of substitute home service.

(8) If the substitute home service is provided in the dwellings of a family parent, the person with active legal capacity with whom the family parent has common dwellings shall comply with the requirements provided for in clauses 129 (1) 3)–6) of this Act.

(9) The substitute home service shall not be provided in the dwelling of a family parent if the same dwelling is used by a person who is not allowed to work with children pursuant to § 20 of the Child Protection Act.

(10) If the substitute home service is provided in the dwellings of a family parent, other adults with whom he or she uses common dwellings shall undergo regular medical examination for communicable diseases, including chest radiography in every two years, and hold a health certificate issued by the family physician concerning the undergone medical examination for communicable diseases.

## **§ 124<sup>1</sup>. Family parent contract**

(1) A family parent contract shall be entered into with a family parent if there are up to three family parents in the substitute home family.

(2) If the substitute home service is provided by two to three family parents in a substitute home family, a family parent contract shall contain at least the following terms and conditions:

- 1) the place for the provision of the service;
- 2) the minimum duration of the provision of the service shall generally not be shorter than ten twenty-four hour periods in a calendar month and the duration of continuous provision of the service shall not be shorter than five twenty-four hour periods;
- 3) the maximum duration of the provision of the service shall generally not be longer than 20 twenty-four hour periods in a calendar month and an exception may be made by the agreement of the parties to the maximum extent of five days;
- 4) the right to holiday pursuant to the procedure provided for in the Employment Contracts Act;
- 5) upon extraordinary cancellation of the contract the term for advance notice is at least 30 calendar days;
- 6) organisation of provision of the service which includes primarily the beginning and end of provision of the service;
- 7) procedure for payment of monthly fee.

(3) If the substitute home service is provided at an institution by one family parent, the substitute home shall enter into a family parent contract with the family parent which shall contain at least the following terms and conditions:

- 1) the contract shall comply with the requirements provided for in clauses (2) 1) and 5)–7) of this section;
- 2) the family parent may use the assistance of a third person who complies with the requirements established in subsection 124 (2) of this Act upon provision of the substitute home service 42 calendar days a year.

(4) If a provider of the substitute home service gives notice of cancellation of the contract after the expiry of the term for advance notice provided for in clause (2) 5) of this section, the family parent shall have the right to receive compensation to the extent which he or she would have been entitled to had the term for advance notice been complied with.

(5) The requirements arising from the Occupational Health and Safety Act shall apply to the provision of the service on the basis of a family parent contract.

(6) The provisions of the Law of Obligations Act regarding an authorisation agreement shall apply to other terms and conditions of a family parent contract.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

## **§ 125. Provision of substitute home service to unaccompanied minor aliens, minor victims of human trafficking and sexually abused minors**

(1) The Social Insurance Board shall decide on the referral to receive the substitute home service in the case of:

- 1) unaccompanied minor aliens;
- 2) minor victims of human trafficking for the purposes of the Victim Support Act and minors for the purposes of subsection 3 (2<sup>2</sup>) of the Victim Support Act;
- 3) sexually abused minors for the purposes of the Victim Support Act.

(2) The Social Insurance Board shall select a suitable provider of substitute home service for a person specified in subsection (1) of this section and enter into a contract under public law for the provision of the substitute home service with the provider of substitute home service and the legal representative of the minor.

(3) Upon referral of a person specified in subsection (1) of this section to a substitute home, the Social Insurance Board shall perform the obligations of a local authority provided for in subsections 119 (3) and (4), § 121 of this Act, a regulation established on the basis thereof and subsection 124 (5) of this Act.

(4) Upon termination of the contract under public law of the substitute home service, the provider of substitute home service shall transfer the documents in its possession of the person who was referred by the Social Insurance Board to stay at the substitute home to the Social Insurance Board.

(5) Provision of substitute home service to persons specified in subsection (1) of this section shall be financed from the state budget through the Social Insurance Board.

## **§ 126. Organisation of temporary placement of child in family**

The procedure for temporary placement of a child, who is living in a children's social welfare institution, in a family shall be established by a regulation of the minister responsible for the area.

# **Division 7**

## Foster Care of Child

### § 127. Duties of local authorities in referral of children to foster care

(1) Foster care of a child is the care for a child in a suitable family of which he or she is not a member.

(2) Foster care of a child is organised by the local authority performing the duties of or appointed as the guardian of the child or, in the case of children specified in clauses 128 (1) 6–8) of this Act and subsection (2) of the same section, the Social Insurance Board.

(3) If a child is referred to foster care or to receive the substitute home service specified in § 119 of this Act outside the administrative territory of the local authority, the local authority performing the duties of or appointed as the guardian shall attend to the preservation of the child's connections with his or her former community, establish conditions for the child to return there and help the child in his or her start in independent life upon becoming an adult.

### § 128. Child subject to foster care and his or her rights

(1) A child who has been left without a parent with right of custody is subject to foster care. A child may also be referred to foster care if:

- 1) his or her parent is deceased, declared to be a fugitive or missing;
- 2) a guardian has been appointed to his or her parent due to restricted active legal capacity;
- 3) his or her parent's right of custody over the child is suspended or restricted;
- 4) he or she is separated from parent;
- 5) his or her parent is serving custody pending trial or imprisonment;
- 6) he or she is an unaccompanied minor alien;
- 7) he or she is a minor victim of human trafficking for the purposes of the Victim Support Act or a minor specified in subsection 3 (2<sup>2</sup>) of the Victim Support Act;
- 8) he or she is a sexually abused minor for the purposes of the Victim Support Act.

(2) A minor victim of human trafficking or a sexually abused minor specified in clauses (1) 7) and 8) of this section who has a legal representative may be subject to foster care if it is necessary for the safety of the minor and if the legal representative of the minor consents thereto.

(3) If a child is subject to foster care and a case plan is prepared for him or her, the wishes of the child shall be taken into account. Before granting consent, the child has the right to get acquainted with the person who wishes to become a caregiver, his or her family members and home and receive information on them. The child has the right to bring his or her personal effects when he or she settles with the family of the caregiver.

### § 129. Requirements for person providing foster care and his or her family members and rights of caregiver

(1) A person who wishes to provide foster care to a child in respect of whom he or she has no maintenance obligation arising from the Family Law Act (hereinafter *caregiver*) shall comply with the following requirements:

- 1) the person is with active legal capacity, copes independently and resides permanently in Estonia;
- 2) the person has the necessary personal characteristics to raise a child;
- 3) the person has not been deprived of the right of custody and it has not been restricted on the grounds provided for in the Family Law Act;
- 4) the person has not been removed from performance of the obligations of a guardian or caregiver;
- 5) the person complies with the requirements provided for in § 20 of the Child Protection Act;
- 6) the person is not dependent on alcohol, narcotic drugs or psychotropic substances;
- 7) the person has undergone training recognised by the Ministry of Social Affairs or has registered for the training.

(2) The family members of a caregiver with whom he or she has common dwellings and household shall comply with the requirements of clauses (1) 3)–6) of this section. The caregiver and his or her family members shall confirm their compliance with the requirements by signature. The local authority performing the duties of or appointed as the guardian of the child or, in the case of a child specified in clauses 128 (1) 6–8) of this Act or subsection (2) of the same section, the Social Insurance Board may demand that the caregiver and his or her family members submit documents in proof of their compliance with the requirements.

