

## Social Welfare Act

Passed 8 February 1995

(RT<sup>1</sup> I 1995, 21, 323; consolidated text RT I 2001, 98, 617),

entered into force 1 April 1995,

amended by the following Acts:

(29.10.2009 entered into force 01.01.2010, partially 12.11.2009 - RT I 2009, 53, 360);

30.09.2009 entered into force 01.01.2010 - RT I 2009, 49, 331;

01.10.2009 entered into force 31.10.2009 - RT I 2009, 49, 332;

18.06.2009 entered into force 06.07.2009 - RT I 2009, 35, 232;

28.01.2009 entered into force 01.07.2009 - RT I 2009, 11, 67;

17.12.2008 entered into force 01.03.2009 - RT I 2008, 58, 329;

17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329;

22.10.2008 entered into force 01.05.2009 - RT I 2008, 48, 265;

22.10.2008 entered into force 01.02.2009 - RT I 2008, 48, 264;

22.05.2008 entered into force 01.09.2008 - RT I 2008, 24, 156;

14.06.07 entered into force 20.07.07 - RT I 2007, 45, 320

15.11.06 entered into force 01.01.07, partially 01.02.07, 01.08.2007 - RT I 2006, 55, 405

16.11.06 entered into force 01.07.07 - RT I 2006, 55, 409

15.11.06 entered into force 01.01.07, partially 01.02.07- RT I 2006, 55, 405

17.05.2005 entered into force 01.08.2006 - RT I 2006, 26, 191;

14.12.2005 entered into force 01.07.2006 - RT I 2006, 2, 3;

12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451;

28.09.2005 entered into force 01.01.2006 - RT I 2005, 54, 430;

15.06.2005 entered into force 03.02.2006 - RT I 2005, 39, 308;

16.06.2005 entered into force 17.07.2005 - RT I 2005, 38, 299;

13.04.2005 entered into force 01.11.2005 - RT I 2005, 24, 181;

16.03.2005 entered into force 08.04.2005 - RT I 2005, 18, 106;

27.01.2005 entered into force 09.02.2005 - RT I 2005, 9, 34;

08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 605;

08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 604;

08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603;

07.04.2004 entered into force 01.05.2004 - RT I 2004, 27, 180;

17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591;

12.11.2003 entered into force 01.01.2004 - RT I 2003, 75, 489;

07.08.2003 entered into force 05.09.2003 - RT I 2003, 58, 388;

16.10.2002 entered into force 01.01.2003 - RT I 2002, 90, 521;

20.06.2002 entered into force 20.07.2002 - RT I 2002, 64, 393;

19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375;

05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336.

## Chapter 1

### General Provisions

## § 1. Purpose of Act

(1) This Act provides the organisational, economic and legal bases of social welfare, and regulates the relations relating to social welfare.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(2) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117) apply to the administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

## § 2. Definitions

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;

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

2) “coping” means the physical or psycho-social ability of a person or family to manage in everyday life;

3) “social service” means a non-monetary benefit which contributes towards the ability of a person or family to cope;

4) “social benefit” means a monetary benefit provided to contribute towards the ability of a person or family to cope;

5) “other assistance” means activities directed at improving the social environment and increasing social security;

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

6) “social housing” means a dwelling in municipal ownership provided to a person in need of social services;

7) “social register” means a database using common definitions and standard classifiers concerning persons applying for social services, social benefits or other assistance;

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

8) “local social register” means a social register maintained by a rural municipality government or city government;

9) “national social register” means a nationally distributed register of the social registers maintained by rural municipality governments and city governments;

9<sup>1</sup>) “childcare information system” means an information system for ensuring accessibility and supporting of use of childcare service;

(15.11.06 entered into force 01.08.07 - RT I 2006, 55, 405)

10) “welfare worker” means a person with appropriate training employed in social welfare;

11) “social worker” means a person with higher education and appropriate professional training;

12) "emergency social assistance" means necessary social welfare measures in correspondence with the situation of a person without sufficient means of subsistence which guarantees the person at least food, clothing and temporary abode.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

### § 3. Principles and purposes of social welfare

(1) The principles of social welfare are:

- 1) the observation of human rights;
- 2) the responsibility of persons for their own and their family members' ability to cope;
- 3) the obligation to provide assistance if the potential for a person or family to cope is insufficient;
- 4) the promotion of the ability of persons and families to cope.

(2) The purposes of social welfare are to provide assistance to persons or families in preventing, eliminating and relieving difficulties in coping, and to assist persons with special social needs in social security, development and integration into society.

### § 4. Social welfare subject

(1) The following have the right to receive social services, social benefits and other assistance:

- 1) permanent residents of Estonia;
- 2) aliens residing in Estonia on the basis of residence permits or right of residence;

(17.05.05 entered into force 01.08.06 - RT I 2006, 26, 191)

3) persons enjoying international protection staying in Estonia.

(14.12.2005 entered into force 01.07.2006 - RT I 2006, 2, 3)

(2) Persons lawfully staying in Estonia who meet the requirements provided for in § 23<sup>1</sup> of this Act have the right to receive benefits provided for in the specified section.

(3) Every person staying in Estonia has the right to receive emergency social assistance.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

## Chapter 2

### Administration of Social Welfare

### § 5. Administration of social welfare

(1) Social welfare is administered by the Minister of Social Affairs, the county governors and the local governments.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953; 09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

(2) State social welfare is administered by the Minister of Social Affairs and the county governors.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953; 09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

(3) County governors administer state social welfare in counties through the appropriate department of the county government.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953)

(4) Local government social welfare is administered by the rural municipality government or city government.

(5) (Repealed - 09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

§ 6. Duties of Minister of Social Affairs in management and administration of social welfare

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

The duties of the Minister of Social Affairs in the management and administration of social welfare are:

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

- 1) development of national social welfare policy;
  - 2) drafting of bills and other legislation regulating social welfare;
  - 3) development and co-ordination and administration of national social welfare programs and projects;
  - 4) specification of training standards for welfare workers, participation in the organisation of training;
- (09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)
- 5) administration of state vocational training institutions for the disabled;
  - 6) organisation of the manufacture and procurement of prosthetic, orthopaedic and other appliances and identification of the demand therefor;
  - 7) collection and analysis of information relating to social welfare and dissemination of information to the general public;
  - 8) administration of the national social register and maintenance of national social statistics;
  - 8<sup>1</sup>) establishment of the formats of statistical reports relating to social welfare and the procedure for the submission thereof;
- (08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 605)
- 9) requesting supplementary financial resources for local governments for social welfare;
  - 10) drafting of legislation regulating the work of guardianship authorities;
  - 11) organisation of adoption from and to foreign states and maintenance of a corresponding register;
  - 12) licensing of social welfare institutions and welfare workers;
  - 13) performance of other duties related to social welfare assigned to the Ministry of Social Affairs by other Acts or legislation.

§ 7. Duties of county governor in administration of social welfare

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953)

(1) In co-operation with local government authorities and other legal persons and natural persons, the duties of county governors in the administration of social welfare are, within the limits of their competence:

- 1) development of county social welfare policy;
  - 2) development, co-ordination and administration of social welfare programs and projects in the county;
  - 3) organisation of training for county welfare workers;
  - 4) administration of state social welfare institutions located in the county;
  - 5) organisation of supply of prosthetic, orthopaedic and other appliances in the county;
- (09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)
- 6) collection and analysis of information relating to social welfare in the county and dissemination of information to the rural municipality governments and city governments and the general public;
  - 6<sup>1</sup>) collection of statistical reports relating to social welfare from counties and preparation and submission of consolidated reports pursuant to the procedure established on the basis of clause 6 8<sup>1</sup>) of

this Act;

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 605)

7) analysis of information received from the local social registers and forwarding of such information to the Ministry of Social Affairs;

7<sup>1</sup>) organisation of substitute home services and financing of state-funded childcare services;

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

8) organisation of the work of county guardianship authorities;

9) organisation of adoption and maintenance of a corresponding register;

10) performance of other duties related to social welfare assigned to the Ministry of Social Affairs by other Acts or legislation.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953)

(2) The county governor or a person authorised by him or her shall supervise 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 written report shall be submitted to the Government of the Republic at least once a year.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

(3) A county governor has the right to delegate, on the basis of a contract under public law, performance of the duties provided for in clause (1) 5) of this section which are assigned to him or her to a local government.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

## § 8. Duties of local governments in administration of social welfare

The duties of local governments in the administration of social welfare are:

1) drafting of a local social welfare development plan as a part of the rural municipality or city development plan;

2) administration of the provision of social services, emergency social assistance and other assistance, and the grant and payment of social benefits;

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

2<sup>1</sup>) preparation of statistical reports relating to social welfare and submission of the reports to county governors pursuant to the procedure established on the basis of clause 6 8<sup>1</sup>) of this Act;

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 605)

3) establishment and maintenance of a local social register and dissemination of information received from the social registers pursuant to the procedure established by the Ministry of Social Affairs;

4) organisation of the work of guardianship authorities.

## § 9. Social welfare coverage

(1) The rural municipality government or city government of a person's residence is required to administer the provision of social services, social benefits, emergency social assistance and other assistance to persons who reside in the rural municipality or city.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

(2) The provision of social services, social benefits, emergency social assistance and other assistance

to a person staying outside his or her residence is, in agreement with the rural municipality government or city government of the person's residence, administered by the rural municipality government or city government in whose administrative jurisdiction the person is staying.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

(3) The provision of social services, emergency social assistance and other assistance to a person whose residence cannot be determined is administered by the rural municipality government or city government in whose administrative jurisdiction the person is staying at the time he or she is in need of assistance.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

(4) The provision of social services, social benefits, emergency social assistance and other assistance to a person who is released from a penal institution is administered by the rural municipality government or city government in whose administrative jurisdiction the person last resided or, if his or her family members have changed their residence, by the rural municipality government or city government of the residence of the family members once the person resides with such family members.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

(5) The provision of emergency social assistance to an alien is administered by the rural municipality government or city government in whose administrative jurisdiction the person is staying at the time he or she is in need of assistance.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

## Chapter 3

### Social Services

#### Division 1

##### General Part

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 10. Social services

Social services are:

1) counselling;

1<sup>1</sup>) rehabilitation service;

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

1<sup>2</sup>) everyday life support service;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

1<sup>3</sup>) employment support service;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

1<sup>4</sup>) supported living service;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

1<sup>5</sup>) community living service;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

1<sup>6</sup>) 24-hour special care service;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

2) provision of prosthetic, orthopaedic and other appliances;

2<sup>1</sup>) childcare service;

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

3) domestic services;

4) housing services;

5) foster care;

5<sup>1</sup>) substitute home service;

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

6) care in social welfare institutions;

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

7) other social services needed for coping.

## § 10<sup>1</sup>. Prohibition on provision of social services

Upon provision of social services in the course of which the person directly providing the service comes personally into contact with the child under the service, working with children is prohibited for a person who has been punished or who has been subjected to coercive treatment for a criminal offence provided in clause 133 (2) 2), clause 141 (2) 1), clause 142 (2) 1), clause 143 (2) 1), clause 143<sup>1</sup> (2) 1), §§ 144-146 or §§ 175-178 of the Penal Code if information concerning the punishment has not been expunged from the punishment register pursuant to the Punishment Register Act or information concerning the punishment has been expunged from the punishment register and has been entered in the archives of the punishment register.

(14.06.07 entered into force 20.07.07 - RT I 2007, 45, 320)

## Division 2

### Counselling

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

## § 11. Counselling

(1) Counselling is the provision to a person of necessary information about social rights and opportunities for protecting legal interests, and assistance in solving specific social problems in order to contribute towards future coping.

(2) Counsellors are welfare workers who have received special training for counselling work.

(3) Counselling in a rural municipality or city is organised by the corresponding rural municipality government or city government.

## Division 3

### Rehabilitation Service

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

## § 11<sup>1</sup>. Rehabilitation service

Rehabilitation service means a service provided to support the ability of persons to cope independently, their social integration and employment or commencement of employment in the framework of which:

1) a personal rehabilitation plan which complies with the requirements provided for in § 2<sup>1</sup> of the Social Benefits for Disabled Persons Act and is valid for a term of six months up to five years (hereinafter rehabilitation plan) is prepared for a person. A rehabilitation plan valid for a term of six months up to three years is prepared for a minor;

(29.10.2009 entered into force 01.01.2010 - RT I 2009, 53, 360)

2) services specified in the list established by the Government of the Republic and set out in the rehabilitation plan are provided;

3) a person is instructed how to carry out activities described in the rehabilitation plan.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

## § 11<sup>2</sup>. Person entitled to receive rehabilitation service provided by state

(1) The following have the right to receive rehabilitation services provided by the state:

1) persons with a disability within the meaning of § 2 of the Social Benefits for Disabled Persons Act;

2) persons specified in subsection 2<sup>1</sup> (2) of the Social Benefits for Disabled Persons Act;

3) on the basis of a decision of a juvenile committee persons specified in subsection 1 (2) and (3) of the Juvenile Sanctions Act (RT I 1998, 17, 264; 2002, 82, 479; 90, 521; 2003, 26, 156; 2004, 30, 206; 46, 329);

4) persons of 16 years of age until attaining the pensionable age provided for in § 7 of the State Pension Insurance Act (RT I 2001, 100, 648; 2002, 53, 336 and 338; 61, 375; 2003, 20, 116; 48, 343; 82, 549; 88, 589; 2004, 16, 120; 89, 604 and 608), provided that they have a mental disorder and their percentage of loss of capacity for work is at least 40.

(27.01.2005 entered into force 09.02.2005 - RT I 2005, 9, 34)

(2) The list of services provided to persons specified in subsection (1) of this section within the framework of rehabilitation services, the prices of services and the maximum cost of rehabilitation services financed by the state per person in one calendar year shall be established by the Government of the Republic.

(3) The Government of the Republic shall establish the prices of accommodation provided to persons specified in subsection (1) of this section and, if necessary, representatives of persons under 16 years of



age specified in clauses (1) 1)-3) of this Act and the maximum cost of accommodation financed by the state per person in one calendar year where, for the provision of rehabilitation services, it is feasible that a person stays at a place where rehabilitation services are provided twenty-four hours a day.

(16.06.2005 entered into force 01.11.2005 - RT I 2005, 38, 299)

(4) The conditions and procedure for compensation for travel expenses to persons specified in subsection (1) of this section and, if necessary, to their representatives, if their places of residence are outside of the local government where the rehabilitation services are provided, shall be established by the Government of the Republic.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

### § 11<sup>3</sup>. Provision of rehabilitation service

(1) The Social Insurance Board shall ensure the provision of rehabilitation services to persons specified in subsection 11<sup>2</sup> (1) of this Act.

(2) These agencies administered by governmental authorities which, according to their statutes, provide rehabilitation services and which are registered as providers of rehabilitation services in the register of economic activities within the meaning of the Register of Economic Activities Act (RT I 2004, 12, 79) also provide rehabilitation services to persons specified in subsection 11<sup>2</sup> (1) of this Act.

(3) Provision of rehabilitation services to persons specified in subsection 11<sup>2</sup> (1) of this Act shall be financed from the state budget through the budget of the Social Insurance Board.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

### § 11<sup>4</sup>. Grant of authority to perform provision of rehabilitation services

(1) The Social Insurance Board may, by a contract under public law, grant the authority to perform the provision of rehabilitation services to one or several sole proprietors, legal persons or local government agencies registered as providers of rehabilitation services in the register of economic activities within the meaning of the Register of Economic Activities Act.

(2) The provisions of the Administrative Co-operation Act (RT I 2003, 20, 117; 82, 552; 2004, 53, 367), except § 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 director general of the Social Insurance Board shall decide on the grant of authorisation to perform the provision of rehabilitation services and shall enter into a contract under public law.

(4) The Social Insurance Board shall publish a notice concerning an intention to enter into a contract

under public law in at least one daily national newspaper and the website of the Social Insurance Board. If necessary, the Social Insurance Board may publish an additional notice concerning an intention to enter into a contract under public law during a calendar year.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(5) A provider of rehabilitation service 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 (4) of this section.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(6) The Social Insurance Board shall enter into a contract under public law with providers of rehabilitation services who comply with the requirements of this Act and the Administrative Co-operation Act 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 under public law during a calendar year, the Social Insurance Board shall enter into a contract under public law with providers of rehabilitation services who comply with the requirements of this Act and the Administrative Co-operation Act within three months after the publication of the notice specified in subsection (4) of this section.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(6<sup>1</sup>) A contract under public law shall be entered into for three years. At the request of a provider of rehabilitation services, a contract under public law may be entered into for a period less than three years, but not for less than one year.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(7) The Social Insurance Board may decide not to enter into a contract under public law with a provider of rehabilitation services if:

- 1) the provider of rehabilitation services fails to comply with the requirements provided for in this Act or the Administrative Co-operation Act;
- 2) the Social Insurance Board and the provider of rehabilitation services do not reach an agreement as regards the conditions of the contract, except for the requirements established in this Act for the provision of rehabilitation services and the fee for the provision of rehabilitation services;
- 3) the provider of rehabilitation services as violated the conditions agreed in a previous contract entered into between the provider of rehabilitation services and the Social Insurance Board.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

§ 11<sup>5</sup>. Contract under public law granting authorisation to perform provision of rehabilitation services

(1) A provider of rehabilitation services shall, by a contract under public law, undertake to provide rehabilitation services to persons specified in subsection 11<sup>2</sup> (1) of this Act and upon agreement between the parties, if necessary, also accommodation to a person to whom rehabilitation services are provided and a representative of a person under 16 years of age specified in clauses 11<sup>2</sup> (1) 1)-3) of this Act and the Social Insurance Board shall undertake to pay to the provider of rehabilitation services pursuant to the procedure prescribed in the contract after the provision of rehabilitation services according to the rates established pursuant to subsection 11<sup>2</sup> (2) of this Act.

(16.06.2005 entered into force 01.11.2005 - RT I 2005, 38, 299)

(2) The format of invoices submitted by providers of rehabilitation services to have the expenses relating to rehabilitation services compensated for and the procedure and conditions of compensation for expenses on the basis of an invoice shall be established by the Minister of Social Affairs.

(3) It may be agreed in a contract under public law that a provider of rehabilitation services provides rehabilitation services only to persons specified in clauses 11<sup>2</sup> (1) 1), 2), 3) or 4) of this Act.

(4) In addition to the conditions provided for in the Administrative Co-operation Act, a contract under public law shall determine a term during which a provider of rehabilitation services is required to provide rehabilitation services to persons specified in subsection 11<sup>2</sup> (1) of this Act.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

#### § 11<sup>6</sup>. Application for rehabilitation service

(1) In order to receive rehabilitation services, a person shall submit an application to the Social Insurance Board. The Minister of Social Affairs shall establish the format of applications and a list of the required documents.

(2) In order to receive rehabilitation services, a person specified in clause 11<sup>2</sup> (1) 3) of this Act shall submit to the Social Insurance Board a decision of a resolution of a juvenile committee which imposes provision of rehabilitation services as a sanction.

(3) In addition to the application:

1) adults specified in clause 11 (1) 1) of this Act, who have a severe, profound or permanent mental disorder shall submit a medical certificate, which shall set out the occurrence of the mental disorder, and

2) persons specified in clause 11<sup>2</sup> (1) 4) of this Act shall submit a medical certificate concerning their state of health, which shall set out the occurrence of a mental disorder and known somatic illnesses.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(3<sup>1</sup>) Subsection (3) of this section does not apply to persons, who have attained the pensionable age

specified in § 7 of the State Pension Insurance Act and have been diagnosed dementia and who do not have any other severe, profound or permanent mental disorder in addition to dementia.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(4) The Social Insurance Board shall, except in the case provided for in subsection (2) of this section, decide the provision of or refusal to provide rehabilitation services within ten working days after the receipt of an application.

(5) If a person has the right to receive rehabilitation services, the Social Insurance Board shall issue to the person a letter of referral for the receipt of rehabilitation services. The format of letters of referral shall be established by the Minister of Social Affairs.

(6) If a person fails to make an application to a provider of rehabilitation services for the receipt of rehabilitation services within 21 calendar days after the receipt of a letter of referral, he or she loses the right to receive rehabilitation services on the basis of the letter of referral.

(7) At the request of a person, the Social Insurance Board may restore the term for making an application to a provider of rehabilitation services for the receipt of rehabilitation services if the term was allowed to expire with good reason.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

## § 11<sup>7</sup>. Order for provision of rehabilitation services

(1) A provider of rehabilitation services shall enter persons specified in subsection 11<sup>2</sup> (1) of this Act who have sought provision of rehabilitation services on the basis of a letter of referral and wait for the provision of rehabilitation services in the list for the receipt of rehabilitation services and shall prepare a corresponding list.

(2) A list specified in subsection (1) of this section shall set out:

- 1) the name of the person;
- 2) the number and date of issue of a standard letter of referral of the Social Insurance Board;
- 3) the service or services which are provided to the person in the framework of the rehabilitation service;
- 4) the due date on or the term during which the rehabilitation service is provided to the person.

(2<sup>1</sup>) Upon entry in the list specified in subsection (1) of this section, a provider of rehabilitation service shall give priority to:

- 1) persons specified in subsection 2<sup>1</sup> (2) of the Social Benefits for Disabled Persons Act and

2) persons specified in clause 11<sup>2</sup> (1) 1) or 4) of this Act, who have a severe, profound or permanent mental disorder, who stayed at a provider of a service specified in clause 10 1<sup>4</sup>, 1<sup>5</sup>) or 1<sup>6</sup>) of this Act before applying for a rehabilitation service and for whom a rehabilitation plan shall be prepared in order to determine whether they need to be referred to receive special care service.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(3) The Social Insurance Board has, at any time, the right to demand that a provider of rehabilitation services submit a list indicating the order of provision of rehabilitation services for examination.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

#### § 11<sup>8</sup>. Acting as provider of rehabilitation services

(1) Sole proprietors, legal persons, local government agencies or agencies administered by governmental authorities registered as providers of rehabilitation services in the register of economic activities may provide rehabilitation services.

(2) The requirement to register in the register of economic activities as a provider of rehabilitation services does not apply to the Social Insurance Board.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

#### § 11<sup>9</sup>. Registration as provider of rehabilitation services

(1) To be registered as providers of rehabilitation services in the register of economic activities, sole proprietors, legal persons, local government agencies or agencies administered by governmental authorities shall submit to the Social Insurance Board a registration application established pursuant to subsection 20 (4) of the Register of Economic Activities Act.

(2) In addition to the provisions of the Register of Economic Activities Act, a registration application specified in subsection (1) of this section shall set out the following information:

1) the name, personal identification code or, in the absence thereof, date of birth, and contact details of a specialist belonging to a rehabilitation team, the number and the name of the issuer of the document certifying the area of specialisation, education or qualifications;

2) the services specified in the list established by the Government of the Republic which the provider of rehabilitation services provides in the framework of rehabilitation services;

3) the address and other details of the seat of provision of rehabilitation services.

(3) The Social Insurance Board is the administrative authority which conducts registration proceedings

within the meaning of the Register of Economic Activities Act.

(4) The provisions of the Register of Economic Activities Act apply to the registration procedure, taking account of the specifications arising from this Act.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

#### § 11<sup>10</sup>. Deletion of registration

In addition to the provisions of the Register of Economic Activities Act, the Social Insurance Board may make a decision to delete a registration if the provider of rehabilitation services fails to perform a material obligation established by a precept of a supervisory official.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

#### § 11<sup>11</sup>. Rehabilitation team

(1) A provider of rehabilitation services shall form a rehabilitation team.

(2) A rehabilitation team shall comprise at least five specialists of different areas of specialisation who have:

1) acquired officially recognised higher education in psychology or qualifications equal thereto;

(16.06.2005 entered into force 17.07.2005 - RT I 2005, 38, 299)

2) acquired officially recognised higher education in medical science or qualifications equal thereto;

3) acquired officially recognised higher education in social work or qualifications equal thereto;

(16.06.2005 entered into force 17.07.2005 - RT I 2005, 38, 299)

4) acquired officially recognised higher education in occupational therapy or qualifications equal thereto or other officially recognised higher education provided that an in-service training course for assistant occupational therapists organised with the participation of the Ministry of Social Affairs has been undergone;

5) acquired officially recognised secondary education in nursing or officially recognised higher education in nursing or qualifications equal thereto;

(16.06.2005 entered into force 17.07.2005 - RT I 2005, 38, 299)

6) acquired officially recognised higher education in physiotherapy or qualifications equal thereto or a professional certificate of a physiotherapist or

(16.06.2005 entered into force 17.07.2005 - RT I 2005, 38, 299)

7) acquired officially recognised higher education in special needs education, speech therapy or pedagogy or qualifications equal thereto.

(16.06.2005 entered into force 17.07.2005 - RT I 2005, 38, 299)

## § 11<sup>12</sup>. Preparation of rehabilitation plan

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(1) A rehabilitation team shall prepare a rehabilitation plan to a person with the participation of him or her and, if necessary, his or her legal representative collegially.

(2) Upon preparation of a rehabilitation plan to a person with a somatic disorder or injury, a physiotherapist or an occupational therapist shall belong to the rehabilitation team.

(3) Upon preparation of a rehabilitation plan to a person with a sensory disability, speech impairment or mental retardation, a special teacher or a speech therapist shall belong to the rehabilitation team.

(4) Upon preparation of a rehabilitation plan to a person between the age of eighteen and the age of retirement with capacity for work, a psychologist who has undergone career counselling training shall belong to the rehabilitation team.

(5) Upon preparation of a rehabilitation plan to a person under eighteen years of age, a special teacher shall belong to the rehabilitation team.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(6) Upon preparation of a rehabilitation plan to an adult with a mental disorder, a psychiatrist shall belong to the rehabilitation team.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(7) If an individual action plan specified in § 10 of the Labour Market Services and Benefits Act is prepared for a person with a mental disorder, a provider of rehabilitation services has the right to request the individual action plan from the person for the preparation of a rehabilitation plan, including implementation of the activity plan thereof.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

## § 11<sup>13</sup>. Accommodation in framework of rehabilitation services

If, within the framework of provision of rehabilitation services, it is necessary that a person stays at a place where rehabilitation services are provided twenty-four hours a day, the person or a representative of a person under 16 years of age specified in clauses 11<sup>2</sup> (1) 1)-3) of this Act accompanying the person may

be accommodated:

- 1) at a hospital;
- 2) at an accommodation establishment which complies with the requirements established for accommodation establishments pursuant to subsection 19 (4) of the Tourism Act at least to the extent of the requirements established for visitor's apartments or
- 3) at a social welfare institution which complies with the requirements established pursuant to subsection 17 (7) of this Act.

(16.06.2005 entered into force 01.11.2005 - RT I 2005, 38, 299)

§ 11<sup>14</sup>. Filing of challenge against activities or omissions of provider of rehabilitation services

- (1) A person who finds that his or her rights are violated or his or her freedoms are restricted in the course of administrative proceedings conducted by a provider of rehabilitation services or by an administrative act may file a challenge.
- (2) A challenge shall be filed with a dispute committee at the Social Insurance Board formed pursuant to subsection 40 (2) of the State Pension Insurance Act.
- (3) A challenge shall be filed within three months as of the day when a person becomes or should become aware of the challenged measure or administrative act.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

- (4) A challenge shall be resolved within three months after the filing of the challenge to the dispute committee.

(16.06.2005 entered into force 17.07.2005 - RT I 2005, 38, 299)

- (5) If a person disagrees with a decision of the dispute committee, he or she has the right of recourse to an administrative court within three months after the date of notification of the decision of the dispute committee.

(16.06.2005 entered into force 17.07.2005 - RT I 2005, 38, 299)

Division 4

Special Care Services

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

Subdivision 1

General Part

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)



### § 11<sup>15</sup>. Provision of special care services

Sole proprietors, legal persons, local governments and the state through the agencies of executive power who comply with the requirements established by this Act and hold an activity licence for the provision of the relevant service may provide the services specified in clauses 10<sup>126</sup>) (hereinafter special care services) which are financed in full or in part from the state budget or the local government budget.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

### § 11<sup>16</sup>. Application for special care service and making of decisions

(1) A person entitled to receive special care service, except the persons placed in a welfare institution to receive 24-hour special care service by a court ruling made on the basis of § 19 (hereinafter person placed in a social welfare institution by a court ruling), shall, in order to be referred to receive a special care service, submit an application to the Social Insurance Board together with the required documents.

(2) If a person has been referred to receive 24-hour special care service on the basis of a court ruling made on the basis of § 19 of this Act, the rural municipality government or city government 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.

(3) The Social Insurance Board shall decide on the provision or refusal to provide special care service, 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. In addition, the Social Insurance Board shall decide on the objective of the provision of the service for the entitled person, the required recommended activities for the achievement of the objective, the recommended frequency for carrying out the activities and the maximum term for the provision of the service.

(4) The Social Insurance Board may refer a person to receive employment support service and supported living service for the time of the preparation of the rehabilitation plan, but not for longer than six months, if this is necessary for ascertaining the suitability of the services to be entered in the rehabilitation plan. If a person wishes to be referred to the abovementioned services, he or she shall submit a written proposal of a provider of rehabilitation services justifying the need for receipt of the service. The proposal shall be approved by all the members of the rehabilitation team.

(5) The maximum term for the provision of special care service, during which a person has the right to receive the service, may be until the date of the expiry of the personal rehabilitation plan, except in the case specified in subsection (4) of this section.

(6) A person placed in a social welfare institution by a court ruling shall be referred to special care without his or her consent for the term specified in the court ruling.

(7) In the case of everyday life support service, the maximum term of the provision of the service may be up to five years. If a person referred to receive everyday life support service has a rehabilitation plan, the maximum term may be up to the expiry of the rehabilitation plan.

(29.10.2009 entered into force 01.01.2010 - RT I 2009, 53, 360)

(8) The composition of the data to be presented in the application, the format for the application and the list of the required documents shall be established by a regulation of the Minister of Social Affairs.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>17</sup>. Issue of referral decisions

(1) If an applicant complies with the requirements for persons entitled to receive a service specified in clause 10<sup>12</sup>), 1<sup>3</sup>), 1<sup>4</sup>), 1<sup>5</sup>) or 1<sup>6</sup>), the Social Insurance Board shall issue a referral decision to a person if:

- 1) there are funds in the state budget for the provision of special care service to the person and
- 2) the provider of special care service to whom the person wishes to go to receive 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 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 service 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 and
- 7) recommended minimum frequency of the provision of the service.

(3) In a referral decision to community living service or 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 § 11<sup>19</sup> 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 by 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 immediately after entry into force of the court ruling or declaring a court ruling to be subject to immediate 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, except in the case of a person placed in a social welfare institution by a court ruling, shall be agreed upon by the Social Insurance Board, the person entitled to receive a service and the provider of special care service. 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 24-hour special care service to the person during the term indicated in the court ruling.

(6) A person referred to receive special care service shall turn to the provider of special care service on the date agreed for the provision of the service and indicated in the referral decision, but not later than within three days as of the agreed date. If a person fails to turn to the provider of the service within three days as of the agreed date, he or she does not have the right to receive the service on the basis of the same referral decision.

(7) 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 service, agree upon a new date from which the provision of special care service shall commence.

(8) 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.

(9) If the Social Insurance Board cannot issue a referral decision to a person entitled to receive special care service:

1) arising from 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 list in a format which can be reproduced in writing or

2) arising from clause (1) 2) of this section, the Social Insurance Board shall notify the person of the existence of vacant places at another service provider or entry of the person in the list in a format which can be reproduced in writing if the person referred to receive a service is unwilling to receive the service from another provider of special care service.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

### § 11<sup>18</sup>. Funding of special care service

(1) Special care services provided to persons entitled to receive special care service shall be financed from the from the state budget through the budget of the Social Insurance Board, by the persons entitled to receive community living service or 24-hour special care service and, in the case specified in § 11<sup>37</sup>, by the local government.

(2) The provision of special care service, except 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 dementia and who do not have any other severe, profound or permanent mental disorder in addition to dementia and

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

(3) Special care service is financed on the basis of a framework contract entered into between the provider of the service and the Social Insurance Board, the invoices submitted by the service provider and the referral decision issued to the person, unless the service provider is a government agency or a state agency administered by a government agency.

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

(5) The Government of the Republic shall establish by a regulation:

1) the maximum cost of special care services financed from the state budget per person in one calendar year;

2) the components of the expenses of special care services which are covered from the state budget within the maximum cost and

3) the components of the expenses of own contribution of community living service and 24-hour special care service by the person.

(6) The maximum cost of 24-hour special care service per person placed in a social welfare institution by a court ruling in one calendar year shall be established by the state budget for each budgetary year.

The established maximum cost shall not be less than the cost in force.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

### § 11<sup>19</sup>. Own contribution

- (1) A person referred to receive community living service or 24-hour special care service is required to pay his or her own contribution for alimentation and accommodation.
- (2) If the 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, 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, funded pension premium and support should remain for personal use after the payment of his or her contribution, income tax, unemployment insurance premium, funded pension premium and support.
- (3) If the deficit in own contribution is less than 25 kroons 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 up to ten per cent of the minimum wage established by the Government of the Republic 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 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 special care service, accommodation and alimentation is offered in conditions better than the conditions determined in the health protection requirements for community living service and 24-hour special care service established on the basis of the Public Health Act, the provider of special care service 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 special care service has the right to demand from the provider of the service accommodation and alimentation in compliance with the minimum requirements provided for in the health protection requirements established for special care service.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

### § 11<sup>20</sup>. 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 11<sup>19</sup> (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 25 kroons 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, funded pension premium and support shall be deducted, taking into account the provisions of subsections 11<sup>19</sup> (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, funded pension premium, 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 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 special care service each month for the previous calendar month on the basis of the referral decision and the invoices submitted by the provider of the service.

(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, the person for whom the deficit is covered is required to notify the Social Insurance Board thereof immediately in writing.

(10) The composition of the data to be presented in the application specified in subsection (2) of this section, the format for the application and the list of the required documents shall be established by a regulation of the Minister of Social Affairs.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>21</sup>. Covering deficit for persons placed in social welfare institutions by court ruling

(1) The provisions of § 11<sup>20</sup> apply to covering the deficit for persons 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 11<sup>19</sup> of this Act based on the provisions of subsections 11<sup>20</sup> (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 §§ 11<sup>19</sup> and 11<sup>20</sup> 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 11<sup>17</sup> (4) of this Act.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>22</sup>. Reclamation of deficit

- (1) A person for whom the deficit has been covered is required to return the amount paid for covering the deficit without basis to the state if the person:
- 1) has knowingly failed to provide information required for covering the deficit;
  - 2) has knowingly submitted false information or
  - 3) has failed to inform the Social Insurance Board of any other circumstance as a result of which the deficit decreased.
- (2) Reclamation of the deficit paid without basis shall be organised by the Social Insurance Board.
- (3) The person for whom the deficit has been covered shall return the amount paid without basis at once or in parts in accordance with the agreement with the Social Insurance Board.
- (4) If the person for whom the deficit is covered fails to return the amount paid for covering the deficit without basis, the Social Insurance Board shall issue a precept together with a warning to the person for reclamation of the amount paid without basis. If the person fails to comply with the precept within a term set out in the precept, the Social Insurance Board shall pass the precept for compulsory execution pursuant to the procedure provided for in the Code of Execution Procedure. The term set out in the precept not be shorter than ten working days.
- (5) A precept specified in subsection (4) of this section shall contain the following information:
- 1) the given name, surname and position of the official who prepared the precept;
  - 2) the date of preparation of the precept;
  - 3) the name and address of the addressee of the precept;
  - 4) the factual and legal basis for the precept;
  - 5) the reclaimed amount paid without basis;
  - 6) the term for compliance with the precept;
  - 7) the possibilities, term and procedure for contestation of the precept and
  - 8) a warning concerning the commencement of compulsory execution in case of failure to perform the obligation.
- (6) A precept specified in subsection (4) of this section shall be sent to the person for whom the deficit has been covered and to his or her legal representative, if the representative exists, within five working days as of the date of issue of the precept and the warning.
- (17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>23</sup>. Lists of special care services

- (1) In the cases provided for in subsection 11<sup>17</sup> (9) of this Act, the Social Insurance Board shall enter a person entitled to receive special care service in the list for the receipt of the service on the basis of the date of the submission of an application specified in subsection 11<sup>16</sup> (1) of this Act and shall prepare a corresponding list.
- (2) The Social Insurance Board shall make separate lists for each special care service.
- (3) A list specified in subsection (1) of this section shall set out:
- 1) the name, personal identification code or date of birth and contact details of the person;
  - 2) the service provider at whom the person wishes to receive special care service, and

- 3) the date of submission of the application specified in subsection 11<sup>16</sup> (1) of this Act.
  - (4) Upon entry in the list specified in subsection (1) of this section, the Social Insurance Board shall give priority to
    - 1) the persons specified in subsection 11<sup>29</sup> (4) of this Act based on the date the new decision on referral to receive special care service is made;
    - 2) the persons who have used the employment support service or supported living service on the basis of subsection 11<sup>16</sup> (4) of this Act during the preparation of a rehabilitation plan and who have been referred, by the Social Insurance Board, to receive the same special care service again after the preparation of a rehabilitation plan, and
    - 3) the persons to whom the provision of special care service is terminated due to premature termination or expiry of a framework contract and failure to enter into a new framework contract.
- (17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>24</sup>. Entry into framework contracts for provision of special care services

- (1) The Social Insurance Board shall, by a framework contract, authorise one or several sole proprietors, legal persons or local governments acting or wishing to act as a provider of special care services to provide special care services. The Social Insurance Board shall enter into a framework contract as a contract under public law.
- (2) The provisions of the Administrative Co-operation Act, except § 5 of the Administrative Co-operation Act, apply to 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 framework contract in at least one daily national newspaper and the website of the Social Insurance Board. If necessary, the Social Insurance Board may publish additional notices concerning an intention to enter into a framework contract during a calendar year.
- (4) A service provider shall submit a written application for entry into a framework contract 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 framework contract with providers of services who hold an activity licence for the provision of a service specified in clause 10 1<sup>2</sup>), 1<sup>3</sup>), 1<sup>4</sup>), 1<sup>5</sup>) or 1<sup>6</sup>) of this Act 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 providers of services who hold an activity licence for the provision of a service specified in clause 10 1<sup>2</sup>), 1<sup>3</sup>), 1<sup>4</sup>), 1<sup>5</sup>) or 1<sup>6</sup>) of this Act within three months after the publication of the notice specified in subsection (3) of this section.
- (6) A framework contract shall be entered into for three years. At the request of a service provider, a framework contract may be entered into for a period less than three years, but not for less than one year.
- (7) The Social Insurance Board shall refuse to enter into a framework contract with a service provider who does not hold an activity licence for the provision of a service specified in clause 10 1<sup>2</sup>), 1<sup>3</sup>), 1<sup>4</sup>), 1<sup>5</sup>) or 1<sup>6</sup>) of this Act.
- (8) The Social Insurance Board may refuse to enter into a framework contract with a service provider if:

- 1) 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 on the basis thereof or;
- 2) the service provider has violated earlier the conditions set out in the framework contract entered into between the service provider and the Social Insurance Board or in the referral decision.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>25</sup>. Framework contract for provision of special care service

- (1) By a framework contract a service provider undertakes to provide the service indicated in the referral decision to the person who turns to the service provider with the referral decision issued by the Social Insurance Board in order to receive special care service.
- (2) A service provider has the right to refuse performance of the obligation to provide community living service or 24-hour special care service arising from a framework contract 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 § 11<sup>19</sup> of this Act in the amount agreed with the person 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 to the person. This subsection does not apply to the provision of services to persons placed in a social welfare institution by a court ruling.
- (3) The provision of special care service to a person who has turned to a service provider in order to receive a 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.
- (4) If a service provider wishes to terminate a framework contract 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 a service specified in clause 10 1<sup>4</sup>), 1<sup>5</sup>) or 1<sup>6</sup>) of this Act and
  - 2) at least three months before the planned date of the termination of the contract in the case of the provision of everyday life support service or employment support service.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>26</sup>. Reimbursement of expenses to providers of special care services

- (1) By a framework contract the Social Insurance Board undertakes to reimburse a provider of special care service for the expenses of the provision of special care service each month on the basis of the submitted invoices to the extent indicated on the invoices, but not more than in the amount of the maximum cost of the service established by the Government of the Republic, if:
  - 1) the service was provided to a person entitled to receive 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 and
  - 4) the service indicated in the referral decision was provided to the person during the term indicated in the referral decision.
- (2) If a person referred to receive special care service fails to turn to the service provider during the term for the commencement of the provision of a service provided for in subsection 11<sup>17</sup> (6) 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, but not more than for three days.