(3) A caregiver has the right to receive information on a child which is necessary to care for the child from the local authority performing the duties of or appointed as the guardian of the child and, in the case of a child specified in clauses 128 (1) 6–8) of this Act or subsection (2) of the same section, from the Social Insurance Board and to participate in preparation of a development plan for the child.

### § 130. Child subject to foster care

(1) A person who wishes to become a caregiver shall submit a corresponding written application to:

- 1) the local authority of his or her residence entered in the population register;
- 2) the local authority performing the duties of or appointed as the guardian if the residence of the child and the residence of the person who wishes to become a caregiver are not in the same local authority or
- 3) the Social Insurance Board if the caregiver wishes to provide foster care to a child specified in clauses 128 (1) 6)–8) of this Act or subsection (2) of the same section.

(2) The local authority or, in the case of a child specified in clauses 128 (1) 6)–8) of this Act or subsection (2) of the same section, the Social Insurance Board which has received an application shall:

- 1) verify, within one month after the receipt of the application, the compliance of a person who wishes to become a caregiver and the adult members of his or her family with the requirements of § 129 of this Act;
- 2) ask, if the residence of the child and the residence of the person who wishes to become a caregiver are not in the same local authority or, in the case of a child specified in clauses 128 (1) 6)–8) of this Act or subsection (2) of the same section, information and an opinion in writing on the person who wishes to become a caregiver and his or her family members from the rural municipality or city government of their residence entered in the population register;
- 3) provide social counselling services to the person who wishes to become a caregiver, visit his or her home and send him or her to appropriate training recognised by the Ministry of Social Affairs.

(3) The local authority performing the duties of or appointed as the guardian or, in the case of a child specified in clauses 128 (1) 6)–8) of this Act or subsection (2) of the same section, the Social Insurance Board shall decide on the suitability of a person who wishes to become a caregiver and the compliance of his or her adult family members with the requirements on the basis of the results of social counselling, a home visit and training. If the person who wishes to become a caregiver has undergone training and complies with the abovementioned requirements, the local authority shall enter into a written foster care contract (hereinafter *contract*) with the person which shall be in accordance with the case plan prepared for the child.

(4) The contract shall be terminated if the caregiver or his or her adult family members no longer comply with the requirements of subsections 129 (1) and (2) of this Act or extension of the contract is contrary to the interests of the child for other reasons.

(5) If the residence of the child and the residence of the caregiver are not in the same local authority, the local authority performing the duties of or appointed as the guardian or, in the case of a child specified in clauses 128 (1) 6)–8) of this Act or subsection (2) of the same section, the Social Insurance Board shall inform in writing the local authority of the residence of the caregiver entered in the population register of entry into a contract.

(6) The requirements for the foster care of a child and organisation thereof and for rooms used upon providing care shall be established by the minister responsible for the area.

## Division 8 Subsistence Benefit

### § 131. Subsistence benefit

(1) The objective of subsistence benefit is to alleviate material deprivation of persons and families in need of assistance as a temporary measure supporting the ability of persons to cope independently by providing minimum funds to satisfy the primary needs.

(2) A person living alone or a family whose monthly net income, after the deduction of housing expenses calculated under the conditions provided for in subsections 133 (5) and (6) of this Act, is below the subsistence level has the right to receive a subsistence benefit.

(3) The *Riigikogus* shall establish the subsistence level for a person living alone or to the first member of a family for each budgetary year by the state budget. Subsistence level is established based on minimum expenses made on consumption of foodstuffs, clothing, footwear and other goods and services which satisfy the primary needs. A new subsistence level shall not be less than the subsistence level in force.

(4) The subsistence level of the second and each subsequent adult member of a family is 80 per cent of the subsistence level of the first member of the family.

(5) The subsistence level of each child of a family is equal to the subsistence level of the first member of the family.

(6) If a child attains 18 years of age during the month of application for a subsistence benefit, he or she shall be deemed to be a child for the purposes of subsection (5) of this section.

(7) Upon the grant of a subsistence benefit, the following persons who live in the same dwelling and have a shared household are deemed to be family members:

- 1) persons who are married or in a relationship similar to marriage;
- 2) ascendants and descendants related in the first and second degree;
- 3) other persons who have a shared household.

(8) Upon the grant of a subsistence benefit, students up to 24 years of age who are enrolled in a basic school, upper secondary school or vocational educational institution and students up to 24 years of age who are enrolled in a university, institution of professional higher education or vocational educational institution are deemed to be members of the family if the address details of their residence entered in the population register coincide with the address details of the residence of the family members specified in subsection (7) of this section.

(9) Students up to 24 years of age who are enrolled in a basic school, upper secondary school or vocational educational institution and students up to 24 years of age who are enrolled in a university, institution of professional higher education or vocational educational institution, whose address details of their residence entered in the population register do not coincide with the address details of the residence of the family members specified in subsection (7) of this section, have the right to receive a subsistence benefit from the local authority of their residence entered in the population register provided that their family was granted a subsistence benefit in the previous or given month.

(10) If a student attains 25 years of age during the month of application for a subsistence benefit, subsections (8) and (9) of this section shall not apply to the student.

(11) Subsections (8) and (9) of this section shall not apply to a student who is married or a parent or guardian of a child if the actual residence of the student is different from the actual residence of the family members specified in subsection (7) of this section.

(12) A ward whose guardian is a family member residing with him or her shall not be deemed a family member upon the grant of a subsistence benefit.

### **§ 132. Application for subsistence benefit**

(1) In order to obtain a subsistence benefit for a given month, a subsistence benefit applicant shall submit an application to the local authority in whose administrative territory the actual residence of the applicant is located not later than by the twentieth day of the given month.

(2) In an application, the applicant shall specify the names, personal identification codes or dates of birth and social status of persons to be considered upon the grant of a subsistence benefit pursuant to subsections 131 (7) and (8) of this Act.

(3) Documents shall be appended to an application specified in subsection (1) of this section certifying the net income of a person living alone or the members of a family received during the preceding month and amount of paid support. If any type or amount of income cannot be documented, a subsistence benefit applicant shall verify it by his or her signature.

(4) If the applicant wishes the housing expenses to be also taken into account upon the grant of a subsistence benefit, the applicant shall append documents to the application certifying:

- 1) the right to use the dwelling – such documents shall be submitted upon primary application and upon change of the legal basis for the use of the dwelling;
- 2) the housing expenses payable during the given month specified in subsection 133 (5) of this Act.

(5) A contract entered into between the persons specified in subsections 131 (7) or (8) of this Act themselves shall not be deemed to be the legal basis for the use of a dwelling.

(6) Upon application for subsistence benefit for the first time or changes in the composition of objects in the list set out in this subsection, an applicant shall, in addition to the documents specified in subsections (1), (3) and (4) of this section, submit a written list which sets out the following objects used or owned by the applicant and his or her family:

- 1) immovables and dwellings which are movables;
- 2) vehicles within the meaning of the Traffic Act;
- 3) securities within the meaning of the Securities Market Act.

(7) A subsistence benefit shall not be granted to a person who receives the general care service provided outside the home of a person on a 24-hour basis, the special care service which includes 24-hour accommodation or the substitute home service or a person who is in a custodial institution as a prisoner or person in custody.