(3) The Social Insurance Board shall continue to pay a provider of a service specified in clause 10<sup>14</sup>), 15) or 1<sup>6</sup>) for the provision of the service the person is entitled to 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 within six months and
- 2) the person does not use the special care service more than two consecutive months due to the receipt of in-patient health service – during the time of the receipt of in-patient health service, but not more than for four months within a year.

(4) In the cases specified in subsection (3) of this section, the service provider shall be paid 95 per cent of the maximum cost of the service to be received by the person established on the basis of subsection 11<sup>18</sup> (5) of this Act, but not more than in the amount indicated on the invoice.

(5) The specific conditions and procedure for the submission of invoices shall be agreed upon in a framework contract 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 Government of the Republic.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>27</sup>. Termination of provision of special care service and notification thereof

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

- 1) the service has been provided to the person during the term indicated in the referral decision;
- 2) the person does not wish to receive the service until the end of the term indicated in the referral decision and the person has expressed such a desire;
- 3) the person does not use the service for more than two consecutive months, except in the case of the provision of in-patient health service;
- 4) the framework contract entered into between the service provider and the Social Insurance Board expires and the same parties do not enter into a new framework contract for the provision of the same special care service;
- 5) the Social Insurance Board revokes a decision specified in subsection 11<sup>16</sup> (3) of this Act or
- 6) the person who receives the special care service dies.

(2) The provision of 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) 1), 4) or 6) 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 special care service shall notify the service provider at whom he or she receives the special care service in writing of the following:

- 1) his or her desire to suspend the receipt of community living service or 24-hour special care service at the service provider for more than one day and
- 2) his or her desire to 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 special care service for more than two consecutive months due to the receipt of in-patient health service and wishes to receive the service indicated in the referral decision after the receipt of 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 in-patient health service the previous calendar month by the third day of each calendar month from the second month of the receipt of in-patient health service until the end of the receipt of the health service

(5) Where 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 special care service if the service provider is aware that the person received in-patient health service.

(6) A provider of 24-hour special care service shall notify the Social Insurance Board of the provision of 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 service 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 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 has not turned to the service provider for the receipt of the special care service within three days as of the agreed date or
- 4) a person who receives special care service dies.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>28</sup>. Change of provider of special care service

(1) If a person referred to receive special care service wishes to change the service provider before turning to the provider of the special care service 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 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 11<sup>16</sup> (3) 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 special care service does not have a vacant place, the person shall be entered in the list of the requested special care service based on the provisions of § 11<sup>23</sup> of this Act.

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

special care service until a place becomes vacant at the requested service provider.

(5) If a framework contract is terminated and the same parties do not enter into a new framework contract 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 a 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 special care service at a service provider who has a vacant place.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>29</sup>. Decision to terminate provision of special care service

(1) If there is doubt 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 special care service and whether the service provided corresponds to the needs of the person. With the consent of the person, the Social Insurance Board may refer the person to the amendment of the rehabilitation plan and assessment of the results within the framework of rehabilitation services.

(2) If a person does not comply with the requirements for persons entitled to receive special care service valid for persons entitled to receive special care service at the time the decision specified in subsection 11<sup>16</sup> (3) 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 11<sup>16</sup> (3) invalid (hereinafter decision to terminate provision of special care service), except in the case of persons placed in a social welfare institution by a court ruling.

(3) In case of a service specified in clauses 10<sup>14</sup>), 1<sup>5</sup>) or 1<sup>6</sup>) of this Act, a decision to terminate provision of 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 to declare a decision invalid.

(4) A decision to terminate provision of special care service for a person who uses a service specified in clause 10<sup>14</sup>), 1<sup>5</sup>) or 1<sup>6</sup>) of this Act enters into force on the date when provision of the special care service to a person, in the list of which the person was entered, is commenced, if the person:

- 1) has been referred again to receive a service specified in clause 10<sup>14</sup>), 1<sup>5</sup>) or 1<sup>6</sup>) of this Act and
- 2) has been entered in the list of the service requested by the person six months after notification of the person of the decision to declare the decision invalid.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>30</sup>. Filing of challenge against administrative decision or measure of Social Insurance Board or provider of 24-hour special care service

(1) A person who finds that his or her rights are violated or his or her freedoms are restricted in the course of administrative proceedings conducted by the Social Insurance Board or provider of 24-hour special care service or by an administrative act may file a challenge.

(2) The provisions of subsections 11<sup>14</sup> (2) – (5) of this Act apply to filing and adjudication of challenges.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>31</sup>. General requirements for special care services

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

- 1) notify upon the commencement of the provision of 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, if the person is able to understand what is said or read. If the person is not able to understand what is being said or read, the legal representative of the person shall be notified of the rules of procedure of the service provider 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 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 special care service and related to the provision of the service;
- 4) ensure that the person providing the service directly who is in a contractual relationship therewith complies with the requirements provided for in § 11<sup>34</sup> of this Act;
- 5) prepare an activity plan for the person referred to receive special care service;
- 6) work actively with the person during the provision of special care service by involving the person in the performance of the activities provided for as the content of the service in accordance with the person's abilities and needs;
- 7) 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 special care service, the need for the continuation of the receipt of the service and expiry of the framework contract or intention to terminate the framework contract prematurely at least three months before the due date of the termination of the provision of the service in the case of 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 a service specified in clause 10 1<sup>4</sup>), 1<sup>5</sup>) or 1<sup>6</sup>);
- 8) 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 special care service concerning the fact that the service provided to the person does not correspond to the person's needs;
- 9) notify the person referred to receive 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;
- 10) assess, upon the termination of the provision of a service, in written form the achievement of the objective established for the person in the referral decision and submit the assessment to the Social Insurance Board together with the last invoice at the latest. If the objective established for the person was not achieved, the service provider shall add an explanation concerning the reasons for failure to achieve the objective;
- 11) prepare statistical reports pursuant to the procedure established on the basis of clause 6 8<sup>1</sup>) of this Act and submit these to the county governor of the place of business and
- 12) ensure the provision of special care service, the compliance of the premises and the area necessary

for the provision of the service with the health protection requirements for special care services established on the basis of the Public Health Act, if the service is provided on 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 service shall be established by a regulation of the Minister of Social Affairs.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

### § 11<sup>32</sup>. Documents of persons receiving special care service

(1) A person referred to receive special care service or his or her legal representative, if the representative exists, shall submit a copy of the rehabilitation plan prepared for the person to the service provider specified in the referral decision within 30 days as of turning to the service provider for the receipt of the service.

(2) A person referred to receive a service specified in clause 10<sup>14</sup>), 1<sup>5</sup>) or 1<sup>6</sup>) of this Act shall submit, in addition to the rehabilitation plan, a medical certificate concerning his or her state of health, which shall set out the occurrence of the somatic illnesses which require continuous treatment, to the service provider.

(3) A copy of a rehabilitation plan need not be submitted in the following cases:

- 1) a person has been referred to receive everyday life support service and a rehabilitation plan has not been prepared for him or her;
- 2) a person has been referred to receive employment support service or supported living service for the time of the preparation of the rehabilitation plan or
- 3) 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 special care service, the service provider shall return the documents concerning the person which the service provider has collected and preserved during the provision of the service, including the activity plan prepared for the person, to the person who received the service or his or her legal representative, if the representative exists.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

### § 11<sup>33</sup>. Activity plan

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

(2) An activity plan shall include:

- 1) the objective established for the person by the Social Insurance Board and the recommended activities for the achievement of the objective and
- 2) the schedule and description of the performance of the activities which comply with the needs of the person and assessment of the service provider concerning the performance of the activities at least each month.

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

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>34</sup>. Requirements for persons providing special care service directly

(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 shall have acquired at least basic education and shall have undergone a 260-hour training in accordance with the plan established by the Minister of Social Affairs on the basis of subsection (5) of this section;
- 2) the person shall have acquired state-recognised vocational secondary or higher education in social work;
- 3) the person shall have acquired state-recognised higher education in special or social pedagogy;
- 4) the person shall have acquired state-recognised higher education in occupational therapy;
- 5) the person shall have acquired state-recognised vocational secondary education in activity supervision or
- 6) the person shall have acquired state-recognised vocational secondary or higher education in mental health nursing.

(2) Special care services may not be provided directly by an activity supervisor who has been convicted of an intentionally committed criminal offence if information concerning the punishment has not been expunged from the punishment register pursuant to the Punishment Register Act.

(Subsection (3) is applied as of 1 January 2015 - RT I 2008, 58, 329)

(3) Upon the provision of employment support service, the activity supervisor shall, in addition to compliance with the requirements specified in subsections (1) and (2) of this section, have undergone a 40-hour in-service training in employment support service in accordance with the plan established by the Minister of Social Affairs on the basis of subsection (5) of this Act.

(4) An activity supervisor who provides 24-hour special care service directly:

- 1) 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 (2) of this section, have undergone a 60-hour in-service training for work with persons with higher risk rate in accordance with the plan established by the Minister of Social Affairs on the basis of subsection (5) of this Act or
- 2) 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 (2) of this section, have undergone a 40-hour in-service training for work with persons with profound multiple disability or severe, profound or permanent mental disorder with unstable remission respectively in accordance with the plan established by the Minister of Social Affairs on the basis of subsection (5) of this Act.

(5) The plans of the trainings and in-service trainings specified in subsections (1), (3) and (4) of this section, including the detailed scope and content of the 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 of Social Affairs.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

## Subdivision 2

### Everyday Life Support Service

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>35</sup>. Everyday life support service

- (1) The objective of 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 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 implementation of 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 and
  - 8) involve the person in other activities necessary for the achievement of the objective of the everyday life support service.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>36</sup>. Persons entitled to receive everyday life support service financed from state budget

An adult, except the persons specified in clauses 11<sup>18</sup> (2) 1) and 2) of this Act, is entitled to receive everyday life support service financed from the state budget if he or she complies with the following conditions:

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

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>37</sup>. Coverage of expenses of premises for provision of everyday life support service

A local government is required to ensure coverage of the expenses related to the premises for the provision of everyday life service used or owned by the service provider to the extent established by the local government.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>38</sup>. Requirements to everyday life support service

- (1) Everyday life support service may be provided in the dwelling of the person entitled to receive

everyday life support service or any other place suitable for the provision of the abovementioned service. If everyday life support service is provided in the premises owned by the service provider or the use of which has been granted to the service provider, the premises shall comply with the health protection requirements for the premises for provision of everyday life support service, the furnishings and maintenance thereof established on the basis of the Public Health Act.

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

(3) The activities which form the content of everyday life support service shall be provided to a person entitled to receive everyday life support service either directly or the people close to the person, including people 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) A provider of everyday life support service shall inform the person entitled to everyday life support service who turns to the service provider for the commencement of the receipt of the service on which days and at which time the everyday life support 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 everyday life support service.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

### Subdivision 3

#### Employment Support Service

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>39</sup>. Employment support service

(1) The objective of 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 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 suitable for 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 and
- 6) prepare the person for employment without support.



(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>40</sup>. Persons entitled to receive employment support service financed from state budget

An adult, except the persons specified in clauses 11<sup>18</sup> (2) 1) and 2) of this Act, is entitled to receive everyday life support service financed from the state budget if he or she complies with the following conditions:

- 1) his or her percentage of loss of capacity for work is at least 40, except in the case of persons who have attained the pensionable age provided for in § 7 of the State Pension Insurance Act;
- 2) the person has a severe, profound or permanent mental disorder;
- 3) it has been established on the basis of the Social Benefits for Disabled Persons Act that the person has moderate or severe degree of disability;
- 4) a recommendation to use employment support service is set out in the rehabilitation plan or in a reasoned written proposal of the provider of rehabilitation services concerning the referral to receive employment support service for the time of the preparation of the rehabilitation plan;
- 5) the person requires continuous support and supervision during working and
- 6) no community living service during which the possibility to work on the territory of the service provider is ensured to the person or 24-hour special care service is provided to the person at the same time.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>41</sup>. Requirements for employment support service

(1) A provider of employment support service shall find a possibility for a person referred to receive the service to work:

- 1) at least 20 hours a week if the percentage of the loss of the person's capacity for work is 40-50;
- 2) at least 15 hours a week if the percentage of the loss of the person's capacity for work is 60-70;
- 3) at least 10 hours a week if the percentage of the loss of the person's capacity for work is 80-90;
- 4) according to the persons abilities and skills if the percentage of the loss of the person's capacity for work is 100.

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

(3) If a person referred to receive 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 employment support service, provision of the service based on this referral decision shall be terminated.

(4) 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 decision whereby the person was referred to receive the employment support service.

(5) The activities specified in clauses 11<sup>39</sup> (2) 1) and 3) – 6) of this Act which form the content of employment support service shall be provided directly to the person referred to receive employment support service, his or her employer or people 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 people working together with the person.

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

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### Subdivision 4

##### Supported Living Service

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>42</sup>. Supported living service

(1) Supported living service means supporting social coping and integration of a person through the creation of the possibility to grant him or her the use of a dwelling together with supervision in the organisation of household and everyday life with an aim to ensure the person's as independent coping as possible when living independently.

(2) Upon the provision of 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) create possibilities for granting to the person referred to receive supported living service the use of the best furnished dwelling as possible which complies with the person's possibilities and needs and
- 5) prepare the person for independent life and supervise and assist the person in the procurement of a dwelling for independent living.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>43</sup>. Persons entitled to receive supported living service financed from state budget

An adult, except the persons specified in clauses 11<sup>18</sup> (2) 1) and 2) of this Act, is entitled to receive supported living service financed from the state budget 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 moderate or severe degree of disability;
- 3) the percentage of the loss of capacity for work of the person under 18 years of age until attaining the pensionable age provided for in § 7 of the State Pension Insurance Act is 10-90;
- 4) the person does not have a residential space for independent living and he or she is not able to obtain it;
- 5) a recommendation to use supported living service is set out in the person's rehabilitation plan or in a reasoned written proposal of the provider of rehabilitation services concerning the referral to receive

supported living service for the time of the preparation of the rehabilitation plan;

- 6) the person can take care of himself or herself and
- 7) the person can cope, in case of supervision, with everyday life activities.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>44</sup>. Requirements for supported life service

(1) The activities specified in clauses 11<sup>42</sup> (2) 1)-3) and 5) of this Act which form the content of supported living service may be carried out in a dwelling the use of which has been granted to the person entitled to receive supported living service or any other place suitable for the provision of the abovementioned service. If the abovementioned activities which form the content of supported living service are carried out in the premises owned by the service provider or the use of which has been granted to the service provider, the premises shall comply with the health protection requirements for the premises for provision of supported living service, the furnishings and maintenance thereof established on the basis of the Public Health Act.

(2) A dwelling the use of which is granted to a person within the framework of supported living service shall comply with the requirements established on the basis of clauses 7 (1) 1) and 2) of the Dwelling Act and shall include:

- 1) at least one bedroom per a person receiving the service, Two persons receiving the service may live in one bedroom upon the request of the persons who receive the service;
  - 2) a kitchen or a kitchen corner and
  - 3) the possibility to use a toilet, shower or bath.
- (3) Supported living service is provided in separate premises to persons with mental retardation and persons with other mental disorders.

(4) At least two hours of the activities specified in clauses 11<sup>42</sup> (2) 1) – 3) and 5) a week shall be provided to a person referred to receive supported living service.

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

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>45</sup>. Contract for use of dwelling

A person to whom supported living service is provided is required to enter into a contract for the use of the dwelling, unless the dwelling offered to the person is not the best possible dwelling complying with the possibilities and needs of the person, the dwelling is not furnished or the dwelling does not comply with the requirements provided for in subsection 11<sup>44</sup> (2) of this Act.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### Subdivision 5

##### Community Living Service

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>46</sup>. Community living service

(1) The content of community living service is to create 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 alimentation with an aim 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) Upon the provision of 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 by involving 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 on 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 and
- 6) carry out other activities required for the achievement of the objective of community living service.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>47</sup>. Persons entitled to receive community living service financed from state budget

An adult, except the persons specified in clauses 11<sup>18</sup> (2) 1) and 2) of this Act, is entitled to receive community living service financed from the state budget if he or she complies with the following conditions:

- 1) the percentage of the loss of capacity for work of the person under 18 years of age until attaining the pensionable age provided for in § 7 of the State Pension Insurance Act is 10-90;
- 2) the person has a severe, profound or permanent mental disorder;
- 3) it has been established on the basis of the Social Benefits for Disabled Persons Act that the person has moderate or severe degree of disability;
- 4) a recommendation to use community living service is set out in the person's rehabilitation plan;
- 5) the person can take care of himself or herself and is able to participate in housework and
- 6) no service specified in clause 10<sup>2</sup>), 1<sup>4</sup>) or 1<sup>6</sup>) is provided to the person at the same time.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>48</sup>. Requirements for community living service

- (1) The activities specified in subsection 11<sup>46</sup> (2) of this Act shall be carried out with respect to the person receiving community living service every day.
- (2) Supported living service is provided in separate premises to persons with mental retardation and persons with other mental disorders.
- (3) A provider of community living service shall ensure the presence of one full-time activity supervisor per ten persons receiving community living service during daytime and in the evening and the availability of one activity supervisor to all the persons who receive the service at the service provider at night.

(4) (Repealed - 28.01.2009 entered into force 01.07.2009 – RT I 2009, 11, 67)

#### Subdivision 6

#### 24-hour Special Care Service

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>49</sup>. 24-hour special care service

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

(2) Upon the provision of 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 11<sup>35</sup> (2) of this Act;
- 2) ensure the security of the person receiving 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 an activity similar to working on the service provider's territory and
- 6) carry out other activities required to achieve the objective of 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 in the premises or on the territory for provision of 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 service within the framework of this service.

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

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>50</sup>. Persons entitled to receive 24-hour special care service financed from state budget

(1) An adult, except the persons specified in clauses 11<sup>18</sup> (2) 1) and 2) of this Act, is entitled to receive 24-hour special care service financed from the state budget 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 severe or profound degree of disability;
- 3) the percentage of loss of capacity for work of the person under 18 years of age until attaining the pensionable age provided for in § 7 of the State Pension Insurance Act is at least 80;
- 4) a recommendation to use 24-hour special care service is set out in the person's rehabilitation plan;
- 5) the coping of the person cannot be ensured by any other social service specified in § 10 of this Act;
- 6) no service specified in clause 10 1<sup>2</sup>), 1<sup>3</sup>), 1<sup>4</sup>) or 1<sup>5</sup>) is provided to the person at the same time;

- 7) the person needs assistance in taking care of himself or herself and
- 8) the person cannot cope with everyday life activities or needs significant regular assistance or supervision for his purpose.

(2) In addition to the person specified in subsection (1) of this section, an adult who has severe, profound or permanent mental disorder with unstable remission, except the persons specified in clauses 11<sup>18</sup> (2) 1) and 2) of this Act, is entitled to receive 24-hour special care service financed from the state budget if:

- 1) the person complies with the conditions provided for in clauses (1) 4), 5) and 6) of this section and
- 2) the percentage of loss of capacity for work of the person is at least 90, except in the case of a person who has attained the pensionable age provided for in § 7 of the State Pension Insurance Act, or
- 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 profound degree of disability.

(3) In addition to the persons specified in subsections (1) and (2) of this section, an adult who has profound multiple disability, except the persons specified in clauses 11<sup>18</sup> (2) 1) and 2) of this Act, is entitled to receive 24-hour special care service financed from the state budget if:

- 1) the person complies with the conditions provided for in clauses (1) 4), 5) and 6) of this section;
- 2) the percentage of loss of capacity for work of the person is at least 90, except in the case of a person who has attained the pensionable age provided for in § 7 of the State Pension Insurance Act, and
- 3) it has been established on the basis of the Social Benefits for Disabled Persons Act that the person has profound degree of disability.

(4) A person who has severe or profound mental retardation 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 profound multiple disability for the purposes of 24-hour special care service.

(5) In addition to the persons specified in subsections (1) – (3) of this section, the expenses related to 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.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 11<sup>51</sup>. Requirements to 24-hour special care service

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

- 1) be aware of the fact whether the person referred to receive 24-hour special care service stays in the premises or on the territory for the provision of 24-hour special care service or outside of the premises or territory and
- 2) ensure inspection of entry into and exit from the premises and territory for the provision of 24-hour special care service.

(2) If a provider of 24-hour special care service wishes to take a person receiving 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.

(3) 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.

(4) If 24-hour special care service is provided to a person with severe, profound or permanent mental

disorder with unstable remission, the service provider shall ensure the availability of independent nursing care provided by a mental health nurse or a psychiatric nurse per 30 persons receiving the service at least 40 hours a week.

(5) If 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 independent nursing care provided by a mental health nurse or a psychiatric nurse per 20 persons receiving the service placed at a social welfare institution by a court ruling at least 40 hours a week.

(6) If 24-hour special care service is provided only to persons with mental retardation, including persons with mental retardation 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.

(7) 24-hour special care service, except alimentation, shall be provided in separate premises for the persons specified in subsection 11<sup>50</sup> (1) and persons placed in a social welfare institution by a court ruling, persons with profound multiple disability and with severe, profound or permanent mental disorder with unstable remission.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>52</sup>. Requirements for 24-hour special care service in case of persons placed in social welfare institution by court ruling

If 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 § 11<sup>51</sup> of this Act, required to:

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

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 11<sup>53</sup>. Persons providing 24-hour special care service directly

(1) A provider of 24-hour special care service shall ensure the presence of one activity supervisor per 20 persons receiving the abovementioned service and in addition to that the presence of one activity supervisor per 20 persons receiving the service during daytime and in the evening.

(2) If 24-hour special care service is provided to a person with severe, profound or permanent mental disorder with unstable regression or a person with profound multiple disability, the provider of 24-hour special care service shall ensure 24-hour presence of two activity supervisors per 15 persons with severe, profound or permanent mental disorder with unstable regression or with profound multiple disability receiving the abovementioned service and in addition to that the presence of two activity supervisors per 15 persons with severe, profound or permanent mental disorder with unstable regression or with profound multiple disability receiving the service during daytime and in the evening.

(3) If 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 one activity supervisor per 15 persons placed in the social welfare institution by a court ruling receiving the abovementioned service and in addition to that the presence of one activity supervisor per 15 persons placed in the social welfare institution by a court ruling receiving the service during daytime and in the evening.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### Division 5

Provision of Prosthetic, Orthopaedic and Other Appliances(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 12. Provision of prosthetic, orthopaedic and other appliances

(1) Persons who are in need of prosthetic, orthopaedic or other appliances due to illness, advanced age or disability have the right to receive the appropriate appliances.

(2) A list of prosthetic, orthopaedic and other appliances provided at a discount and the conditions and procedure for receipt thereof shall be established by the Minister of Social Affairs.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

#### Division 6

Childcare Service(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 12<sup>1</sup>. Childcare service

(1) "Childcare service" means a service supporting the ability of the caregiver specified in subsection 25<sup>2</sup> (1) of this Act to cope or work during the provision of which the care, development and safety of a child is guaranteed by a provider of childcare service instead of the persons specified above.

(2) If a childcare service, except childcare service provided for a legal representative of a child with a severe or profound disability or a caregiver specified in subsection 25<sup>2</sup> (1) of this Act, is financed from the budget of the local government, the persons entitled to receive childcare service, the volume of financing of childcare service and the conditions and procedure for the provision childcare service shall be established by the local government council.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

#### § 12<sup>2</sup>. Persons entitled to state-funded childcare service

The legal representative of a child with severe or profound disability or the caregiver specified in subsection 25<sup>2</sup> (1) of this Act (hereinafter person entitled to childcare service) is entitled to state-funded childcare service until the end of the calendar year during which the child attains 18 years of age, provided that:



- 1) the need for care services of a child with severe or profound disability is set out in the child's rehabilitation plan;
- 2) caring for the child is not guaranteed simultaneously with other social services, except for foster care provided for in § 25<sup>1</sup> of this Act;
- 3) the child is not staying at an educational institution at the same time.

(15.11.06 entered into force 01.02.07 - RT I 2006, 55, 405)

#### § 12<sup>3</sup>. Acting as provider of childcare services

- (1) Childcare services wholly or partially financed from the state or local government budget may be provided by sole proprietors, legal persons, local government agencies or agencies administered by governmental authorities who hold a valid activity licence granted by the county governor of the place of business of the childcare service provider.
- (2) If a person wishes to apply for an activity licence regardless of whether or not the childcare services are wholly or partially financed from the state or local government budget, the requirements provided for in subsection (1) of this section, in §§ 12<sup>7</sup> and 12<sup>8</sup> of this Act apply thereto.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

#### § 12<sup>4</sup>. Referral to state-funded childcare service

- (1) A person entitled to state-funded childcare service shall submit an application for childcare service together with required documents to the rural municipality government or city government of the residence of the child.
- (2) The rural municipality government or city government of the residence of a child with a severe or profound disability shall make a decision concerning the referral of an entitled person to state-funded childcare service within 10 working days as of the submission of the application and all required documents.
- (3) The format for the application specified in subsection (1) of this section and the list of the required documents shall be established by a regulation of the Minister of Social Affairs.

(15.11.06 entered into force 01.02.07 - RT I 2006, 55, 405)

#### § 12<sup>5</sup>. Contract under public law for provision of state-funded childcare service

- (1) The rural municipality government or city government of the residence of a child with a severe or

profound disability shall conclude a contract under public law with the person entitled to childcare service and the provider of childcare service selected by the person entitled to childcare service for the provision of state-funded childcare service, provided that:

- 1) the documents specified in subsection 12<sup>4</sup> (1) of this Act have been submitted to the rural municipality government or city government of the residence of the child with a severe or profound disability;
- 2) during the same calendar year state-funded childcare service has not been provided to the child with a severe or profound disability to the extent of the maximum cost established by a regulation of the Government of the Republic;
- 3) the rural municipality government or city government of the residence of the child with a severe or profound disability has verified that no other social services ensuring caring are provided and the child with a severe or profound disability is not staying at an educational institution at the same time with the provision of state-funded childcare service.

(2) If the local government of the residence of the child with a severe or profound disability changes after making the decision specified in subsection 12<sup>4</sup> (2) of this Act, the person entitled to childcare service shall notify the new rural municipality government or city government of the residence of the decision concerning the satisfaction of the application for state-funded childcare service.

(3) Upon the change of the local government of the residence of the child with a severe or profound disability the local government where the abovementioned child was last registered undertakes, at the request of the new local government, to transfer the funds allocated for state-funded childcare service of the child with a severe or profound disability to the local government of the residence of the child with a severe or profound disability.

(15.11.06 entered into force 01.02.07 - RT I 2006, 55, 405)

## § 12<sup>6</sup>. Public funding of childcare services

(1) Childcare services provided for persons entitled to childcare service shall be financed from funds accrued in the rural municipality or city budgets from the state budget. The funds for state-funded childcare services shall be allocated to the rural municipality or city budget through county governments in accordance with the number of children with severe or profound disabilities residing in the local government as at 1 December each year.

(2) The maximum cost of state-funded childcare service per a child with a severe or profound disability in a calendar year shall be established by a regulation of the Government of the Republic.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(3) The rural municipality government or city government of the residence of the child with a severe

or profound disability shall pay for the provision of childcare services on the basis of invoices submitted in accordance with the contract entered into on the basis of § 12<sup>5</sup> of this Act to the extent of the maximum cost established by the Government of the Republic.

(4) The rural municipality or city government may use the excess of funds specified in subsection (1) of this section for the provision and development of social services related to children with severe or profound disabilities and their families under the conditions and pursuant to procedure established by the rural municipality council or city council.

(15.11.06 entered into force 01.02.07 - RT I 2006, 55, 405)

§ 12<sup>7</sup>. Requirements for childcarers and persons with whom they have common dwellings

(1) “Childcarer” means a natural person who personally cares for and develops a child and ensures a child’s safety during the provision of the childcare service.

(2) A childcarer shall have full active legal capacity, and mental and physical health required for the provision of childcare services and shall comply with the requirements provided for in clauses 25<sup>2</sup> (1) 2)-6) of this Act.

(3) In order to act as a childcarer, a person shall hold childcarer’s professional certificate issued on the basis of the Professions Act.

(4) If childcare services are provided in childcarer’s dwelling, the other persons having full legal capacity who use these dwellings shall have mental health required for being together with children and they shall comply with the requirements provided for in clauses 25<sup>2</sup> (1) 3) - 6) of this Act.

(4<sup>1</sup>) Childcare services shall not be provided in childcarer’s dwelling if the same dwelling is used by a person, who has been punished or who has been subjected to coercive treatment for a criminal offence provided in clause 133 (2) 2), clause 141 (2) 1), clause 142 (2) 1), clause 143 (2) 1), clause 143<sup>1</sup> (2) 1), §§ 144-146 or §§ 175-178 of the Penal Code if information concerning the punishment has not been expunged from the punishment register pursuant to the Punishment Register Act or information concerning the punishment has been expunged from the punishment register and has been entered in the archives of the punishment register.

(14.06.07 entered into force 20.07.07 - RT I 2007, 45, 320)

(5) If childcare services are provided in childcarer’s dwelling, other adults using this dwelling shall undergo regular medical examination for communicable diseases, including chest radiography in every two years and they shall hold a health certificate concerning the undergone medical examination for communicable diseases.

(6) A family physician shall conduct medical examinations for communicable diseases and issue a written medical certificate.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

§ 12<sup>8</sup>. Requirements for childcare service

(1) Upon providing childcare services a childcarer may care for:

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

(2) If 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 child 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.

(3) Childcare services may be provided in the dwelling of the child under childcare service or in other premises suitable for childcare. If childcare services are provided outside the dwelling of the child under childcare service the premises where childcare services are provided shall comply with the health protection requirements of childcare services established by the Public Health Act.

(4) Upon provision of childcare service for more than four hours:

1) the provider of childcare services shall ensure alimentation of the child according to the agreement between the person entitled to childcare service and the provider of the childcare service. Upon alimentation the provider of childcare service shall ensure conformity to the requirements established for handlers of food pursuant to the provisions of the Food Act;

2) if childcare service is not provided in the dwellings of the child, the provider of childcare services shall supply the child with a sleeping place appropriate to the child's age and needs and according to the agreement between the person entitled to childcare service and the provider of the childcare service.

(5) The work of a childcarer shall be guided by the instructions of the person entitled to childcare service and the interests of the child. The person entitled to childcare service and the childcarer shall exchange information concerning childcare.

(6) The provider of childcare services financed by the state or a local government shall prepare statistical reports concerning childcare services pursuant to the procedure established on the basis of clause 6<sup>81</sup>) of this Act and submit these to the local government of the location of the provision of childcare services.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

## Division 7

### Domestic Services

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 13. Domestic services

- (1) Domestic services are services provided to persons in their homes which help them cope in familiar surroundings.
- (2) A list of domestic services and the conditions and procedure for their provision shall be established by local government authorities.

## Division 8

Housing Services(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 14. Housing services

- (1) Local government authorities are required to provide dwelling for persons or families who are unable or incapable of securing housing for themselves or their families and to create, if necessary, the opportunity to lease social housing. The procedure for provision and use of social housing shall be established by the rural municipality council or city council on the basis of clause 8 2) of the Dwelling Act (RT 1992, 17, 254; RT I 1998, 71, 1199; 96, 1515; 2000, 88, 576; 2001, 85, 509; 93, 565; 2002, 53, 336; 2003, 15, 86).

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

- (2) Persons who have difficulties moving about, caring for themselves or communicating in a dwelling shall be assisted by the rural municipality government or city government in adapting their dwelling or in obtaining a more suitable dwelling.

## Division 9

Foster Care(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 15. Foster care

- (1) Foster care is care for a person in a suitable family of which he or she is not a member.
- (2) Foster care is effected on the basis of a written contract entered into between the rural municipality government or city government and the caregiver.

## Division 10

Substitute Home Service(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 15<sup>1</sup>. Substitute home service

“Substitute home service” means ensuring family-like living conditions by a service provider specified in § 15<sup>3</sup> of this Act to a child for meeting his or her basic necessities, 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.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

### § 15<sup>2</sup>. Persons entitled to substitute home service

(1) A child who meets the requirements provided for in subsection 25<sup>1</sup> (1) of this Act and whose care and raising is neither arranged by a guardian nor performed by a caregiver specified in subsection 25<sup>2</sup> (1) of this Act is entitled to substitute home service (hereinafter child entitled to substitute home service).

(2) Substitute home service is provided for a child entitled to substitute home service:

1) until the child attains 18 years of age;

2) until the beginning of the next schoolyear in daytime or, for medical reasons, in another form of study at a basic school, upper secondary school or vocational school 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 at a vocational school, institution of applied higher education or in Bachelor's study at an institution of higher education, if the child under substitute home service continues studying at a vocational school, institution of applied higher education or in Bachelor's study at an institution of higher education in the same calendar year he or she acquired basic or secondary education.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

### § 15<sup>3</sup>. Provision of substitute home service

Substitute home service may be provided by sole proprietors, legal persons, local government agencies or agencies administered by governmental authorities who hold a valid activity licence granted by the county governor of the place of business of the service provider.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

### § 15<sup>4</sup>. Referral to substitute home service

(1) The rural municipality government or city government of the residence of the child entitled to substitute home service shall make a decision concerning the referral of a child to substitute home service taking account of the requirements provided for in § 25, subsection 31 (2) and subsection 32 (2) of this Act. The rural municipality government or city government of the residence of the child shall select a suitable provider of substitute home service and submit thereafter the application for financing the

substitute home service to the county governor of the residence of the child 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 parents are deceased, declared to be fugitives or missing;
  - 2) a court ruling concerning appointment of guardian to the child's parent;
  - 3) a judicial decision concerning deprivation of the child's parent of parental rights;
  - 4) a judicial decision concerning removal of the child from the parents without deprivation of parental rights;
  - 5) a document concerning preliminary confinement or imprisonment of the parents.
- (2) The county government of the residence of the child, the rural municipality government or city government of the residence of the child and the provider of substitute home service shall enter into a contract under public law for provision of substitute home service (hereinafter contract under public law for provision of substitute home service).
- (3) The rural municipality government or city government of the residence of the child shall inform the provider of substitute home service of the child, for the caring of whom the contract under public law for provision of substitute home service has been entered into.
- (4) An official of the rural municipality government or city government of the residence of the child engaged in social affairs shall visit the child under substitute home service for the examination of the development and evaluation of the welfare of the child at least twice a year.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

#### § 15<sup>5</sup>. Funding of substitute home services

- (1) The service provided to a child entitled to substitute home service shall be funded from the state budget. The Ministry of Social Affairs shall ensure funding through county governments.
- (2) The price of state-funded substitute home service and the maximum cost per a child entitled to substitute home service in a calendar year shall be established by a regulation of the Government of the Republic.
- (3) The county governor of the residence of the child shall pay for the provision of substitute home service to a child on the basis of the invoices submitted pursuant to the contract entered into on the basis of subsection 15<sup>4</sup> (2) of this Act to the extent of the maximum cost established by of the Government of the Republic.
- (4) A county governor has the right to delegate, on the basis of a contract under public law, arranging of funding of the substitute home service specified in clause 7 (1) 7<sup>1</sup>) of this Act together with the right of

entry into contract under public law to a local government for performance.

(5) The rural municipality or city government may use the excess of funds transferred on the basis of 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 becoming an entitled subject of substitute home service under the conditions and pursuant to procedure established by a rural municipality council or city council.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

§ 15<sup>6</sup>. Amendment and premature termination of contracts under public law of substitute home service

(1) If the need to amend the contract under public law of substitute home service becomes evident the rural municipality government or city government of a child's residence is required to review the terms and conditions of the contract by involving the contracting parties and making amendments in the contract on the basis of an agreement between the parties.

(2) A contract under public law of substitute home service shall be terminated prematurely, if:

- 1) extension of the contract is contrary to the interests of a child;
- 2) the child for whose benefit the contract under public law of substitute home service was entered into dies;
- 3) the activity licence of the provider of substitute home service expires or is declared invalid.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

§ 15<sup>7</sup>. Documents of child staying under substitute home service

(1) The rural municipality government or city government of the residence of a child shall collect and store the documents of a child staying under substitute home service.