### § 133. Bases for calculating subsistence benefit

(1) A subsistence benefit shall be calculated based on the net income of a person living alone or the sum of the net incomes of all members of a family during the preceding month, from which paid support shall be deducted, the housing expenses payable during the given month and the established subsistence level.

(2) Upon calculating a subsistence benefit, the following shall not be included in the income of a person living alone or a family:

1) single benefits paid out of the funds of the state budget or local authority budget, except for annual refunds paid to low-paid employees on the basis of the Labour Market Services and Benefits Act;

2) periodic benefits paid from local authority budget funds pursuant to the legislation of the local authority which are dependent on family income or granted to compensate for the cost of a specific service;

3) benefits paid on the basis of the Social Benefits for Disabled Persons Act, except for the disabled parent's allowance;

4) student loan granted with security guaranteed by the state;

5) grants and transport benefits paid on the basis of the Labour Market Services and Benefits Act or from the structural assistance funds;

6) needs-based study allowance and needs-based special allowance paid on the basis of the Study Allowances and Study Loans Act and allowance paid from a special allowance fund established by an educational institution;

7) child allowance for the third and each subsequent child paid on the basis of the Family Benefits Act in the amount of 45 euros for each child receiving child allowance;

[RT I, 08.07.2016, 1 - entry into force 01.01.2017]

8) needs-based family benefit paid on the basis of this Act.

(3) In addition to the provisions of subsection (2) of this section, a local authority may choose not to include grants paid for a specific purpose or benefits paid to cover specific expenses or loss in the income of a person living alone or a family.

(4) If a subsistence benefit applicant or his or her family member receives income paid in advance or retroactively for several months, the subsistence benefit may be calculated on the basis of the average income during the six months preceding the application.

(5) Taking into account the limits established on the basis of subsection (6) of this section and the socially justified standards for dwellings established on the basis of clause 7 (1) 2) of the Dwelling Act or the number of family members, the following housing expenses payable during the given month shall be taken into account upon calculation of a subsistence benefit:

1) rent;

2) the administration costs of the apartment building, including costs related to repairs;

3) repayment of loan taken for renovation of the apartment building;

4) the cost of services of supplying water and leading off waste water;

5) the cost of thermal energy or fuel consumed for supply of hot water;

6) the cost of thermal energy or fuel consumed for heating;

7) the costs related to consumption of electricity;

8) the cost of household gas;

9) the expenses made on land tax, which is calculated based on the size of land that equals three times the area under the dwelling;

10) the expenses made on building insurance;

11) the fee for the transport of municipal waste.

(6) In order to grant subsistence benefit, local authorities shall establish limits for the expenses specified in subsection (5) of this section, which ensure decent subsistence for persons and their family members. Local authorities shall review the established limits at least once a year and establish new limits, if necessary.

(7) Upon calculation of subsistence benefit, pre-existing arrears in payment of housing expenses are not included in the housing expenses payable during the given month, and such arrears are not subject to coverage out of subsistence benefit.

(8) Rent shall not be taken into account upon the calculation of a subsistence benefit if the lessor and lessee are married to each other or ascendants and descendants related in the first and second degree.

(9) Land tax expenses shall not be taken into account upon the calculation of a subsistence benefit if the applicant is fully or partly exempt from the obligation to pay land tax on the basis of § 11 of the Land Tax Act.

(10) Upon the grant of a subsistence benefit to a family, the local authority shall take into account, as an additional expense, the housing expenses of the persons specified in subsection 131 (8) of this Act pursuant to the provisions of subsections (5) and (6) of this section. For each person specified in subsection 131 (8) of this Act, the socially justified standard for the dwelling calculated for one family member shall be added to the socially justified standard for the dwelling calculated for the family.

### **§ 134. Grant and payment of subsistence benefit**

(1) Subsistence benefits shall be granted and paid by local authorities for the given month to the extent, under the conditions and pursuant to the procedure established by this Act. Subsistence benefits shall not be granted retroactively for the preceding months.

(2) A subsistence benefit shall be granted within five working days after the submission of all documents.

(3) Upon the grant of a subsistence benefit, the local authority shall assess whether the applicant for the benefit or his or her family member needs other social welfare assistance in addition to the subsistence benefit.

(4) A local authority has the right to refuse to grant a subsistence benefit:

1) to a person between the age of 18 and the pensionable age with ability to work who is not working or studying and who is not registered as unemployed with the Estonian Unemployment Insurance Fund or who has, more than once and without good reason, failed to comply with the individual activity plan or turned down suitable work offered to him or her or refused to participate in social services or studies organised by the local authority to support the ability to cope independently;

2) if the subsistence benefit applicant or a child entitled to receive maintenance who lives together with the applicant, or other descendant or ascendant who needs assistance and is unable to maintain himself or herself has the right to receive support but the applicant refuses to submit a document certifying the right to receive the support or refuses to claim the support;

3) if the local authority finds that the property used or owned by the subsistence benefit applicant or his or her family or the lease, rental or sale thereof ensures sufficient funds for coping for the person or his or her family.

(5) A local authority shall not refuse to grant subsistence benefit for the reason specified in clause (4) 3) of this section if only one dwelling used for permanent habitation and objects essential for everyday life, studies and employment are used or owned by the subsistence benefit applicant or his or her family.

(6) The amount calculated as subsistence benefit shall be paid by a local authority pursuant to subsection 28 (3) of the General Part of the Social Code Act or by post or in cash, taking into account the corresponding wish of the applicant as expressed beforehand, within three working days as of the date of making the decision.

(7) A subsistence benefit applicant who is granted a subsistence benefit to cover housing expenses is required to ensure payment of such expenses.

(8) If a subsistence benefit applicant who received a subsistence benefit to cover housing expenses in the previous month has not paid such expenses, the local authority has the right to pay the housing expenses specified in subsection 133 (5) of this Act for the subsistence benefit applicant out of the subsistence benefit granted to the person.

### **§ 135. Supplementary social benefit paid from state budget**

(1) The recipient of subsistence benefit whose all family members are children within the meaning of subsections 131 (7) and (8) of this Act has the right to receive supplementary social benefit of 15 euros together with the subsistence benefit.

(2) If a child attains 18 years of age during the month of application for a subsistence benefit, he or she shall be deemed to be a child for the purposes of subsection (1) of this section.

(3) A local authority shall pay supplementary social benefit specified in subsection (1) of this section together with subsistence benefit from the state budget out of the funds allocated for the payment of subsistence benefit on the basis of subsection 156 (1) of this Act.

## **Division 9 Needs-based Family Benefit**

### **§ 136. Needs-based family benefit**

(1) If at least one member of a family is a child receiving child allowance on the basis of the Family Benefits Act, the family has the right to receive a needs-based family benefit provided that:

[RT I, 08.07.2016, 1 - entry into force 01.01.2017]

1) the average monthly net income of the family is below the income threshold of needs-based family benefit or

2) a subsistence benefit was granted to the family for the month preceding the application for a needs-based family benefit.

(2) Persons specified in subsections 131 (7) and (8) of this Act and persons receiving child allowance specified in subsection (9) of the same section, unless the persons specified in subsection (9) of the same section are applicants for child allowance pursuant to the Family Benefits Act, are deemed to be members of a family specified in subsection (1) of this section.