(2) The list of documents specified in subsection (1) of this section shall be established by a regulation of the Minister of Social Affairs.

(3) After entry into the contract under public law of substitute home service the rural municipality government or city government of the residence of a child referred to substitute home service shall transfer the documents required for the provision of the substitute home service to the service provider.

(4) The list of documents specified in subsection (3) of this section shall be established by a regulation of the Minister of Social Affairs.

(5) 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 child who stayed under substitute home service to the rural municipality or city government of the residence of the child.

(6) Upon adoption of a child entitled to substitute home service, appointment of a guardian to him or her, his or her marriage or becoming an adult, the rural municipality government or city government of the residence of the child shall deliver the documents of the child who stayed under substitute home service to the legal representative of the child or to the child who has become an adult against signature.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

### § 15<sup>8</sup>. Requirements for substitute home service

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

(2) Each family of the substitute home shall have at least one education employee or a family parent complying with the requirements provided for in subsection 15<sup>9</sup> (5) of this Act.

(3) If the children of a substitute home stay in a substitute home at least one education employee or a family parent shall stay there per each substitute home family on a twenty-four hour basis. If more than one-half of the children of the substitute home family are under three years of age or with severe or profound disabilities, at least two education employees or a family parent and an education employee shall stay in the substitute home family during daytime and in the evening.

(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 substitute home service provider is required to:

1) guarantee care, education, development and safety of the child staying under substitute home service;

2) guarantee the collection of the information and documents concerning the child staying under substitute home service;

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 15<sup>4</sup> (2) of this Act;

4) provide substitute home service or be prepared for the provision of substitute home service to at least four children;

5) guarantee that the education employee who is in contractual relationship with the substitute home service provider complies with the requirements provided for in subsections 15<sup>9</sup> (2) - (6) and the family parent complies with the requirements provided for in subsection 15<sup>10</sup> (2) of this Act; 6) prepare statistical reports concerning substitute home services pursuant to the procedure established on the basis

of clause 6<sup>8</sup>) of this Act and submit these to the county governor of the location of the provision of 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 of Social Affairs.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

### § 15<sup>9</sup>. Requirements for education employees of substitute homes

(1) The education employees of a substitute home are assistant educator, junior educator, educator and senior educator.

(2) An education employee shall have full active legal capacity and comply with the requirements provided for in clauses 25<sup>2</sup> (1) 2) – 6) of this Act.

(3) An assistant educator shall, in addition to the requirements provided for in clauses 25<sup>2</sup> (1) 2) – 6) of this Act, comply with the following requirements:

1) he or she shall have completed at least secondary education;

2) he or she shall have undergone a 160-hour in-service training in social work or pedagogy established on the basis of subsection (8) of this section or shall have registered for the training. If an assistant educator has registered for the abovementioned in-service training upon entry into an employment contract, he or she shall undergo the training at least within three years from employment in a position of assistant educator.

(4) A junior educator shall, in addition to the requirements provided for in clauses 25<sup>2</sup> (1) 2) – 6) of this Act, comply with the following requirements:

1) he or she shall have completed vocational secondary or higher education in the field of pedagogy or social work, or

2) he or she shall have completed secondary, other vocational secondary or higher education and shall have undergone a 160-hour in-service training in social work and 160-hour in-service training in pedagogy established on the basis of subsection (8) of this section.

(5) An educator shall have at least one year work experience with children and he or she shall, in addition to the requirements provided in clauses 25<sup>2</sup> (1) 2) – 6) of this Act, comply with the following requirements:

1) he or she shall have vocational secondary or higher education in pedagogy and shall have undergone a 160-hour in-service training in social work established on the basis of subsection (8) of this

section,

- 2) he or she shall have vocational secondary or higher education in social work and shall have undergone a 160-hour in-service training in pedagogy established on the basis of subsection (8) of this section, or
  - 3) he or she shall have other vocational secondary or higher education and shall have undergone a 160-hour in-service training in social work and 160-hour in-service training in pedagogy established on the basis of subsection (8) of this section.
- (6) A person employed as a senior educator shall, in addition to the requirements provided for in clauses 25<sup>2</sup> (1) 2) – 6) of this Act, comply with the requirements set out in clause (5) 1) or 2) of this section and
- 1) he or she shall have at least three years' work experience in child welfare;
  - 2) he or she shall have instructed trainees, junior educators or educators for at least three months;
  - 3) he or she shall have prepared a professional research or shall have participated in the development of child welfare.
- (7) The compliance of education employees to the requirements provided for in subsections (2) - (6) of this section shall be verified by the provider of substitute home service.
- (8) The procedure for conducting the in-service training in social work and pedagogy specified in subsections (3) – (5) of this section and the curricula of in-service trainings shall be established by a regulation of the Minister of Social Affairs.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

§ 15<sup>10</sup>. Requirements for family parents and for persons with whom they have common dwellings

- (1) A family parent is a natural person who lives together with the substitute home family twenty-four hours a day.
- (2) A family parent shall have full active legal capacity and shall:
  - 1) comply with the requirements provided for in clauses 25<sup>2</sup> (1) 2), -6) of this Act;
  - 2) be at least 25 years of age;
  - 3) comply with at least the requirements established for educators in subsection 15<sup>9</sup> (5) of this Act and shall, in addition, have passed the training specified in clause 25<sup>2</sup> (1) 7) 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 other services on the basis of other contracts with the consent of the local government agency of the residence of the child staying under substitute home service, if the employment or provision of other services does not prevent the family parent the performance of duties arising from this Act.
- (6) A family parent may use the assistance of third parties upon the provision of the substitute home service 42 calendar days a year.
- (7) The compliance of family parents to the requirements provided for in this section shall be verified by the provider of substitute home service
- (8) If substitute home service is provided in the dwellings of a family parent, the person having full active legal capacity with whom the family parent has common dwellings shall comply with the requirements provided for in clauses 25<sup>2</sup> (1) 3) – 6) of this Act and shall have mental health required for being together with children.
- (8<sup>1</sup>) Substitute home service shall not be provided in the dwellings of a family parent if the same dwelling is used by a person, who has been punished or who has been subjected to coercive treatment for a criminal offence provided in clause 133 (2) 2), clause 141 (2) 1), clause 142 (2) 1), clause 143 (2) 1), clause 143<sup>1</sup> (2) 1), §§ 144-146 or §§ 175-178 of the Penal Code if information concerning the punishment has not been expunged from the punishment register pursuant to the Punishment Register Act or information concerning the punishment has been expunged from the punishment register and has been entered in the archives of the punishment register.

(14.06.07 entered into force 20.07.07 - RT I 2007, 45, 320)

- (9) If substitute home service is provided in the dwellings of a family parent, other adults with whom he or she has common dwellings shall undergo regular medical examination for communicable diseases, including chest radiography in every two years and they shall hold a health certificate concerning the undergone medical examination for communicable diseases.
- (10) A family physician shall conduct medical examinations for communicable diseases and issue a written medical certificate.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

## Division 11

### Care in Social Welfare Institutions

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

### § 16. Care in social welfare institutions

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(1) A social welfare institution is an institution which operates during the daytime or twenty-four hours a day, where the persons staying in the institution are guaranteed care appropriate to their age and condition including treatment, nursing, education and development.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(2) A daytime social welfare institution is an institution where the daytime care of persons staying in the institution supports the independent ability to cope of those persons or their family members.

(3) A twenty-four hour social welfare institution is an institution where persons stay who are not capable of living independently due to their special needs or social situation and if their ability to cope cannot be guaranteed by the provision of other social services or assistance.

## Division 12

### Requirements for Social Welfare Institutions

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 17. Classification and management of social welfare institutions

(1) Social welfare institutions are state or local government agencies, or other legal persons in public law or private law, or their sub-units.

(05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(2) Residential educational institutions, social rehabilitation centres and special care homes are state social welfare institutions.

(3) The statutes of social welfare institutions under the authority of the Ministry of Social Affairs shall be approved by the Minister of Social Affairs. The statutes of state social welfare institutions under the administration of a county government shall be approved by the county governor.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953; 09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509; 05.06.2002 entered into force 01.07.2002 - RT I 2002, 53, 336)

(4) The articles of association of social welfare institutions shall be approved by the founder or owner of the institution.

(5) The highest authority in a social welfare institution is the board of trustees formed by the owner of the institution.

(6) The administration of state social welfare institutions shall be established by the Minister of Social Affairs.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953)

(7) Mandatory requirements for social welfare institutions shall be established by the Minister of Social Affairs.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953)

#### § 17<sup>1</sup>. Obligation of social welfare institutions to submit reports

Social welfare institutions shall prepare statistical reports relating to social welfare and submit these to county governors pursuant to the procedure established on the basis of clause 6 8<sup>1</sup>) of this Act.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 605)

## § 18. Types of social welfare institutions

(1) Social welfare institutions are:

- 1) day centres – institutions providing daytime care;
- 2) support homes – institutions providing daytime or periodic twenty-four hour care for disabled persons who live at home;
- 3) shelters – institutions offering temporary twenty-four hour assistance, support and protection for persons;
- 4) substitute homes – places for the provision substitute home service to children specified in § 15<sup>2</sup> of this Act;
- 5) youth homes – institutions established for living and rehabilitation for youths over the age of fifteen who are from substitute homes, schools for students with special needs, residential educational institutions or have been left without parental care;

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

- 6) general care homes – institutions established for living, care and rehabilitation for the elderly and disabled persons;
- 7) residential educational institutions – institutions established for living, care, development and education for disabled school-age children;
- 8) social rehabilitation centres – institutions established for intensive rehabilitation of persons with special needs;
- 9) special care homes – premises and territory owned or used by a service provider where community living service or 24-hour special care service is provided.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

- (2) Twenty-four hour social welfare institutions are, in general, separate for children, the elderly, persons of unsound mind, adults with mental disabilities and other socially incapable persons.
- (3) If necessary, a rural municipality council or city council may establish mixed-care twenty-four hour social welfare institutions, where separate departments are provided for persons in need of different care.

## Division 13

### Care without consent of person

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

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

- (1) A person is placed in a social welfare institution to receive 24-hour special care service without his or her consent or the consent of his or her legal representative (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 24-hour special care service and

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 to 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 placement of 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 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 and

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.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

## § 20. Prohibited objects and substances upon staying in social welfare institution

(1) A person receiving social services in a social welfare institution shall not possess the following substances and objects:

1) weapons within the meaning of the Weapons Act;

2) explosives, pyrotechnic substances and pyrotechnic articles within the meaning of the Explosive Substances Act;

3) substances used for causing narcotic, toxic or alcohol intoxication and

4) other substances or objects which may constitute a danger to the person receiving the service and the life and health of other people.

(2) If a provider of social service becomes aware that a person receiving social service in the social welfare institution possesses or that postal or other consignment addressed to him or her contains substances or objects specified in clause (1) 1) or 2) of this section or a substance specified in clause 3) of

the same section used for causing narcotic intoxication, the service provider shall inform the police thereof.

(3) If a prohibited object or substance specified in subsection (1) of this section constitutes immediate danger to the person who possesses it or to other persons, the service provider shall take measures in order to reduce or remove the immediate danger.

(4) The service provider shall remove a substance or object specified in clauses (1) 3) or 4) of this section from the person's possession. The service provider shall return a substance or object specified in clauses (1) 3) or 4) of this section, which cannot be delivered to the police, to the sender of the postal or other consignment. If the sender is unknown or the substance or object has come into the person's possession in any other way than by post, the service provider shall give the substance or object to the legal representative of the person, in the absence of the latter the service provider shall personally store the substance or object taken from the person. The service provider shall destroy the substances and objects the value of which is less than 300 kroons.

(5) If the state of health of the person receiving the service allows it, the substance or object specified in subsection (4) of this section shall be confiscated from the person and shall be destroyed at his or her presence.

(6) The service provider shall immediately prepare a report concerning the confiscation of the objects or substances listed in subsection (1) of this section which shall set out:

- 1) the time and place of preparation of the report;
- 2) the given name and surname of the person who prepares the report;
- 3) the given name and surname of the person receiving the service from whom the objects and substances were confiscated;
- 4) a list of confiscated objects and substances;
- 5) a notation concerning the delivery of prohibited objects to the person specified in subsection (4) of this section, an agency or the police and
- 6) signatures of the person receiving the service or legal representative of the person in the case of a person with restricted active legal capacity and of the person who prepared the report.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 20<sup>1</sup>. Restriction on freedom of movement of persons receiving social services

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

- 1) persons who are placed in a social welfare institution on the basis of a court ruling in accordance with § 19 of this Act and
- 2) persons who receive 24-hour special care service, if this is necessary for the protection of the rights and freedoms of the abovementioned 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 24-hour special care service to move freely only insofar as it is necessary for the protection of the rights and freedoms of the abovementioned person and other persons.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 20<sup>2</sup>. Isolation of person from other persons receiving service

(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 24-hour special care service by a court ruling. Isolation may be used in addition 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, the furnishing of the isolation rooms and the availability of drinking water shall be established by a regulation of the Minister of Social Affairs.

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

- 1) there is immediate danger to the life, physical integrity or physical freedom of the person himself or herself or other persons receiving the service;
- 2) verbal appealing 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 and
- 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 (6) 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 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 appease the person;
- 4) the reasons for isolation;
- 5) the name of the person who made the decision on isolation and
- 6) information concerning the injury suffered by a person specified in clause 1) of this section, the provider of 24-hour special care service or a person with whom the service provider is in contractual relationship in order to provide 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 the instructions for managing problem behaviour and isolation of restless and violent persons.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

## Division 14

## Other Social Services

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

## § 21. Other social services necessary for coping

Rural municipality governments or city governments may provide other social services. The conditions and procedure for provision of material assistance and the procedure for registration, keeping account of and distribution of donations in a rural municipality or city shall be established by the local government.

Chapter 3<sup>1</sup>

## Activity Licence

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

§ 21<sup>1</sup>. Activity licence for provision of social service

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(1) An activity licence is required for the provision of the following social services:

- 1) childcare services funded by the state or a local government;
- 2) substitute home service;
- 3) everyday life support service;
- 4) employment support service;
- 5) supported living service;
- 6) community living service and
- 7) 24-hour special care service.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(2) An activity licence grants the holder of the licence the right to operate in the corresponding area of activity at the location specified in the decision to issue an activity licence.

(2<sup>1</sup>) A service provider holding an activity licence for the provision of 24-hour special care service may provide 24-hour special care service to a person with a profound multiple disability, to a person with a severe, profound or permanent mental disorder with unstable remission or to a person placed in a social welfare institution by a court ruling in case such a right has been granted to the service provider by the activity licence for the provision of 24-hour special care service.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(3) Before application for an activity licence, the applicant shall pay a state fee.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

## § 21<sup>2</sup>. Application for activity licence

(1) In order to receive an activity licence, an applicant shall submit an application together with the required documents:

- 1) to the county governor of the place of business for the provision of the service specified in clauses 21<sup>1</sup> (1) 1) and 2) of this Act and
- 2) to the Social Insurance Board for the provision of the services specified in clauses 21<sup>1</sup> (1) 3) – 7) of this Act..

(2) An application shall set out:

- 1) the name, registry code or personal identification code and contact details of the applicant;
- 2) the name of the service for which the activity licence is applied, place or places of business and the number of persons to whom the applicant wishes to provide service at the place of business;
- 3) information concerning the persons providing the service directly, including information concerning their education and the completed required trainings;
- 4) information concerning payment of the state fee;
- 5) information concerning the signatory and
- 6) a list of documents annexed to the application.

(3) The Minister of Social Affairs shall establish by a regulation the formats of applications for activity licences and the list of documents required upon application for the activity licences of the following services:

- 1) childcare service and substitute home service and
- 2) everyday life support service, employment support service, supported living service, community living service and 24-hour special care service.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

## § 21<sup>3</sup>. Issue of activity licence

(1) The correctness of the information and documents submitted by the applicant for the activity licence shall be verified and activity licences shall be issued by the issuer of activity licences, i.e.:

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

- 1) the county governor of the place of business or an official authorised by the county government in the case of the services specified in clauses 21<sup>1</sup> (1) 1) and 2) of this Act and
- 2) the Social Insurance Board in the case of the services specified in clauses 21<sup>1</sup> (1) 3)-7) of this Act.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(2) The issuer of activity licences shall, before issuing an activity licence, verify:

1) compliance of the applicant for an activity licence, the service planned to be provided and the childcarer, the education employee, the family parent and the activity supervisor (hereinafter person providing the service directly) to the requirements for the services, service providers and the persons providing the service directly provided for in this Act;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

2) payment of the state fee;

3) the absence of tax arrears

4) the correctness of the information submitted from the state register of state and local government agencies, the register of non-profit organisations and foundations or the commercial register;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

5) the fact that the applicant has not been declared bankrupt;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

6) that the person providing the service directly or the person having full legal capacity with whom the childcarer or the family parent has common dwellings pursuant to the confirmation thereof has no criminal record concerning an intentionally committed criminal offence;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

7) compliance with the requirement provided for in § 10<sup>1</sup> of this Act in the case of the services specified in clauses 21<sup>1</sup> (1) 1) and 2) of this Act.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(3) The Health Board shall, before issuing an activity licence to a service provider specified in subsection 21<sup>1</sup> (1) of this Act, verify the compliance of the premises where the services are to be provided to the requirements established on the basis of the Public Health Act on the basis of the application of the applicant for an activity licence and issue a certificate concerning the compliance of the premises where the services are to be provided to health protection requirements.

(30.09.2009 entered into force 01.01.2010 - RT I 2009, 49, 331)

(4) If an applicant fails to submit the required information or documents together with an application or if the application contains any other deficiencies, the issuer of activity licences shall inform the applicant thereof in writing and set a term of 10 working days for the elimination of deficiencies. If the applicant has failed to eliminate the deficiencies within the prescribed term, the issuer of activity licences shall refuse to review the application.

(5) The issuer of activity licences may, before issuing an activity licence, involve a corresponding official of a local office of the Rescue Board in order to verify the compliance of the premises where the services are to be provided to fire safety requirements.

(6) The issuer of activity licences shall make a decision on the issue of an activity licence within 20 working days as of the submission of all required information and documentation. An applicant for an activity licence shall be notified of the decision regarding the issue of the activity licence within three working days as of the date on which the corresponding decision is made.

(7) The issuer of activity licences shall enter the information concerning the service provider in the second division of the register of economic activities within three working days as of the date on which the decision to issue an activity licence is made.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(8) The list of information concerning service providers to be entered in the register of economic activities shall be established by the regulation of the Minister of Social Affairs.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(9) The issuer of activity licences and the registrar of the register of economic activities have the right of access to the information entered in the register of economic activities, except the information concerning the decision to issue an activity licence and the names of the persons providing the service directly.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 21<sup>4</sup>. Validity of activity licences

Activity licences are issued for a period of five years.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

#### § 21<sup>5</sup>. Refusal to issue activity licence

(1) An activity licence is not issued if:

1) the applicant for activity licence has not submitted the documents or information required for application for activity licence provided for in this Act;

1<sup>1</sup>) the applicant for activity licence, the service planned to be provided, a person providing the service directly or a person with whom a childcarer or family parent uses common dwellings does not comply with the requirements for service providers, services, persons providing the service directly or persons with whom a childcarer or family parent uses common dwellings provided for in this Act;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

2) the premises where the services are to be provided do not comply with the requirements provided

for in legislation;

2<sup>1</sup>) it becomes evident from information held in the punishment register or from other information that compulsory dissolution has been imposed for a criminal offence on the service provider who is a legal person or that an occupational ban in the given area of activity has been imposed for a criminal offence on the sole proprietor; as of the date of it being established;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

- 3) the applicant for the activity licence is declared bankrupt;
- 4) inaccurate information was knowingly submitted upon application for the activity licence;
- 5) the applicant for activity licence has not paid the state fee;
- 6) the applicant for activity licence owes tax arrears;
- 7) the previous activity licence is revoked on the bases specified in clauses 21<sup>9</sup> (1) 4)-6) of this Act and less than one year has passed since the revocation.