(3) The following persons are not deemed to be members of a family specified in subsection (1) of this section:

1) a person specified in subsection 131 (12) of this Act, unless the needs-based family benefit is applied for a person specified in subsection 131 (12) of this Act who receives child allowance on the basis of the Family Benefits Act;

[RT I, 08.07.2016, 1 - entry into force 01.01.2017]

2) a person specified in subsection 132 (7) of this Act.

(4) The average monthly income specified in clause (1) 1) of this section shall be calculated on the basis of the net income of the three months preceding the application for a needs-based family benefit, of which paid support is deducted. Upon application for a needs-based family benefit, the income specified in subsection 133 (2) of this Act shall not be included in the income of a family. A local authority may also choose not to include the income specified in subsection 133 (3) of this Act in the income of a family.

(5) The *Riigikogus* shall establish the income threshold of needs-based family benefit for the first member of a family for each budgetary year by the state budget. The income threshold of needs-based family benefit shall be based on the relative poverty threshold as last published by Statistics Estonia by 1 March of the year preceding the budgetary year. A new income threshold of needs-based family benefit shall not be less than the threshold in force.

(6) Income threshold of needs-based family benefit for each subsequent family member who is 14 years of age or older shall be 50 per cent and the income threshold of needs-based family benefit for each family member under 14 years of age shall be 30 per cent of the income threshold of needs-based family benefit for the first member of the family.

(7) If a child attains 14 years of age during the month of application for a needs-based family benefit, the income threshold of the child shall be deemed to be 50 per cent of the income threshold of needs-based benefit of the first member of the family.

(8) If one member of a family is a child receiving child allowance on the basis of the Family Benefits Act for whom the applicant for a needs-based family benefit or another member of the family receives child allowance, the needs-based family benefit shall be paid in the amount of 45 euros for a family. If at least two members of a family are children receiving child allowance on the basis of the Family Benefits Act for whom the applicant for a needs-based family benefit or another member of the family receives child allowance, the needs-based family benefit shall be paid in the amount of 90 euros for a family.

[RT I, 08.07.2016, 1 - entry into force 01.01.2017]

(9) Needs-based family benefits shall be granted and paid by local authorities to the extent, under the conditions and pursuant to the procedure established by this Act.

### **§ 137. Application for needs-based family benefit**

(1) A person who is paid child allowance on the basis of the Family Benefits Act for a child or children who are family members has the right to apply for a needs-based family benefit.

[RT I, 08.07.2016, 1 - entry into force 01.01.2017]

(2) If there are several persons specified in subsection (1) of this section in a family, only one of the persons can apply for a needs-based family benefit.

(3) In order to apply for a needs-based family benefit, an applicant for the needs-based family benefit shall submit an application not later than by the last working day of the month to the local authority in whose administrative territory the actual residence of the applicant is located.

(4) In an application, the applicant shall specify the names, personal identification codes or dates of birth and social status of persons specified in subsections 131 (7) and (8) of this Act and in the case provided for in subsection 136 (2) of this Act the persons specified in subsection 131 (9) of this Act.

(5) Upon application for a needs-based family benefit on the basis of clause 136 (1) 1) of this Act, documents which prove the net income of all the family members specified in subsection (4) of this section received and the amount of support paid during the three months preceding the submission of the application shall be appended to the application. If any type of income cannot be documented, the applicant for a needs-based family benefit shall verify the amount thereof by his or her signature.

### **§ 138. Grant of needs-based family benefit**

(1) A needs-based family benefit shall be granted by a local authority for the three months following the month of submission of an application in the amount provided for in subsection 136 (8) of this Act if the child or



children who are members of the family are receiving child allowance in the month of application for the needs-based family benefit and other conditions provided for in this Act are fulfilled.

(2) Needs-based family benefit shall not be granted retroactively for the preceding months.

(3) A local authority may refuse to grant a needs-based family benefit in the case specified in clause 134 (4) 2) of this Act.

(4) A local authority shall make the decision on the grant of a needs-based family benefit within ten working days after submission of all documents.

#### **§ 139. Payment of needs-based family benefit**

(1) A needs-based family benefit shall be paid by a local authority pursuant to subsection 28 (3) of the General Part of the Social Code Act or by post or in cash, taking into account the corresponding wish of the applicant as expressed beforehand, not later than by the twentieth day of the three months following the month of submission of an application.

(2) Upon change in the amount of needs-based family benefit specified in subsection 136 (8) of this Act, needs-based family benefits shall be paid in the new amount as of the month of establishment of the new amount of needs-based family benefit.

## **Division 9<sup>1</sup>** **Pensioner's Living Alone Allowance**

[RT I, 06.12.2016, 1 - entry into force 01.01.2017]

#### **§ 139<sup>1</sup>. Pensioner's living alone allowance**

(1) Pensioner's living alone allowance (hereinafter *pensioner's allowance*) is an allowance paid once per calendar year to a person who has attained pensionable age and who is living alone in Estonia in order to improve his or her financial independence and reduce poverty.

(2) A person who in the given calendar year from 1 April to 30 September complies with the following requirements has the right to receive pensioner's allowance:

- 1) the person is living alone according to the data on residence entered in the population register;
- 2) the person has attained the pensionable age provided for in § 7 of the State Pension Insurance Act;
- 3) a state pension or a pension on the basis of an international agreement has been granted to the person the monthly net amount of which is less than the rate of pensioner's allowance.

(3) A person who complies with the requirements provided for in clauses (2) 1) and 2) of this section and to whom a social benefit is paid on the basis of § 140 of this Act has also the right to receive pensioner's allowance.

(4) The provisions of clause (2) 1) of this section shall not apply to a person:

- 1) if another person residing at the residence of the person entered in the population register is the guardian of the person or a person under guardianship of the person;
- 2) who receives 24-hour care service;
- 3) if another person residing at the residence of the person entered in the population register receives 24-hour care service;
- 4) if another person residing at the residence of the person entered in the population register is a person entitled to receive maintenance from the person within the meaning of clause 97 1) or 2) of the Family Law Act.

(5) A person who is imprisoned or in custody pending trial or for whom a court has ordered coercive psychiatric treatment which is administered in the form of in-patient treatment does not have the right to receive pensioner's allowance.

(6) If a person has been imprisoned or in custody pending trial or if coercive psychiatric treatment of the person has been administered in the form of in-patient treatment but the person was acquitted or was not subject to punishment by imprisonment, pensioner's allowance shall be granted to him or her retroactively.

[RT I, 06.12.2016, 1 - entry into force 01.01.2017]

#### **§ 139<sup>2</sup>. Notification of persons of creation of right to receive pensioner's allowance**

(1) The Social Insurance Board shall verify on the basis of the data entered in the social protection information system, population register and, if necessary, the Estonian Education Information System the compliance of

persons with the requirements for receiving pensioner's allowance and notify the persons of the creation of the right to receive the allowance. The Social Insurance Board shall communicate the notice concerning the creation of the right to receive the allowance to the e-mail address of the person or in the manner specified in clause 27 (1) 2) or 3) of the General Part of the Social Code Act.

(2) Compliance of a person with the requirements for receiving the allowance specified in subsection (1) of this section shall be verified on the basis of the following data:

1) general data of the person: personal identification code, given names and surname, data on residence entered in the population register and contact details, data on death, declaration of death, data on the person being missing or a fugitive, data on establishment of guardianship, parent's right of custody and permit or right of residence;

2) data on the grant of state pension and the net amount thereof, including existing information of the Social Insurance Board concerning the net amount of a pension received from a foreign state;

3) data on the grant of a social benefit paid on the basis of § 140 of this Act;

4) data on 24-hour special care service and community living service;

5) data on the level of education of the person specified in clause 139<sup>1</sup>(4) 4) of this Act.

[RT I, 06.12.2016, 1 - entry into force 01.01.2017]

### **§ 139<sup>3</sup>. Amount, grant and payment of pensioner's allowance**

(1) The rate of pensioner's allowance and the amount of pensioner's allowance shall be established by the *Riigikogub* by the state budget for each budgetary year. Calculation of the rate of the allowance shall be based on 1.2 times the amount of average old-age pension rounded to whole number which is announced by the Statistics Estonia for the second quarter of the year preceding the budgetary year.

(2) Pensioner's allowance shall be granted by an act of the Social Insurance Board.

(3) The Social Insurance Board shall communicate the notice concerning the act of the grant of pensioner's allowance to the e-mail address of the person or in the manner specified in clause 27 (1) 2) or 3) of the General Part of the Social Code Act.

(4) Pensioner's allowance shall be paid in October for the given calendar year.

(5) A person specified in subsection 139<sup>1</sup>(2) of this Act who wishes to receive pensioner's allowance shall submit corresponding one-off information to the Social Insurance Board by 31 August if:

1) the person receives a pension from a foreign state – information on the receipt of pension as at 1 April;

2) a 24-hour care service, except 24-hour special care service and community living service, is provided to the person or a person residing at the same residence with the person entered in the population register – information on the receipt of the 24-hour care service from 1 April to 30 September or information on changes in such circumstances.

(6) In the case specified in clause (5) 1) of this section, the person shall submit to the Social Insurance Board by 31 December of the given calendar year a certificate concerning the net amount of the pension received from a foreign state from 1 April to 30 September which is certified by a relevant authority of the foreign state.

(7) The Social Insurance Board shall decide on the grant of or refusal to grant pensioner's allowance on the basis of the information provided for in clause (5) 2) of this section within ten working days after verification of the submitted information.

(8) Pensioner's allowance shall be paid pursuant to the procedure provided for in § 28 of the General Part of the Social Code Act, taking into account the specifications provided for in § 36 of the State Pension Insurance Act.

(9) Pensioner's allowance is financed from the state budget through the budget of the Ministry of Social Affairs.  
[RT I, 06.12.2016, 1 - entry into force 01.01.2017]

## **Division 10**

### **Social Benefits for Estonian Citizens or Persons of Estonian Origin Who Have Settled in Estonia from Foreign States and Their Spouses, Children and Parents**

#### **§ 140. Social benefits for Estonian citizens or persons of Estonian origin who have settled in Estonia from foreign states and their spouses, children and parents**

(1) An Estonian citizen or a person of Estonian origin who has settled in Estonia from a foreign state and the spouse, children and parents who have settled in Estonia together with him or her and who have attained the pensionable age provided for in § 7 of the State Pension Insurance Act have the right to receive a monthly social benefit at the national pension rate if the monthly income of the person is below the national pension rate.

(2) Applications for the grant of a social benefit specified in subsection (1) of this section shall be submitted to the Social Insurance Board.

(3) A social benefit specified in subsection (1) of this section shall be granted by the Social Insurance Board.

(4) A social benefit specified in subsection (1) of this section shall be granted from the date on which the right to the benefit arises, but retroactively not more than three months after the date of submission of the application. A social benefit shall be granted for a period during which a person meets the requirements provided for in subsection (1) of this section.

(5) A social benefit specified in subsection (1) of this section shall be paid pursuant to subsection 28 (3) of the General Part of the Social Code Act or by post or in cash, taking into account the corresponding wish of the recipient of the social benefit as expressed beforehand.

(6) The recipient of a social benefit specified in subsection (1) of this section is required to notify the Social Insurance Board of circumstances which bring about termination of payment of the granted social benefit in writing within ten days after the circumstances arise.

(7) The list of information included in the application specified in subsection (1) of this section and the required documents shall be established by a regulation of the minister responsible for the area.

(8) The costs of social benefits specified in subsection (1) of this section shall be covered from the state budget through the budget of the Ministry of Social Affairs.

## Chapter 4 Database

### § 141. Social Services and Benefits Registry

(1) The Social Services and Benefits Registry is a central database belonging to the state information system which is established for the following purposes:

- 1) processing and recording of the provision of social services and benefits and other assistance;
- 2) conduct and recording of acts of social work carried out based on the principle of case management;
- 3) organisation and recording of adoption and guardianship;
- 4) collection of data and statistics concerning social welfare.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(2) The Government of the Republic shall establish by a regulation the statutes of the Social Services and Benefits Registry which shall set forth the following:

- 1) the authorised processor of the database;
- 2) the duties of the chief and authorised processor;
- 3) the composition of the data collected in the database and procedure for entry in the registry;
- 4) the procedure for accessing data and release of data;
- 5) storage of data;
- 6) other operational issues.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(3) The chief processor of the Social Services and Benefits Registry is the Ministry of Social Affairs.

(4) [Repealed - RT I, 21.12.2016, 2 - entry into force 01.01.2017]

### § 142. Authorised processors of Social Services and Benefits Registry

[Repealed - RT I 21.12, 2016, 2 - entry into force 01.01.2017]

### § 142<sup>1</sup>. Data in Social Services and Benefits Registry

The following data shall be processed in the Social Services and Benefits Registry:

- 1) general data of a person in need of assistance – personal identification code, sex, date of birth, given names and surname, contact details;
- 2) other data concerning a person in need of assistance – data on special need, disability, work ability, social status, health insurance, education, guardianship, caregiver, other persons specified in the Social Welfare Act, assessment conducted, case plan, benefit paid and service provided, income, housing and housing expenses and data on parent's right of custody over a person under 18 years of age, separation from the family and placement of a person under 18 years of age;

- 3) data on the provision of assistance and processing of a petition for adoption – general data of the proceeding, data on the acts and documents related to the proceeding;
  - 4) data on the chief and authorised processor – general data of the authority, data on users, benefits granted and services provided and accounting documents;
  - 5) general data of a person who submitted a petition for adoption – personal identification code, sex, date of birth, given names and surname, contact details;
  - 6) other data of a person who submitted a petition for adoption – data on special need, disability, work ability, social status, health insurance, education, nationality, religious affiliation, family members, housing, child requested in the family, study of family, training completed and decision made.
- [RT I, 21.12.2016, 2 - entry into force 01.01.2017]

#### **§ 143. Submission of data to Social Services and Benefits Registry and exchange of data**

[Repealed - RT I 21.12, 2016, 2 - entry into force 01.01.2017]

#### **§ 144. Obligation of local authorities, providers of social services and Social Insurance Board to enter data in Social Services and Benefits Registry**

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(1) A local authority shall enter the following data in the Social Services and Benefits Registry pursuant to the procedure established in the statutes of the Social Services and Benefits Registry:

- 1) data necessary for the application for and payment of subsistence benefits and supplementary social benefits paid from state budget provided for in § 135 of this Act;
  - 2) data necessary for the application for and payment of needs-based family benefits;
  - 3) data concerning the establishment of curatorship or appointment of curators to adults provided for in § 26 of this Act;
  - 4) data necessary for the application for and payment of allowances for curatorship of adults provided for in § 26 of this Act;
  - 5) data concerning foster care contracts provided for in § 127 of this Act;
  - 6) data concerning decisions on referral to receive substitute home service;
  - 7) data concerning applications for childcare service and other social services for children with a severe or profound disability and decisions on referral to receive the service;
- [RT I, 21.12.2016, 2 - entry into force 01.01.2017]
- 8) data concerning children in need of assistance within the meaning of the Child Protection Act and judicial decisions, acts and procedural acts related to cases of children in need of assistance;
  - 9) data concerning children in danger within the meaning of the Child Protection Act and judicial decisions, acts and procedural acts related to cases of children in danger;
  - 10) data concerning the case plans of children in need of assistance and children in danger within the meaning of the Child Protection Act.