(2) The issuer of activity licences shall notify an applicant for an activity licence of refusal to issue an activity licence in writing within three working days after the decision of refusal is made.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

#### § 21<sup>6</sup>. Decision on issue of activity licence

(1) The decision to issue an activity licence shall contain the following information:

- 1) the person making the decision;
- 2) the number of the activity licence and the date on which the decision is made;
- 3) the name of the holder of an activity licence, code of the commercial register or the non-profit associations and foundations register or the state register of state and local government agencies or the personal identification code or commercial registry code of the sole proprietor, address of the premises where the services are to be provided and the telecommunications numbers;
- 4) the area of activity for which the activity licence is issued;
- 5) the maximum number of persons to whom it is permitted to provide the service at the same time;
- 6) the period of validity of the activity licence.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405; 17.12.2008 entered into force 1.01.2009 - RT I 2008, 58, 329)

(2) If the applicant for activity licence applies for an activity licence for the provision of 24-hour special care service to a person with a profound multiple disability, to a person with a severe, profound or permanent mental disorder with unstable remission or to a person placed in a social welfare institution by a court ruling in addition to a person specified in subsection 11<sup>50</sup> (1) of this Act, the decision to issue an activity licence in the case of satisfaction of the application shall include, in addition to the information specified in subsection (1) of this section, a notation concerning the provision of 24-hour special care service to the abovementioned persons.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 21<sup>7</sup>. Changes in the information which is the basis for the issue of an activity licence

(1) The holder of an activity licence is required to inform the issuer of activity licences of any changes to the information entered in the register of economic activities promptly, but not later than within five working days after the occurrence of the change

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(2) Updated information shall be entered by the issuer of activity licences in the register of economic activities within three working days as of the receipt thereof.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

(3) The list of information upon the changes to which the issuer of activity licences shall be informed shall be established by a regulation of the Minister of Social Affairs.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 21<sup>8</sup>. Suspension or termination of activities specified in activity licence

(1) The holder of an activity licence who wishes to suspend an activity specified in the activity licence shall submit the relevant application to the issuer of activity licences.

(2) An activity specified in an activity licence may be suspended for up to six months. A service provider specified in clause 21<sup>1</sup> (1) 1) of this Act is required to notify the issuer of activity licences of the suspension of the activity thereof at least three months in advance. Suspension of the services specified in clauses 21<sup>1</sup> (1) 2)-7) is not permitted.

(3) If the date of continuation of activities is not entered in the application for suspension of an activity licence, in order to continue the activity, the holder of the activity licence shall submit an application to the issuer of activity licences for continuation of the activity. If the holder of an activity licence fails to notify the issuer of activity licences of the continuation of the activity, except if the activity specified in the activity licence was suspended for a specified term, the issuer of activity licences shall revoke the activity licence six months after the suspension of the activity specified in the activity licence. The issuer of activity licences shall enter the information concerning the continuation the activity suspended for a specified term in the register of economic activities on the date indicated in the

application for suspension of the activity.

(4) The holder of an activity licence shall, upon his or her wish to terminate an activity specified in the activity licence, submit an application to the issuer of activity licences for revocation of the activity licence and set out in the application the date of termination of the activity specified in the activity licence.

(5) The provider of the service specified in clause 21<sup>1</sup> (1) 1), 3) or 4) of this Act is required to submit the application specified in subsection (4) of this section at least three months before the termination of the provision of the service. The provider of the service specified in clause 21<sup>1</sup> (1) 2), 5) 6) or 7) is required to submit the application specified in subsection (4) of this section at least six months before the termination of the provision of the service.

(6) The issuer of activity licences shall enter the information concerning the suspension of an activity specified in the activity licence in the register of economic activities within three working days as of the date of suspension set out in the application specified in subsection (1) of this section or, if the activity is suspended before the submission of an application, within three working days as of the date of submission of the application.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405; 17.12.2008 entered into force 1.01.2009 - RT I 2008, 58, 329)

## § 21<sup>9</sup>. Revocation of activity licences

(1) The issuer of activity licences shall revoke an activity licence if:

- 1) so requested by the holder of the activity licence;
- 2) the holder of an activity licence has failed to commence the activities specified in the activity licence within one year from the issue of the activity licence;
- 2<sup>1</sup>) the holder of an activity licence is dissolved or the sole proprietor dies, as of the date of becoming aware thereof;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

3) it becomes evident from information held in the punishment register or from other information that compulsory dissolution has been imposed for a criminal offence on the service provider who is a legal person and holder of the activity licence or that an occupational ban in the given area of activity has been imposed for a criminal offence on the sole proprietor; as of the date of it being established;

4) it becomes clear in the course of supervision that the service, the service provider or the person providing the service directly does not comply with the requirements for the services, the service providers or the persons providing the service directly established by law and other legislation;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

5) the applicant for activity licence has knowingly submitted inaccurate information upon application



for an activity licence;

6) the applicant for an activity licence has failed to notify the issuer of activity licences within 30 calendar months of changes to information set out in the regulation established on the basis of subsection 21<sup>7</sup> (3) of this Act;

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

7) the holder of activity licence has not, during the prescribed term and pursuant to the prescribed procedure, complied with a precept issued thereto by a supervisory agency;

8) more than six months have passed since suspension of the activity specified in the activity licence and the holder of the activity licence has not notified the issuer of activity licences of the wish to continue the activity.

(2) The issuer of activity licences shall delete the registry entry of an activity licence from the register of economic activities promptly, but not later than within three working days as of the date on which the activity licence is revoked.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(3) If it is possible to eliminate the circumstances which constitute grounds for revocation of an activity licence, the issuer of activity licences may issue a precept to the holder of an activity licence for elimination of deficiencies.

(4) The issuer of activity licences shall notify the holder of an activity licence of the revocation of the activity licence in writing within three working days after making the corresponding decision.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

## § 21<sup>10</sup>. Application for new activity licence

(1) The holder of an activity licence shall apply for the issue of a new activity licence if:

- 1) the location where the service is provided changes;
- 2) the volume of the provided service changes.

(2) In the case of a state-funded service, the service provider shall, upon the wish to continue the activity specified in the activity licence, apply for a new activity licence at least two months before the expiry of the existing activity licence.

(3) (Repealed - 17.12.2008 entered into force 01.01.2009 – RT I 2008, 58, 329)

(4) A new activity licence shall be issued pursuant to the procedure provided for in §§ 21<sup>3</sup>-21<sup>6</sup> of this Act.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

## Chapter 4

### Social Benefits

#### § 22. Subsistence benefit

(1) A person living alone or a family whose monthly net income, after the deduction of the fixed expenses connected with dwelling calculated under the conditions provided for in subsections 22<sup>2</sup> (5) and (6) of this Act, is below the subsistence level has the right to receive a subsistence benefit. 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.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509; 07.08.2003 entered into force 05.09.2003 - RT I 2003, 58, 388)

(1<sup>1</sup>) The Riigikogu<sup>2</sup> shall establish the subsistence level for a person living alone and to the first member of a family for each budgetary year by the state budget. A new subsistence level shall not be less than the rate in force.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

(1<sup>2</sup>) The subsistence level of the second and each subsequent member of a family is 80 per cent of the subsistence level of the first member of the family.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

(2) The grant of a subsistence benefit is based on the income of the benefit applicant and his or her family members. In the grant of a subsistence benefit, persons who are married or living in the same dwelling in a conjugal relationship, their children and parents who are maintained by them or other persons using one or more sources of income jointly or with a shared household are deemed to be family members.

(07.08.2003 entered into force 05.09.2003 - RT I 2003, 58, 388)

(2<sup>1</sup>) In the grant of a subsistence benefit, pupils and students who are enrolled in daytime study at state educational institutions of the Republic of Estonia or educational institutions to which an education license has been issued by the Ministry of Education, and who temporarily stay away from their family are also included in the family if the data concerning the address of their residence as entered in the population register coincides with the data concerning the address of the residence of their families.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509; 16.10.2002 entered into force 01.01.2003 - RT I 2002, 90, 521; 07.08.2003 entered into force 05.09.2003 - RT I 2003, 58, 388)

(2<sup>2</sup>) Pupils and students the address details of whose residence do not coincide with the address details of a family member specified in subsection (2) of this section are entitled to subsistence benefit from the rural municipality or city government of their residence according to the population register provided that the pupil's or student's family was the recipient of a subsistence benefit in the previous month.

(07.08.2003 entered into force 05.09.2003 - RT I 2003, 58, 388)

(3) Subsistence benefits shall be granted and paid by rural municipality governments and city governments to the extent of, under the conditions and pursuant to the procedure established by this Act from funds accrued in the rural municipality or city budgets from the state budget.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

§ 22<sup>1</sup>. Application for subsistence benefit

(1) In order to obtain a subsistence benefit for a given month, an applicant for the subsistence benefit shall submit a corresponding application to the rural municipality government or city government in whose administrative jurisdiction the person is permanently living not later than on the twentieth day of the given month.

(2) In an application, the applicant shall specify the names and personal identification codes or dates of birth of the persons to be considered upon the grant of a subsistence benefit pursuant to subsections 22 (2) and (2<sup>1</sup>) of this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(3) An application specified in subsection (1) of this section shall include, as an annex, documents which shall prove:

1) the right to use the dwelling, which shall be submitted upon primary application;

(07.08.2003 entered into force 05.09.2003 - RT I 2003, 58, 388)

2) income received during the preceding month, income tax deducted therefrom and amount of paid support of a person living alone or of the members of a family. If any type of income cannot be documented, an applicant for a subsistence benefit shall verify the amount thereof by his or her signature;

3) fixed expenses connected with dwelling payable during the given month in accordance with the extent and structure thereof provided for in this Act.

(07.08.2003 entered into force 05.09.2003 - RT I 2003, 58, 388)

(3<sup>1</sup>) A pupil or student the address details of whose residence do not coincide with the address details of a family member specified in subsection 22 (2) of this Act shall submit, in addition to the documents specified in subsections (1) and (3) of this section, a document certifying the fact that his or her family was the recipient of a subsistence benefit in the previous month.

(07.08.2003 entered into force 05.09.2003 - RT I 2003, 58, 388)

(3<sup>2</sup>) 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 (3<sup>1</sup>) 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 (RT I 2001, 3, 6; 2002, 92, 531; 90, 521; 105, 613; 110, 654 and 655; 2003, 26, 156; 32, correction notice; 78, 522; 2004, 30, 208; 46, 329);

3) securities within the meaning the Securities Market Act (RT I 2001, 89, 532; 2002, 23, 131; 63, 387; 102, 600; 105, 612; 2003, 81, 544; 88, 591; 2004, 30, 208; 36, 251; 37, 255).

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(4) In the grant of a subsistence benefit, the legal basis for the use of a dwelling shall be:

1) the right of ownership concerning the dwelling;

2) membership in a housing association (housing cooperative);

3) a contract on the basis of which the person has the right to use a dwelling or part of a dwelling used by the person who grants the use of the dwelling, except a contract entered into between the persons

specified in subsection 22 (2) or (2<sup>1</sup>) of this Act;

4) a contract the object of which is a dwelling or other premises used for residing the use of which the state, a local government or other legal person in public law or a legal person in private law established by them for the administration of the residential building grants, in order to perform its functions arising from law, to a person who urgently needs a dwelling or a person who is acquiring education, or a contract entered into for residing in a dwelling or other premises of a legal person in private law;

5) a real right contract for the use of a residential space (personal servitude), except a contract entered into between the persons specified in subsections 22 (2) or (2<sup>1</sup>) of this Act.

(01.10.2009 entered into force 31.10.2009 - RT I 2009, 49, 332)

(5) A contract for the use of a hotel-type accommodation establishment or the premises intended for holidays or the premises of a social welfare institution, except a contract for the use of premises of a social welfare institution entered into with a person entitled to receive a service in the course of the provision of supported living service, is not the legal basis for the use of a dwelling upon the grant of a subsistence benefit.

(01.10.2009 entered into force 31.10.2009 - RT I 2009, 49, 332)

#### § 22<sup>2</sup>. 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, the fixed expenses connected with dwelling and the established subsistence level.

(07.08.2003 entered into force 05.09.2003 - RT I 2003, 58, 388)

(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 to a person living alone, a family or members thereof out of the funds of the state budget or local budget;

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

(17.12.2008 entered into force 01.03.2009 - RT I 2008, 58, 329)

3) (Repealed - 16.11.06 entered into force 01.07.07 - RT I 2006, 55, 409)

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

5) transport and accommodation benefits payable for participation in labour market training, in work practice and coaching for working life and the grants payable for participation in labour market training based on the Labour Market Services and Benefits Act.

(28.09.2005 entered into force 01.01.2006 - RT I 2005, 54, 430, 22.10.2008 entered into force 1.05.2009 - RT I 2008, 48, 265)

(3) Subsistence benefit for persons who have no regular income is calculated based on the average income of such person during the six months preceding application for the subsistence benefit.

(4) Persons who are engaged in maintenance or support work on the territory of a rural municipality or city are paid remuneration for the performed work which, upon calculation of a subsistence benefit, is included in the income of a person living alone or of his or her family. The work performed is not subject

to coverage out of subsistence benefit funds.

(5) In order to grant subsistence benefit, local government councils shall establish the limits for the expenses specified in subsection (6) of this section, which ensure decent subsistence for persons.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(6) Upon calculation of a subsistence benefit, the following fixed expenses connected with dwelling payable during the given month, within the limits of the socially justified standards for dwellings established on the basis of clause 7 (1) 2) of the Dwelling Act and within the limits established on the basis of subsection (5) of this section shall be taken into consideration:

(07.08.2003 entered into force 05.09.2003 - RT I 2003, 58, 388)

- 1) the actual rent or maintenance fee of the apartment;
- 2) value of thermal energy or fuel consumed for heating or supply of hot water;
- 3) value of used water and sewerage services;
- 4) value of used electricity;
- 5) value of used household gas;
- 6) expenses made on land tax, which is calculated based on the size of land that equals three times the area under the dwelling;
- 7) expenses made on building insurance, calculated for used dwelling;
- 8) the actual carriage charge for municipal waste.

(16.03.2005 entered into force 08.04.2005 - RT I 2005, 18, 106)

(7) Upon grant of subsistence benefit, pre-existing arrears in payment of fixed expenses connected with dwelling are not included in the fixed expenses connected with dwelling payable during the given month, and such arrears are not subject to coverage out of subsistence benefit funds.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509; 07.08.2003 entered into force 05.09.2003 - RT I 2003, 58, 388)

### § 22<sup>3</sup>. Grant and payment of subsistence benefit

(1) A subsistence benefit shall be granted for the given month. Subsistence benefit shall not be granted retroactively for the preceding months.

(2) Within five working days after the submission of all documents, a subsistence benefit shall be granted to a person living alone or to a family in an amount which, together with the incomes of all family members ensures an income within the subsistence limit, after the fixed expenses connected with dwelling or residential space have been deducted therefrom to the extent and according to the structure specified in this Act. Other expenses made by a person or a family during the given month shall not be taken into consideration upon the grant of a subsistence benefit.

(2<sup>1</sup>) Upon grant of subsistence benefit, a rural municipality or city government shall provide social counselling services to the applicants for subsistence benefit and their family members in need of assistance.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(3) A rural municipality or city government has the right to refuse to grant a subsistence benefit:

- 1) to a person between the age of eighteen and the age of retirement with capacity for work who is not working or studying, and who has, more than once and without good reason, turned down suitable work offered to him or her, or has refused to participate in employment services or in social services or

study organised by a rural municipality government or city government directed towards independent ability to cope;

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

2) a person who, or whose ward has the right to receive support but who refuses to submit a document certifying the right to receive the support or refuses to claim the support;

3) if the corresponding committee of a rural municipality government or city government finds that the movables and immovables used or owned by an applicant for subsistence benefit or his or her family ensure sufficient funds for coping for the person or his or her family.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(4) Upon the grant of a subsistence benefit to a family, a rural municipality government or city government shall take into consideration, as an additional expense, the housing expenses of the persons specified in subsection 22 (2<sup>1</sup>) of this Act pursuant to the provisions of subsections 22<sup>2</sup> (5) and (6) of this Act.

(07.08.2003 entered into force 05.09.2003 - RT I 2003, 58, 388)

(4<sup>1</sup>) Upon the calculation of a subsistence benefit to a family, a rural municipality government or city government may take into consideration a family member who temporarily does not live with the family due to studying when determining the socially justified standard for the dwelling.

(07.08.2003 entered into force 05.09.2003 - RT I 2003, 58, 388)

(4<sup>2</sup>) A rural municipality or city government shall not refuse grant of subsistence benefit for the reason specified in clause (3) 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 applicant for the subsistence benefit or his or her family.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(5) A rural municipality government or city government shall pay the amount calculated as subsistence benefit, within three working days after the date on which the corresponding resolution is made, to an applicant for a subsistence benefit to his or her bank account, by post or in cash, taking into consideration the corresponding wish of the applicant as expressed beforehand.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

#### § 22<sup>4</sup>. Supplementary social benefits paid from state budget

(1) The recipient of subsistence benefit whose all family members are minors within the meaning of subsections 22 (2) and (2<sup>1</sup>) of this Act has the right to receive supplementary social benefit of 200 kroons together with the subsistence benefit.

(2) A rural municipality government or city government 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 pursuant to subsection 42 (3) of this Act.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

#### § 23. Supplementary social benefits paid from local government budget

(1) Rural municipality governments (and city governments) may grant and pay supplementary social benefits from a local government budget under the conditions and pursuant to the procedure established by the local government council.

(2) (Repealed - 17.12.2008 entered into force 01.03.2009 – RT I 2008, 58, 329)

§ 23<sup>1</sup>. Social benefits for Estonian citizens who have settled in Estonia from foreign states or persons of Estonian origin and their spouses, children and parents

(1) An Estonian citizen who has settled in Estonia from a foreign state, a person of Estonian origin 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 subsection 7 (1) or (2) of the State Pension Insurance Act (RT I 2001, 100, 648; 2002, 53, 336; 338; 61, 375; 2003, 20, 116; 48, 343) 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 social benefits specified in subsection (1) of this section shall be submitted to a local pension office.

(3) Social benefits specified in subsection (1) of this section shall be granted by the director of a local pension office or his or her deputy.

(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 through the pension office of the residence of the recipient of the social benefit according to the request of the recipient of the social benefit:

- 1) to the bank account of the recipient of the social benefit;
- 2) to the bank account of another person in Estonia on the basis of a written application of the recipient of the social benefit prepared at the Pension Board or a notarised application or
- 3) as home delivery by post at the expense of the recipient of the social benefit.