(2) Entry of data concerning the other social services provided by a local authority, the provision of social benefits, emergency social assistance and other assistance, data concerning the organisation of adoption and guardianship and data concerning social benefits paid by local authorities which are independent of the persons' individual needs for assistance, ability to cope or financial situation in the Social Services and Benefits Registry is voluntary.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(3) Data concerning social rehabilitation, special care services and technical aids shall be entered in the Social Services and Benefits Registry if these are financed from a local authority budget.

(4) [Repealed - RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(5) A provider of social services who is financed from the state budget or the local authority budget shall enter in the Social Services and Benefits Registry at the latest by the tenth day of the month following the month of provision of a service:

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

- 1) data concerning the provision of the service to a person on the basis of clauses (1) 6) and 7) of this section;
- 2) data concerning the location of a person referred to receive the service specified in clause (1) 6) of this section.

(6) The Social Insurance Board shall enter the following data in the Social Services and Benefits Registry pursuant to the procedure established in the statutes of the Social Services and Benefits Registry:

- 1) data concerning children in need of assistance within the meaning of the Child Protection Act and acts and procedural acts related to cases of children in need of assistance, including data concerning the referral of children in need of assistance to receive social services;
- 2) data concerning children in danger within the meaning of the Child Protection Act and judicial decisions, acts performed and procedural acts related to cases of children in danger;
- 3) data concerning a petition for adoption and documents and acts related to the preparation for adoption.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

#### **§ 145. Access to registry data**

[Repealed - RT I 21.12, 2016, 2 - entry into force 01.01.2017]

## **Chapter 5 Challenge Proceedings**

#### **§ 146. Challenge proceedings of local authority**

If an applicant disagrees with a decision on a social service, social benefit, emergency social assistance or other assistance and subsistence benefit and needs-based family benefit financed from the budget of a local authority, the applicant has the right to file a challenge with the county governor through the local authority pursuant to the procedure provided for in the Administrative Procedure Act.

## **Chapter 6 Licence Proceedings**

#### **§ 147. Licence requirement of provider of rehabilitation services**

- (1) An activity licence is required for the provision of rehabilitation services.
- (2) The licence requirement does not apply to the Social Insurance Board.

#### **§ 148. Adjudication of application for activity licence of provider of rehabilitation services**

- (1) An application for an activity licence of a provider of rehabilitation services shall be adjudicated by the Social Insurance Board.
- (2) In addition to the information provided for in the General Part of the Economic Activities Code Act, an application for an activity licence of a provider of rehabilitation services shall set out the activities specified in the list established by a regulation of the minister responsible for the area on the basis of § 57 of this Act which are provided by the provider of rehabilitation services under rehabilitation services.

#### **§ 149. Subject of review of activity licence**

An activity licence shall be granted for the provision of rehabilitation services if the provider of rehabilitation services and the rehabilitation team comply with the requirements provided for in clauses 66 1), 2) and 4)–7) and § 68 of this Act.

#### **§ 150. Secondary condition of activity licence for rehabilitation services**

The right to provide rehabilitation services on the basis of a rehabilitation programme may be added as a secondary condition to an activity licence for the provision of rehabilitation services if:

- 1) the rehabilitation programme complies with the requirements provided for in subsections 69 (2) and (4)–(6) of this Act;
- 2) the rehabilitation programme is approved pursuant to subsection 69 (11) of this Act.

#### **§ 151. Licence requirement of provider of social services**

An activity licence is required for the provision of the following social services:

- 1) childcare service;  
[RT I, 21.12.2016, 2 - entry into force 01.01.2017]
- 2) substitute home service;
- 3) safe house service;  
[RT I, 30.12.2015, 5 - entry into force 01.01.2020]
- 4) general care service provided outside home;  
[RT I, 30.12.2015, 5 - entry into force 01.01.2020]
- 5) everyday life support service;
- 6) employment support service;
- 7) supported living service;
- 8) community living service;
- 9) 24-hour special care service.

## **§ 152. Application for activity licence of provider of social services**

- (1) An application for an activity licence of a provider of social services shall be adjudicated by:
- 1) the county governor for the provision of the services specified in clauses 151 1)–4) of this Act;
  - 2) the Social Insurance Board for the provision of the services specified in clauses 151 5)–9) of this Act.
- (2) The application specified in clause (1) 1) of this section shall be submitted:
- 1) in the case of a natural person, to the county governor of his or her residence entered in the population register, and in the case of a legal person, to the country governor of its seat, if the applicant wishes to provide the childcare service in the dwelling of the child receiving the childcare service;
  - 2) in all other cases to the county governor of the place of business.
- (3) In addition to the information provided for in the General Part of the Economic Activities Code Act, an application for an activity licence of a provider of social services shall set out the following information:
- 1) the number of persons to whom the applicant wishes to provide the service at the place of business;
  - 2) upon application for an initial activity licence, the written consent of care workers, persons providing the service directly at a safe house, activity supervisors, childcarers, education employees or family parents for commencement of employment with the service provider applying for the activity licence.
- (4) Upon application for an activity licence for the provision of the safe house service, childcare service or substitute home service, the applicant shall submit, in addition to the information specified in subsection (3) of this section, a health certificate of the person providing the service directly, the childcarer, family parent or education employee concerning the undergone medical examination for communicable diseases.
- (5) If the applicant wishes to provide the childcare service or substitute home service in the dwellings of the childcarer or family parent, the following shall be submitted in addition to the documents specified in subsections (3) and (4) of this section:
- 1) the consent of the owner of the dwelling for the provision of the childcare service or substitute home service in the dwellings of the childcarer or family parent;
  - 2) health certificates of the adults with whom the childcarer or family parent uses common dwellings concerning the undergone medical examination for communicable diseases.
- (6) If the everyday life support service or supported living service is provided to a person who shares a common dwelling with its owner, the application for an activity licence shall include the consent of the owner of the dwelling for the provision of the everyday life support service or supported living service in the dwelling.
- (7) Upon application for an activity licence for the provision of the everyday life support service, employment support service, supported living service, community living service and 24-hour special care service, the applicant shall submit, in addition to the information specified in subsection (3) of this section, a health certificate of the activity supervisor concerning the undergone medical examination for communicable diseases.