(22.10.2008 entered into force 01.02.2009 - RT I 2008, 48, 264)

(6) The recipient of a social benefit specified in subsection (1) of this section is required to notify the pension office of his or her residence of circumstances which bring about termination of payment of the granted social benefit in writing within ten days after the circumstances arise.

(7) The Government of the Republic shall establish a list of documents which are necessary for applying for social benefits specified in subsection (1) of this section and the instructions for grant and payment of the social benefits.

(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.

(12.04.2000 entered into force 04.05.2000 - RT I 2000, 33, 198)

## Chapter 5

### Protection of Persons with Special Social Needs

#### § 24. Child welfare

(1) For the administration of child welfare and the creation of an environment favourable for child

development, rural municipality governments and city governments shall:

- 1) support children and persons raising children, co-operate with family members, other persons and agencies concerned;
- 2) develop and implement specific programmes and projects for the development and protection of children;
- 3) if necessary, appoint support persons or support families for children or persons raising children;
- 4) organise the guardianship of children;
- 5) assist in arranging adoptions.
- 6) organise care for a child in a family of which he or she is not a member.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(2) Positions of child protection officials shall be established in the social and health departments of counties and, as necessary, in rural municipality governments and city governments for the provision of assistance to children, families with children and other persons raising children. If necessary, a child welfare committee shall be established as an advisory body within a rural municipality government or city government.

(3) The social worker specified in clause 2 11) of this Act and the child protection official specified in subsection (2) of this section working with children shall not be a person who has been punished or who has been subjected to coercive treatment for a criminal offence provided in clause 133 (2) 2), clause 141 (2) 1), clause 142 (2) 1), clause 143 (2) 1), clause 143<sup>1</sup> (2) 1), §§ 144-146 or §§ 175-178 of the Penal Code if information concerning the punishment has not been expunged from the punishment register pursuant to the Punishment Register Act or information concerning the punishment has been expunged from the punishment register and has been entered in the archives of the punishment register.

(14.06.07 entered into force 20.07.07 - RT I 2007, 45, 320)

## § 25. Separation of child from home and family

(1) A child may be separated from his or her home and family for the provision of social services and other assistance only upon the concurrent presence of the following circumstances:

- 1) parents are deceased, declared to be fugitives or missing;

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

2) other measures applied with respect to the family and child have not been sufficient or their use is not possible;

3) separation of the child from the family is effected in the interests of the child.

(2) The subsequent residence, care and raising of a child separated from his or her home and family shall be arranged by the rural municipality government or city government. The parent, step-parent, foster parent or guardian of a child has the right to protect the interests of the child pursuant to the procedure provided for in the Family Law Act (RT I 1994, 75, 1326; 1996, 40, 773; 49, 953; 1997, 28, 422; 35, 538; 2000, 50, 317; 2001, 16, 69; 53, 307; 2002, 53, 336).

(3) Sisters and brothers originating from one family shall be kept together upon separation from their home and family unless this is contrary to the interests of the children.

(4) A child who is separated from his or her home and family has the right to receive information about his or her origin, the reasons for separation, and issues pertaining to his or her future.



(5) If a circumstance set out in subsection (1) of this section ceases to exist, the child shall be assisted in returning to his or her home and family.

(6) A rural municipality government or city government shall, if necessary, provide assistance to a family from whom a child has been taken in order to help establish the prerequisite conditions for the child to return to the family.

(7) Upon placement of a child in care outside the administrative jurisdiction of a local government, the rural municipality government or city government shall attend to the preservation of the child's connections with his or her former home-city, establish conditions for the child to return there, and help the child in his or her start in independent life.

#### § 25<sup>1</sup>. Child subject to foster care and his or her rights

(1) Orphans and children left without parental care are subject to foster care if:

1) their parents are dead, declared fugitive or missing;

15.11.06 entered into force 01.01.07, partially 01.02.07- RT I 2006, 55, 405

2) a guardian has been appointed to their parents due to restricted active legal capacity;

3) their parents are deprived of parental rights;

4) they have been removed from their parents without deprivation of parental rights or

5) their parents are serving custody pending trial or imprisonment in a prison.

(2) If a child is subject to foster care and a case plan is prepared for him or her, the wishes of a child who is at least ten years of age shall be taken into account. The wishes of a child younger than ten years of age shall also be considered if the development level of the child so permits. 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.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(15.11.06 entered into force 01.01.08 - RT I 2006, 55, 405)

#### § 25<sup>2</sup>. 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 (RT I 1994, 75, 1326; 1996, 40, 773; 49, 953; 1997, 28, 422; 35, 538; 2000, 50, 317; 2001, 16, 69; RT III 2001, 15, 154; RT I 2001, 53, 307; 2002, 53, 336; 2003, 78, 527; 2004, 14, 92; 22, 148) (hereinafter caregiver) shall comply with the following

requirements:

- 1) the person has full 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 parental rights or a child has not been removed from him or her without deprivation of parental rights;
- 4) the person has not been removed from performance of the obligations of a guardian or caregiver;
- 5) criminal proceedings have not been commenced in respect of the person to accuse him or her of a criminal offence for which imprisonment is prescribed as punishment and the person has not been convicted of an intentionally committed criminal offence; the information concerning which has not been expunged from the punishment register pursuant to the Punishment Register Act;

(14.06.07 entered into force 20.07.07 - RT I 2007, 45, 320)

- 6) the person is not dependent on alcohol, narcotic drugs and psychotropic substances;
- 7) the person has undergone training recognised by the Ministry of Social Affairs or has registered for the training.

(2) The adult 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 the adult members of his or her family shall confirm their compliance with the requirements by signature. The rural municipality government or city government may demand that the caregiver or the adult members of his or her family submit documents in proof of their compliance with the requirements.

(3) A foster care contract shall be terminated if the caregiver or his or her adult family members no longer comply with the requirements of subsections (1) and (2) of this section and extension of the contract is contrary to the interests of a child.

(4) A caregiver has the right to receive information on a child which is necessary to care for the child from the rural municipality or city government of the residence of the child and to participate in the preparation of a case plan for the child.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(15.11.06 entered into force 01.01.08 - RT I 2006, 55, 405)

§ 25<sup>3</sup>. Child subject to foster care

(1) (Repealed - 15.11.06 entered into force 01.01.08 - RT I 2006, 55, 405)

(2) A person who wishes to become a caregiver shall submit a corresponding written application to the rural municipality government or city government of his or her residence or to the rural municipality

government or city government of the residence of the child if the residence of the child and the residence of the person who wishes to become a caregiver are not in the same rural municipality or city.

(3) The rural municipality government or city government which has received an application shall verify, within one month after the receipt of the application, the compliance of a person who wishes to become a caregiver and the adult family members of his or her family with the requirements of § 25<sup>2</sup> of this Act; shall ask, if the residence of the child and the residence of the person who wishes to become a caregiver are not in the same rural municipality or city, 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 government or city government of their residence; shall provide social counselling services to the person who wishes to become a caregiver, visit his or her home and send him or her to relevant training recognised by the Ministry of Social Affairs.

(4) The rural municipality government or city government of the residence of a child shall decide on the suitability of a person who wishes to become a caregiver to provide foster care to the child on the basis of the compliance with the requirements of the person who wishes to become a caregiver and the adult family members of his or her family, social counselling and the results of a visit to the home of the person who wishes to become a caregiver and training, if the person who wishes to become a caregiver has undergone training, and shall enter into a foster care contract (hereinafter contract) which is in accordance with the case plan prepared for the child with the person who wishes to become a caregiver.

(15.11.06 entered into force 01.01.08 - RT I 2006, 55, 405)

(5) If the residence of the child and the residence of the person who wishes to become a caregiver are not in the same rural municipality or city, the rural municipality government or city government of the residence of the child shall inform the rural municipality government or city government of the residence of the caregiver in writing of entry into a contract.

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

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

## § 26. Social welfare of disabled persons

(1) In order to provide disabled persons with equal opportunities with other persons, their active participation in community life and independent ability to cope, rural municipality governments and city governments shall:

1) establish opportunities to reduce or remove restrictions caused by the disability by treatment, education and translation services;

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

2) establish, in co-operation with competent state authorities, opportunities for vocational training which would raise the ability of disabled persons to compete in the job market;

3) adapt employment positions and establish occupational centres, in co-operation with competent state authorities;

- 4) organise transportation for the disabled;
  - 5) guarantee access to public buildings for disabled persons;
  - 6) appoint a support person or personal assistant, if necessary;
  - 7) arrange for guardianship or establish curatorship.
- (2) Rural municipality governments and city governments shall organise the coping of a disabled person in need of assistance by the provision of social services, payment of social benefits, provision of emergency social assistance and other assistance.
- (08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 604)

#### § 27. Social welfare of the elderly

- (1) In order to assist the elderly to cope in surroundings familiar to them and to have a life of equal value with other persons, rural municipality governments and city governments shall:
- 1) establish opportunities for cheaper alimentation;
  - 2) ensure the accessibility of information concerning services provided and establish opportunities for the use of social services;
  - 3) establish opportunities for interaction and hobbies;
  - 4) ensure the security and independence of the elderly living in social welfare institutions, respect for their private life and the opportunity to participate in decision-making pertaining to their physical and social environment and future.

#### § 28. Social welfare of persons released from penal institutions and other persons in need of social assistance

Persons released from penal institutions and other persons in need of social assistance are provided, according to their needs, with social services prescribed in this Act or social benefits or emergency social assistance and assistance in finding work; support persons are appointed and, if necessary, shelters are established for such persons.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509;

#### § 28<sup>1</sup>. Provision of 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.
  - (2) Persons or agencies appointed or authorised by rural municipality government or city government shall provide emergency social assistance.
  - (3) 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.
- (09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

### Chapter 6

#### Procedure

#### § 29. Procedure for provision of assistance

If a person turns to a rural municipality government or city government, the rural municipality government or city government is required:

- 1) to assess a person's need for assistance;
- 2) to provide information concerning procedures;
- 3) to refer a person to a competent agency or person, if necessary;
- 4) with the consent of the person to cooperate with persons or agencies who help the person to receive the assistance which corresponds to his or her needs.

(15.11.06 entered into force 01.01.08 - RT I 2006, 55, 405)

### § 29<sup>1</sup>. Provision of assistance based on the 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 grant social service or benefit, the principle of case management shall be used upon the provision of assistance.

(2) The provision of assistance based on the principle of case management includes:

- 1) evaluation of a person's case;
- 2) formulation of objectives and planning of activities;
- 3) preparation of the case plan and the activity plan belonging thereto;
- 4) counselling and guidance of a person upon implementation of an activity plan;
- 5) performance of activities by different persons or agencies;
- 6) evaluation of results and, if necessary, amendment of the case plan and the activity plan belonging thereto.

(3) A case plan is a written document consisting of evaluation to a person's need for assistance and the activity plan for resolving his or her problems. A case plan is informative.

(4) A case plan shall be signed by an official of the local government engaged in social affairs or a person authorised by the local government and a person for whom the case plan has been prepared. The person who needs assistance shall confirm by his or her signature that he or she has examined the contents of the case plan and that he or she will participate in the implementation of the activities specified in the case plan.

(5) The format for case plans shall be established by a regulation of the Minister of Social Affairs.

(15.11.06 entered into force 01.01.08 - RT I 2006, 55, 405)

## § 29<sup>2</sup>. Case plans for minors

- (1) Case plans for minors shall be prepared on the basis of the provisions of section 29<sup>1</sup> of this Act taking into account the specifications provided for in this section.
- (2) Before referral to substitute home service or foster care specified in section 25<sup>3</sup> of this Act the rural municipality government or city government of the residence of the child shall prepare a case plan for each child.
- (3) After referral of a child to a substitute home service the rural municipality government or city government of the residence of the child 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 subject to foster care specified in § 25<sup>3</sup> of this Act shall be reviewed at least once a year.
- (4) A case plan prepared for a child subject to substitute home service shall be Annex to the contract under public law for substitute home service. A case plan prepared for a child subject to foster care shall be Annex to the contract specified in subsection 25<sup>3</sup> (4) of this Act.

(15.11.06 entered into force 01.01.08 - RT I 2006, 55, 405)

## § 30. Submission of information

- (1) A person shall submit information which is necessary for receipt of social services, social benefits, emergency social assistance and other assistance to a rural municipality government or city government.  
(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)
  - (2) A social welfare official has the right to receive supplementary information concerning a person necessary in order to provide assistance to him or her from other legal persons and natural persons if disclosure of such information is not prohibited by law.  
(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)
  - (3) In the case of doubt with respect to the correctness of documents proving income and of information concerning residence, the documents and information shall be submitted correspondingly to the regional structural unit of the Tax and Customs Board or the authorised processor of the population register for inspection;  
(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)
  - (4) (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)
  - (5) The information provided for in subsection (1) of this section shall be entered in the social register pursuant to the procedure established by the Government of the Republic.  
(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)
- (5<sup>1</sup>) The information concerning the use and provision of childcare services shall be entered in the childcare information system.

(15.11.06 entered into force 01.08.07 - RT I 2006, 55, 405)

(6) If information is knowingly concealed or false information is submitted, benefit shall not be paid.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(7) If benefit is paid to a person under the circumstances provided for in subsection (6) of this section, the person shall voluntarily refund the benefit received. If the person refuses to reimburse the benefit voluntarily, the rural municipality or city government may issue a precept to the person.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(8) In the case of failure to comply with the precept specified in subsection (7) of this section, the rural municipality or city government may issue a precept for compulsory execution pursuant to the procedure provided for in the Code of Enforcement Procedure.

(15.06.2005 entered into force 03.02.2006 - RT I 2005, 39, 308)

(9) (Repealed - 15.06.2005 entered into force 03.02.2006 - RT I 2005, 39, 308)

### § 30<sup>1</sup>. Childcare information system

(1) The aim of the childcare information system is the improvement of the accessibility of childcare services, the increase of the efficiency and transparency of the provision of childcare services, operational informing of service providers and users of the occupancy rate of kindergartens, alternative childcare possibilities and qualified childcarers both, by the state and local governments.

(2) The childcare information system shall be established and the statutes shall be approved by the Government of the Republic.

(3) The chief processor of the childcare information system is the Ministry of Internal Affairs.

(4) The Government of the Republic shall appoint, by an order, at the proposal of the Minister of Regional Affairs the authorised processor of the childcare information system. The authorised processor shall be appointed pursuant to the procedure provided in the Administrative Co-operation Act.

(5) The extent of data and the procedure for processing thereof required for proper functioning of the information system shall be established by the statutes of the information system.

(6) The costs of the establishment and maintenance of the childcare information system shall be covered from the state budget.

(15.11.06 entered into force 01.08.07 - RT I 2006, 55, 405)

### § 31. Involvement and consideration of the opinion of the person

(1) In the resolution of issues pertaining to social welfare the person who needs assistance and with the consent thereof the family members of the person shall be involved in order to find the most suitable assistance for the person. In the resolution of the abovementioned issue, the opinion of the person shall be considered.

(15.11.06 entered into force 01.01.08 - RT I 2006, 55, 405)

(2) In the resolution of issues pertaining to a child, ward or person under curatorship, the opinion of the parent, foster parent, guardian or curator shall be considered.

(3) Issues pertaining to social welfare may be resolved without considering the opinion of persons specified in subsections (1) and (2) of this section if this is not necessary for resolution or if resolution cannot be postponed due to urgency.

### § 32. Consideration of person's will

(1) In the provision of social services, social benefits and other assistance, a person's wishes shall be considered except in the cases provided for in §§ 19, 20<sup>1</sup>, 20<sup>2</sup> and 25 of this Act.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(2) In the resolution of issues pertaining to a child, the wishes of the parent or, if there is no parent, the foster parent or guardian and the wishes of a child who is at least ten years of age shall be considered. Upon separation of a child from his or her home and family, the wishes of a child who is less than ten years of age shall also be considered if the developmental level of the child so permits.

(17.04.97 entered into force 19.05.97 - RT I 1997, 35, 538)

### § 33. Making and justification of decisions

(1) A local government shall decide on the provision of or refusal to provide social services, social benefits, emergency social assistance or other assistance financed from the local government budget. If necessary or at the request of a person applying for social services, social benefits, emergency social assistance or other assistance, the relevant committee of the local government shall be involved in making the decision.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509; 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375; 17.12.2008 entered into force 1.01.2009 - RT I 2008, 58, 329)

(2) Decisions must be justified and supported by Acts and other legislation. A decision may be made on the basis of a rehabilitation plan or a case plan of a person.

(15.11.06 entered into force 01.01.08 - RT I 2006, 55, 405)

(3) Upon disagreement with a decision of an official or committee specified in subsection (1), an applicant has the right to file a challenge with the county governor.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

### § 34. Notification of decision

(1) Decisions shall be communicated to the persons concerned in a manner which considers the age and developmental level of the persons and which they understand.

(2) A person shall be notified of a decision to refuse provision of social services, social benefits, emergency social assistance or other assistance in writing within five working days after the decision is made.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 604)

### § 35. Right to receive information concerning documents relating to social welfare

(1) A person has the right to receive information about documents concerning him or her in the



possession of a welfare worker or in a social welfare institution.

(2) A welfare worker has the right to refuse to disclose information specified in subsection (1) of this section if disclosure is contrary to the interests of the person receiving social welfare.

#### § 36. Duty to maintain confidentiality

A welfare worker may disclose information concerning a person or family receiving social welfare only if failure to disclose such information endangers the life or health of others or if the information is related to the commission of a criminal offence.

#### § 37. Duty to notify of need

The family members of a person in need of assistance, judges, police officers, prosecutors, heads of health care and educational institutions and other officials are required to give notice of the person or family in need of social welfare to the rural municipality government or city government of the residence of the person or family.

#### § 37<sup>1</sup>. State supervision over medical examination for communicable diseases

(1) The Health Board shall exercise state supervision over passing of medical examination provided for in subsection 12<sup>7</sup> (5) and subsection 15<sup>10</sup> (9) of this Act through the supervisory officials authorised therefor.

(30.09.2009 entered into force 01.01.2010 - RT I 2009, 49, 331)

(2) Supervisory officials have the right to:

- 1) verify compliance with the requirements provided for in subsection 12<sup>7</sup> (5) and subsection 15<sup>10</sup> (9) of this Act by giving at least twenty-four hours notice thereof to the provider of childcare service;
- 2) obtain information needed for supervision, examine originals of documents and obtain transcripts thereof;
- 3) issue precepts to providers of childcare services for the termination of violations of the requirements provided for in subsection 12<sup>7</sup> (5) and subsection 15<sup>10</sup> (9) of this Act, prevention of further violations and elimination of the consequences of violations;
- 4) apply substitutive enforcement or penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act.

(3) A supervisory official may, in the course of supervision, issue a written precept to the service provider which shall set out the information specified in subsection 38<sup>2</sup> (1) of this Act. Information concerning a precept shall be entered in the register of economic activities based on the provisions of § 9 of the Register of Economic Activities Act.

(4) Upon failure to comply with a precept, a supervisory official may impose substitutive enforcement

or a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit for a penalty payment is 10,000 kroons.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

§ 38. Ensurance of quality of social services, emergency social assistance and other assistance

(1) County governors shall monitor the quality of the social services, emergency social assistance and other assistance provided in their administrative jurisdiction.