## **§ 153. Subject of review of activity licence of provider of social services**

An activity licence for the provision of social services is granted if:

- 1) the applicant for the activity licence and the service planned to be provided and the care worker, person providing the service directly at a safe house, the childcarer, education employee, family parent and activity supervisor (hereinafter *person providing the service directly*) comply with the requirements for the services, service providers and the persons providing the service directly provided for in this Act;
- 2) the person providing the service directly has no criminal record for an intentionally committed criminal offence which may endanger the life, health and property of the person entitled to receive the service;
- 3) the place for the provision of the service complies with the health protection requirements established on the basis of the Public Health Act;
- 4) the place for the provision of the service complies with the fire safety requirements;
- 5) in the case of the services specified in clauses 151 1) and 2) of this Act, the requirements provided for in § 20 of the Child Protection Act are complied with.

## **§ 154. Secondary conditions of activity licence of provider of social services**

The following secondary conditions shall be added to an activity licence of a provider of social services:

- 1) the maximum number of persons to whom it is permitted to provide the service at the same time;
- 2) in the case of the 24-hour special care service, a specification concerning whether the undertaking has the right to provide the service to a person with a profound multiple disability, a person with a severe, profound or permanent mental disorder with unstable remission or a person placed in a social welfare institution by a court ruling in addition to a person specified in subsection 101 (1) of this Act;
- 3) a place of business where it is permitted to operate.

## **§ 155. Renouncement of activity specified in activity licence**

(1) An activity specified in an activity licence may be temporarily renounced for up to six months. The provider of a service specified in clauses 151 1), 3) and 4) of this Act is required to notify the issuer of the activity licence of the temporary renouncement of its activity at least three months in advance. Temporary renouncement of the services specified in clauses 151 2) and 5)–9) of this Act is not permitted.

(2) The provider of a service specified in clause 151 1), 3), 4), 5) or 6) of this Act is required to submit the notice on renouncement of economic activities to the registrar three months before the termination of the provision of the service. The provider of a service specified in clause 151 2), 7), 8) or 9) of this Act is required to submit the notice on renouncement of economic activities at least six months before the termination of the provision of the service.

## Chapter 7 Financing

### § 156. Social benefits financed from state budget

(1) The expenses of payment of subsistence benefits and needs-based family benefits shall be compensated to local authorities from the state budget. Compensation for the payment of subsistence benefits and needs-based family benefits shall be calculated by deducting the balance of the funds received in previous years from the expenses of the local authority during the year preceding the given budgetary year. If the subsistence level or income threshold of needs-based family benefit has increased in the budgetary year, the impact thereof shall be taken into account upon distribution of compensation. If the balance of the compensation for the payment of benefits at the beginning of the year and the funds additionally provided in the budgetary year are not sufficient to pay subsistence benefits and needs-based family benefits until the end of the year, additional funds may be allocated to local authorities to the extent of the expected deficit.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(2) The expenses of processing and payment of benefits specified in subsection (1) of this section as the expenses of state functions performed by local authorities shall be compensated to local authorities from the state budget on the basis of the number of applications submitted in the year preceding the budgetary year and the average calculated expenses of processing of one application provided for in the state budget for the corresponding year.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(3) Support shall be prescribed for local authorities in the state budget in accordance with the possibilities of the state budget for the provision and development of social services which support the improvement of the independent coping of persons in need of assistance in the long run and introduction of new social services, including partial coverage of the costs of investments and payment of additional social benefits. Three per cent of the support shall be distributed in proportion to the number of local authorities, fifteen per cent in proportion to the number of families who received subsistence benefit and 82 per cent in proportion to the number of disabled children with appointed caregivers.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(3<sup>1</sup>) Support shall be prescribed for local authorities in the state budget in accordance with the possibilities of the state budget for the provision of assistance to children with a severe or profound disability. Support shall be distributed between the local authorities in proportion to the number of children with a severe or profound disability by deducting from the result the balance of the funds allocated to the local authority for the same purpose in the years preceding the given year. In doing so, the number of children with a profound disability shall be multiplied by 4.62.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(3<sup>2</sup>) A local authority may use the support specified in subsection (3<sup>1</sup>) of this section for the provision of childcare service, support person service, social transport service or other social services to children with a severe or profound disability in order to help to reduce the care burden of the family of a child with a severe or profound disability or an additional need arising from the disability.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(3<sup>3</sup>) In the case of a person with a severe or profound disability who attains 18 years of age, the support specified in subsection (3<sup>1</sup>) of this section may be used until the end on the calendar year.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(4) The principles for the distribution of the funds allocated to local authorities specified in subsections (1)–(3<sup>3</sup>) of this section between the local authorities shall be established by a regulation of the Government of the Republic on the basis of the State Budget Act.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

## Chapter 8

# Supervision

## § 157. Exercise of state and administrative supervision

(1) State supervision over compliance with the requirements provided for in this Act and legislation established on the basis thereof shall be exercised by the following law enforcement authorities:

1) the Health Board – over passing of the medical examination provided for in clause 45<sup>3</sup>(4) 2) and subsection 124 (10) of this Act;

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

2) the Social Insurance Board – over the providers of the services specified in §§ 66, 87, 91, 94, 97 and 100 of this Act;

3) county governor – over the providers of the services specified in §§ 45<sup>1</sup> and 116 of this Act.

[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(2) A county governor or a person authorised by him or her shall exercise administrative supervision over the quality of social services and other assistance provided in the county and the use of financial resources allocated by the state for social welfare. A corresponding report shall be submitted to the Ministry of Social Affairs at least once a year.

(3) The Social Insurance Board has the right to obtain information necessary for state supervision and verify the correctness of data on the basis of the data in the employment register provided for in § 25<sup>1</sup> of the Taxation Act.

## § 158. Special state supervision measures

In order to exercise state supervision provided for in this Act, a law enforcement authority may apply the specific state supervision measures provided for in §§ 30, 32 and 49–51 of the Law Enforcement Act on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.

## § 159. Penalty payment rate

Upon failure to comply with a precept, the upper limit of penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act is 640 euros.

## Chapter 9 Implementing Provisions

### Division 1 Transitional Provisions

## § 160. Transitional provisions

(1) Until 31 December 2019, a substitute home family may consist of up to eight children.

(2) An education employee who is in an employment or authorisation agreement relationship with a provider of substitute home service on 1 January 2007 and who has acquired secondary education and for whom the right to receive a state old-age pension arose before 1 January 2012, has the right to work in the position of a junior educator until retirement.

(3) Until 31 December 2017, special care services may be provided by activity supervisors who have acquired at least basic education, who have registered themselves for a training in accordance with the plan established on the basis of subsection 86 (7) of this Act and who comply with the requirement provided for in subsection (3) of the specified section.

(4) Until 31 December 2017, special care services may be provided to persons placed in a social welfare institution by a court ruling by activity supervisors who comply with the requirements specified in subsection (3) of this section and who have registered themselves for in-service training for work with persons with higher risk rate in accordance with the plan established on the basis of subsection 86 (7) of this Act.

(5) In addition to activity supervisors specified in subsection 86 (6) of this Act, until 31 December 2017, activity supervisors, who comply with at least one of the requirements established in subsection (1) and the requirement established in subsection (3) of the abovementioned section and who have registered themselves for in-service training for work with persons with a profound multiple disability or a severe, profound or permanent mental disorder with unstable remission in accordance with the plan established on the basis of subsection 86 (7) of this Act, may provide services to persons with a profound multiple disability or a severe, profound or permanent mental disorder with unstable remission.



- (6) In-service trainings for work with persons with higher risk rate undergone before 1 January 2009 shall be considered equal to the trainings specified in subsection 86 (7) of this Act.
- (7) Until 31 December 2019, special care services may be provided by activity supervisors who have acquired basic education, who comply with the requirement provided for in subsection 86 (3) of this Act and who have undergone training in accordance with the plan established on the basis of subsection (7) of the abovementioned section.
- (8) An application for the receipt of a rehabilitation service submitted by a person under 18 years of age before 1 January 2016 shall be reviewed and the decision on the provision of the rehabilitation service shall be made pursuant to the wording of the Social Welfare Act in force until 31 December 2015.
- (9) The Social Insurance Board shall assume from a person under 18 years of age, in respect of whom the decision on the provision of a rehabilitation service was made at the latest on 31 December 2015 and in the case provided for in subsection (8) of this section, the obligation to pay the fee for the social rehabilitation service and shall provide the social rehabilitation service until the expiry of the rehabilitation plan but not for longer than until 31 December 2018. If the person specified in this subsection does not have a valid rehabilitation plan, the rehabilitation team shall determine the term of validity of the rehabilitation plan upon preparation thereof.
- (10) The Social Insurance Board shall assume from a person of at least 18 years of age in respect of whom the decision on the provision of a rehabilitation service was made at the latest on 31 December 2015 and who has a valid rehabilitation plan, the obligation to pay the fee for the social rehabilitation service and shall provide the social rehabilitation service until the expiry of the rehabilitation plan but not for longer than until 31 December 2018.
- (11) The Social Insurance Board shall assume from a person of at least 18 years of age, who has submitted an application for the receipt of a rehabilitation service before 1 January 2016 or whose decision on the provision of the rehabilitation service was made at the latest on 31 December 2015 and who does not have a valid rehabilitation plan, the obligation to pay the fee for the social rehabilitation service if the need of the person for the social rehabilitation service has been identified pursuant to § 62 of this Act.
- (12) A person whose receipt of a rehabilitation service has been decided on pursuant to the wording of the Social Welfare Act in force until 31 December 2015 shall no longer be entitled to receive the rehabilitation service pursuant to the specified wording as of the date of making the decision on occupational rehabilitation by the Estonian Unemployment Insurance Fund or the date of making the decision on assumption of the obligation to pay the fee for the social rehabilitation service by the Social Insurance Board.
- (13) A person qualified to participate in the work of a rehabilitation team pursuant to the wording of the Social Welfare Act in force until 31 December 2015 and registered as a member of a rehabilitation team in the register of economic activities as at 31 December 2015 may act as a member of a rehabilitation team until 31 December 2019.
- (14) A contract under public law entered into with a provider of rehabilitation services on the basis of subsection 11<sup>4</sup>(1) of the wording of the Social Welfare Act in force until 31 December 2015 shall expire on 31 December 2015.
- (15) A rehabilitation team shall comply with the requirements provided for in subsection 68 (6) of this Act at the latest by 1 January 2020.
- (16) If the right of a person to purchase or lease a technical aid or be compensated for the costs of services related thereto on the basis of a decision of the county government arose before 1 January 2016, the Social Insurance Board shall take over the financing of the service from the county government as of 1 January 2016.
- (17) A technical aid card issued to a person by a county government shall be valid in respect of the name of the technical aid entered on the card until the end of the service life of the technical aid within the meaning provided for in subsections 48 (6) and (7) of this Act.
- (18) The provisions of subsections 47 (6) and (7) of this Act shall also apply to a person whose right to purchase or lease a technical aid or be compensated for the costs of services related thereto on the basis of a decision of the county government arose before 1 January 2016.
- (19) Subsection 51 (4) of this Act shall not apply to a person specified in subsections 47 (1) and (2) of this Act whose basis for being an entitled person changes and a person whose technical aid card has expired.
- (20) A seller of lessor of a technical aid shall comply with the requirements provided for in subsection 55 (4) of this Act at the latest by 1 January 2017.

(21) A provider of rehabilitation services who held an activity licence for the provision of rehabilitation services issued pursuant to the wording of the Social Welfare Act in force until 31 December 2015 and was registered as a provider of rehabilitation services in the register of economic activities as at 31 December 2015 may provide the services on the basis of the specified activity licence until 31 December 2016.

(22) Local authorities are required to enter the data specified in subsection 144 (1) of this Act and data concerning active cases as at 1 January 2016 in the Social Services and Benefits Registry as follows:  
1) data specified in clauses 144 (1) 5)–7) of this Act within three months as of entry into force of the Act;  
2) data specified in clauses 144 (1) 8)–10) of this Act within six months as of entry into force of the Act.

(23) In the case of the persons specified in clause 47 (1) 2) of this Act, the condition concerning partial or no work ability is also met if the person has been declared permanently incapacitated for work with a 40 to 100 per cent loss of capacity for work on the basis of the State Pension Insurance Act or whose category of disability determined for an unspecified term on the basis of the State Allowances Act is deemed to correspond to the permanent incapacity for work with a 40 to 100 per cent loss of capacity for work determined until the pensionable age pursuant to § 58 of the State Pension Insurance Act.  
[RT I, 30.12.2015, 5 - entry into force 01.07.2016]

(24) The condition of no work ability provided for in clause 101 (1) 3) of this Act is deemed to be complied with also in the case of a person whose percentage of loss of capacity for work is at least 80.  
[RT I, 30.12.2015, 5 - entry into force 01.07.2016]

(25) The condition of no work ability provided for in clause 101 (2) 2) and clause 101 (3) 2) of this Act is deemed to be complied with also in the case of a person whose percentage of loss of capacity for work is at least 90.  
[RT I, 30.12.2015, 5 - entry into force 01.07.2016]

(26) The Social Insurance Board is required to enter the data specified in clause 144 (6) 3) of this Act and data concerning active cases as at 1 January 2017 in the Social Services and Benefits Registry at the latest by 31 December 2017.  
[RT I, 21.12.2016, 2 - entry into force 01.01.2017]

## **Division 2 Amendment and Repeal of Acts**

§ 161.–§ 182.[The provisions amending other Acts are omitted from this translation.]

### **§ 183. Repeal of Act**

(1) The Social Welfare Act (RT I 1995, 21, 323) is repealed.

(2) Regulations of local authorities established on the basis of the Act specified in subsection (1) of this section shall remain in force until entry into force of the regulations adopted on the basis of this Act but not for longer than until 31 March 2016.

## **Division 3 Entry into Force of Act**

### **§ 184. Entry into force of Act**

(1) The General Part of the Social Code Act and this Act enter into force on 1 January 2016.

(2) Subsection 68 (3), subsection 86 (8), subsection 115 (3) and subsection 123 (9) of this Act enter into force on 18 January 2016.

(3) Clause 59 (1) 4), clauses 176 1)–2), 4)–9) and 11), clause 177 3), clause 179 4) and § 180 of this Act enter into force on 1 July 2016.

(4) [Repealed - RT I, 21.12.2016, 2 - entry into force 01.01.2017]

(5) Subsection 52 (2), clause 55 (1) 5) and subsection 55 (2) of this Act enter into force on 1 January 2018.

(6) Clause 66 3) and clause 176 10) of this Act enter into force on 1 July 2018.

(7) Subsections 22 (3) and (4), subsection 36 (2) and clauses 151 3) and 4) of this Act enter into force on 1 January 2020.