(2) If deficiencies become evident, a county governor may propose suspension or revocation of the activity license of a service provider holding an activity licence and suspension or termination of performance of the corresponding contract or may issue a precept requiring elimination of the deficiencies.

(3) Upon failure to comply with a precept specified in subsection (2) of this section, a county governor may impose penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580).

(4) The upper limit of penalty payment specified in subsection (3) of this section is 10 000 kroons.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 38<sup>1</sup>. State supervision over provision of social services organised by Social Insurance Board

(1) The Social Insurance Board shall exercise state supervision over the compliance of providers of the services specified in clauses 10 1<sup>1</sup>)-1<sup>6</sup>) of this Act, except the Social Insurance Board, with the requirements of this Act and legislation established on the basis thereof through the supervisory officials authorised therefor.

(2) Supervisory officials have the right to:

1) verify compliance with the requirements provided for in this Act and legislation established on the basis thereof on site, by notifying a service provider thereof at least twenty four hours in advance;

2) obtain information required for supervision, examine originals of documents and obtain transcripts thereof and

3) issue precepts to service providers for the termination of violations of the requirements provided for in this Act or legislation established on the basis thereof, the prevention of further violations and the elimination of the consequences of violations, taking into account the provisions of subsection 21<sup>9</sup> (3) of this Act in the case of the services specified in clauses 10 1<sup>1</sup>)-1<sup>6</sup>) of this Act.

(3) A supervisory official is required to present standard format identification which has been issued by the Social Insurance Board.

(4) The format of identification for supervisory officials shall be established by the Minister of Social Affairs.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

§ 38<sup>2</sup>. Precepts issued to providers of social services organised by Social Insurance Board

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(1) A supervisory official of the Social Insurance Board may, in the course of supervision, issue a written precept to the provider of a service specified in clauses 10 1<sup>1</sup>)-1<sup>6</sup>) of this Act, which shall set out the following information:

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

- 1) the name and position of the person who prepares the precept and the name and address of the supervisory agency;
- 2) the date and place of making the precept;
- 3) the circumstances which are the basis for the issue of the precept or a reference to the document in which the circumstances are set out, and reference to legal grounds;
- 4) the conclusion of the precept in which the obligations of the obligated subject arising from the precept and the term for performance of the obligations are set out;
- 5) a reference to the possibility of administrative coercive measures being applied upon failure to perform the obligations set out in the precept;
- 6) the procedure and term for contesting the precept;
- 7) the signature of the person who prepares the precept.

(2) If a supervisory official issues a precept to an undertaking who is registered or the information concerning whose activity licence has been entered in the register of economic activities, he or she shall enter the information concerning the precept in the register pursuant to the provisions of the Register of Economic Activities Act.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(3) Upon failure to comply with a precept, a supervisory official may impose substitutive enforcement and a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580). The upper limit for a penalty payment is 10 000 kroons.

(4) (Repealed - 17.12.2008 entered into force 01.01.2009 – RT I 2008, 58, 329)

§ 38<sup>3</sup>. Authorities exercising supervision over childcare service and substitute home service and their rights

(1) Supervision over conformity of childcare service and substitute home service to the requirements provided for in this Act or legislation established on the basis thereof shall be exercised by the county

governor of the place of business of the service provider or by an official authorised by the county governor.

(2) A county governor or an official authorised by the county governor has the right to:

- 1) verify compliance with the requirements provided for in this Act and legislation established on the basis thereof on site, giving a service provider at least twenty four hours notice thereof;
- 2) obtain information needed for supervision, examine originals of documents and obtain transcripts thereof;
- 3) issue precepts to service providers for the termination of violations of the requirements provided for in this Act or legislation established on the basis thereof, prevention of further violations and elimination of the consequences of violations;
- 4) impose substitutive enforcement or a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

§ 38<sup>4</sup>. Precepts to the providers of childcare service and substitute service

(1) The county governor of the place of business of the service provider or an official authorised by the county governor may, in the course of supervision, issue a written precept to the service provider, which shall set out the name and position of the person preparing the precept and the information specified in clauses 38<sup>2</sup> (1) 2) – 7) of this Act. Information concerning a precept shall be entered in the register of economic activities pursuant to the provisions of § 9 of the Register of Economic Activities Act.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(2) Upon failure to comply with a precept, the county governor or an official authorised by the county government may impose substitutive enforcement or a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit for a penalty payment is 10,000 kroons.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

§ 39. Duty of police to provide assistance where necessary

The police are required to provide assistance to welfare workers, where necessary, for entry into a person's dwelling or other location in order to protect the health of the person or other persons.

## Chapter 7

### Financing of Social Welfare and Reimbursement of Social Welfare Expenditure

#### § 40. Financing of social welfare

Social welfare is financed from:

- 1) local government budgets;
- 2) the state budget;
- 3) funds of legal persons and natural persons who voluntarily engage in social welfare;
- 4) other funds.

#### § 41. Financing from local government budget

Local government social welfare expenditure which is not financed from the state budget pursuant to the provisions of § 42 of this Act is covered from the local government budget.

#### § 42. Financing from state budget

- (1) The extent of state financing of social welfare expenditure is specified by the state budget for the corresponding budget year.
- (2) Expenditure relating to state social welfare management, state social programmes and projects, expenditure relating to social services financed by the state, expenditure relating to state social benefits, other expenses relating to performance of state social welfare duties and events.
- (3) Funds shall be allocated from the state budget to rural municipality and city budgets for the payment of social benefits to persons living alone and to families in the case of need on the basis of the subsistence limit established by the Riigikogu and the terms and conditions for payment established by this Act.
- (4) If the funds allocated from the state budget on the basis of subsection (3) of this section in the same budgetary year and the surplus in the relevant funds of the previous years are sufficient for the payment of the benefits specified in subsection (3) of this section, a rural municipality or city government may pay social benefits from the surplus in the abovementioned funds to persons in need of assistance in order to contribute towards coping or provide social services under the conditions and pursuant to the procedure established by the local government in the corresponding budgetary year.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603; 18.06.2009 entered into force 6.07.2009 - RT I 2009, 35, 232)

- (5) Support shall be prescribed for local governments in the state budget in accordance with the possibilities of the state budget for the development of social services aimed at the improvement of the independent coping of persons in need of assistance in the longer run, introduction of new social services, including partial coverage of the costs of investments and payment of additional social benefits.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

- (6) The principles for the distribution of the funds allocated to local governments specified in subsections (3) and (5) of this section between the local governments shall be established by a regulation of the Government of the Republic.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

#### § 43. Coverage of expenditure incurred by legal persons and natural persons for social welfare

- (1) Legal persons and natural persons who are voluntarily engaged in social welfare shall cover social welfare expenditure incurred by them from their own funds.
- (2) The Ministry of Social Affairs, county governors and rural municipality governments and city governments may enter into contracts for the provision of social welfare with legal persons and natural persons as specified in subsection (1) of this section and with other legal persons and natural persons, and may allocate financial and material resources to them to cover expenditure relating to social welfare.

#### § 44. Other sources of financing

- (1) Funds received from various funds, endowments, non-profit activities, donations and sponsorships and the funds of persons applying for social services or other assistance may be used to finance social welfare.
- (2) Funds specified in subsection (1) of this section shall be registered, their use shall be accounted for, and the corresponding state authority and rural municipality government or city government have the right to audit their use.

#### § 45. Fee collected for social services

- (1) A fee may be collected from a person for social services provided to the person or his or her family. The fee collected depends on the extent and cost of the service and the financial situation of the person and family receiving the service. The collection of a fee from a person for social services shall be decided by the institution which provides or pays for the service.
- (2) The limits and the procedure for collection of fees collected for state-funded social services, except for community living service and 24-hour special care service, shall be established by the Minister of Social Affairs.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405; 17.12.2008 entered into force 1.01.2009 - RT I 2008, 58, 329)

#### § 46. Reimbursement of social welfare expenditure

- (1) A social service provider or provider of emergency social assistance or other assistance has the right to receive remuneration for incurred expenditure from the rural municipality government or city government of the person's residence. The rural municipality government or city government does not have the right to refuse to reimburse such expenditure if the manner and extent of providing assistance prescribed by an Act or other legislation or a contract are adhered to in the provision of assistance.

(09.10.2001 entered into force 01.01.2002 - RT I 2001, 85, 509)

- (2) The procedure for the compensation of social welfare costs financed from the state budget, except the costs of the provision of services to persons entitled to state-funded social services specified in §§ 11<sup>2</sup>, 11<sup>35</sup>, 11<sup>39</sup>, 11<sup>42</sup>, 11<sup>46</sup>, 11<sup>49</sup>, 12<sup>2</sup> and 15<sup>2</sup> of this Act, shall be established by the Minister of Social Affairs.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405; 17.12.2008 entered into force 1.01.2009 - RT I 2008, 58, 329)

### Chapter 8

## Implementing Provisions

### § 46<sup>1</sup>. Payment of benefits granted earlier

Benefits granted before 1 February 2009 shall be paid pursuant to the procedure provided for in § 23<sup>1</sup> of this Act from 1 February 2009.

(22.10.2008 entered into force 01.02.2009 - RT I 2008, 48, 264)

### § 47. (Repealed - 19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

### § 48. Implementation

(1) The Social Welfare Act enters into force on 1 April 1995.

(2) Social welfare prescribed by law shall be performed from the state and local government budgets and other sources to the extent of the financial resources allocated.

(3) The social welfare provided by the state shall be progressively transferred to the local governments and resources shall be concurrently directed thereto pursuant to the provisions of the Rural Municipality and City Budgets Act (RT I 1993, 42, 615; 1995, 17, 234; 1997, 40, 619; 2000, 7, 40; 2001, 56, 332; 2002, 64, 393) and the State Budget Act (RT I 1999, 55, 584; 2002, 67, 405; 2003, 13, 69; 24, 148).

(20.06.2002 entered into force 20.07.2002 - RT I 2002, 64, 393)

(4) The term “*sotsiaalhooldus*” [social care] used in legislation passed and in force before the entry into force of this Act shall, as of 1 April 1995, be interpreted according to the definition of “*sotsiaalhoolekanne*” [social welfare].

(5) A foster care contract entered into before 1 January 2005 is valid until the date indicated therein, but not for longer than until 1 January 2007.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(6) Until 1 March 2005, the Ministry of Social Affairs and the Social Insurance Board shall ensure the provision of rehabilitation services to persons specified in subsection 11<sup>2</sup> (1) of this Act under the conditions and pursuant to the procedure which was in force in 2004.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(7) In 2005, the provision of rehabilitation services shall be financed under the conditions and pursuant to the procedure provided pursuant to subsection 46 (2) of this Act until the Government of the Republic establishes a regulation pursuant to subsection 11<sup>2</sup> (2) of this Act.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(8) The requirement to register in the register of economic activities as a provider of rehabilitation services which is provided for in § 11<sup>8</sup> of this Act applies as of 1 March 2005.

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 603)

(9) As of 1 July 2008, the requirements for education provided for in clause 11<sup>11</sup> (2) 1) of this Act apply to persons specified in clause 11<sup>11</sup> (2) 1) of this Act who, between 8 December 2004 and 1 March 2005, were employed at a rehabilitation institution as psychologists. Until 1 July 2008, the requirements valid before 1 January 2005 apply.

(16.06.2005 entered into force 17.07.2005 - RT I 2005, 38, 299)

(10) As of 1 July 2008, the requirements for education provided for in clause 11<sup>11</sup> (2) 3) of this Act apply to persons specified in clause 11<sup>11</sup> (2) 3) of this Act who, between 8 December 2004 and 1 March 2005, were employed at a rehabilitation institution as social workers. Until 1 July 2008, the requirements valid before 1 January 2005 apply.

(16.06.2005 entered into force 17.07.2005 - RT I 2005, 38, 299)

(11) As of 1 July 2012, the requirements for education provided for in clause 11<sup>11</sup> (2) 4) of this Act apply to persons specified in clause 11<sup>11</sup> (2) 4) of this Act who, between 8 December 2004 and 1 March 2005, were employed at a rehabilitation institution as occupational therapists or assistant occupational therapists. Until 1 July 2012, the requirements valid before 1 January 2005 apply.

(16.06.2005 entered into force 17.07.2005 - RT I 2005, 38, 299)

(12) Until 1 July 2008, in addition to persons complying with the requirements provided for in clause 11<sup>11</sup> (2) 6) of this Act, a physiotherapist may belong to a rehabilitation team if he or she complies with the requirements for education valid before 1 January 2005 or has acquired secondary education in nursing which is recognised by the state and has specialised in medical rehabilitation or physiotherapy .

(16.06.2005 entered into force 17.07.2005 - RT I 2005, 38, 299)

(13) As of 1 July 2008, the requirements for education provided for in clause 11<sup>11</sup> (2) 7) of this Act apply to persons specified in clause 11<sup>11</sup> (2) 7) of this Act who, between 8 December 2004 and 1 March 2005, were employed at a rehabilitation institution as special teachers, speech therapists or teachers. Until 1 July 2008, the requirements valid before 1 January 2005 apply.

(16.06.2005 entered into force 17.07.2005 - RT I 2005, 38, 299)

(14) In the case of rehabilitation plans prepared before 1 January 2007 a child with a severe or profound disability is deemed to require care services if the part of the rehabilitation plan "Evaluation of the need for personal assistance, guidance or supervision proceeding from the client's operational capacity" includes at least one need for personal assistance (except upon communication) at least in every twenty-four hour period.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

(15) A person wishing to act as childcarer who meets at least the requirements established for junior educators in subsection 15<sup>9</sup> (4) of this Act shall meet the requirement specified in subsection 12<sup>7</sup> (3) of



this Act by 1 January 2012.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405; 17.12.2008 entered into force 1.01.2009 - RT I 2008, 58, 329)

(16) Until 1 January 2010 a substitute home family may consist of up to ten children. From 1 January 2010 to 1 January 2015 a substitute home family may consist of eight children.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

(17) An education employee specified in subsection 15<sup>9</sup> (1) who is employed in a position specified in subsections 15<sup>9</sup> (3) – (6) of this Act and who has commenced acquisition of education required for working in the position shall meet the education requirement by 1 July 2009. In the event of failure to meet the education requirement by the specified date the education employee shall be transferred to the position complying with his or her level of education.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

(18) An education employee who is in an employment or authorisation agreement relationship with a provider of substitute home service 1 January 2007 and who has completed secondary education and for whom the right to receive a state old-age pension arises before 1 January 2012, has the right to work in the position of junior educator until retirement.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

(19) A family parent specified in subsection 15<sup>10</sup> (1) of this Act shall, upon commencing provision of substitute home service, be registered for the trainings specified in clause 15<sup>10</sup> (2) 3) of this Act and comply with the education requirements and complete the trainings specified in clause 15<sup>10</sup> (2) 3) of this Act by 1 July 2010 at the latest.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

(20) From 1 July 2007 the requirement to hold an activity licence shall be applied to the providers of childcare service or substitute home service whose activity according to their articles of association or statutes as at 1 January 2007 is provision of childcare or substitute home services.

(15.11.06 entered into force 01.01.07 - RT I 2006, 55, 405)

(21) The restrictions on employment of a person, provision of a service or issue of an activity licence established in § 10<sup>1</sup>, subsection 12<sup>7</sup> (4<sup>1</sup>), subsection § 15<sup>10</sup> (8<sup>1</sup>), clause 21<sup>3</sup> (2) 6), clause 21<sup>5</sup> (1) 1<sup>1</sup>), subsection 24 (3) and clause 25<sup>2</sup> (1) 5) of this Act are valid after entry into force of the provisions concerning persons employed to work with children.

(14.06.07 entered into force 20.07.07 - RT I 2007, 45, 320)

(22) The requirement to hold an activity licence for the provision of special care services shall be implemented with respect to providers of special care service as of 1 January 2010.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(23) The persons who have been referred to receive 24-hour care service with intensified support or intensified surveillance before 1 January 2009 shall be deemed to be persons specified in subsections 11<sup>50</sup> (2) or (3) or persons placed in a social welfare institution referred to receive 24-hour special care service as of 1 January 2009.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(24) In addition to the persons entitled to receive a service specified in subsection 11<sup>18</sup> (1) of this Act, the costs of the provision of a service specified in clause 10 1<sup>2</sup>), 1<sup>3</sup>), 1<sup>4</sup>), 1<sup>5</sup>) or 1<sup>6</sup>) of this Act shall be covered from the state budget:

- 1) for persons who receive a service specified in clause 10 1<sup>2</sup>), 1<sup>3</sup>), 1<sup>4</sup>), 1<sup>5</sup>) or 1<sup>6</sup>) of this Act on the basis of a letter of referral issued by a county government or any other administrative authority, a provider of rehabilitation services or a psychiatrist before 14 January 2008 - until the date specified in the letter of referral, but not for longer than until 31 December 2012;
- 2) for persons who do not have a letter of referral, the cost of the service provided to whom was covered, until 31 December 2008, from the state budget from the funds allocated for welfare of persons with special psychological needs – until 31 December 2012 and
- 3) for persons, who have attained the pensionable age specified in § 7 of the State Pension Insurance Act and have been diagnosed dementia, except the persons placed in a social welfare institution by a court ruling, and who do not have any other severe, profound or permanent mental disorder in addition to dementia and who received, as at 31 December 2008, a service specified in clause 10 1<sup>2</sup>), 1<sup>3</sup>), 1<sup>4</sup>) or 1<sup>5</sup>) of this Act or 24-hour care service or 24-hour care service with intensified support or intensified surveillance – until 31 December 2015.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(25) If a person receives a service specified in clause 10 1<sup>2</sup>), 1<sup>3</sup>), 1<sup>4</sup>), 1<sup>5</sup>) or 1<sup>6</sup>) of this Act on the basis on the basis of a letter of referral issued by a county government or any other administrative authority, a provider of rehabilitation services or a psychiatrist before 14 January 2008, the service provided shall be paid for from the state budget on the basis of a framework contract entered into between the service provider and the Social Insurance Board, the invoices submitted by the service provider and the letter of referral issued to the person. If a person receives a service specified in clause 10 1<sup>2</sup>), 1<sup>3</sup>), 1<sup>4</sup>), 1<sup>5</sup>) or 1<sup>6</sup>) of this Act without a letter of referral, the service shall be paid for from the state budget on the basis of a framework contract entered into between the service provider and the Social Insurance Board and the invoices submitted by the service provider.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(26) A service provider with whom a framework contract specified in subsection 11<sup>24</sup> (1) of this Act is entered into before 2010 for more than one year shall comply with the requirement to hold an activity licence for special care service by 1 March 2010. If a service provider fails to comply with the requirement to hold an activity licence by the specified time, the framework contract shall be terminated.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(27) Until 31 December 2009, the Social Insurance Board shall enter into a framework contract with the providers of special care services, who comply with the requirements provided for in and on the basis of this Act and the requirements provided for in the Administrative Co-operation Act and the service provided by whom complies with the requirements provided for in and on the basis of this Act and the

requirements provided for on the basis of the Public Health Act, 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 providers of special care services, who comply with the requirements provided for in and on the basis of this Act and the requirements provided for in the Administrative Co-operation Act and the service provided by whom complies with the requirements provided for in and on the basis of this Act and the requirements provided for on the basis of the Public Health Act, within three months after the proclamation of the annual State Budget Act, within three months after the publication of the additional notice.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(28) Until 31 December 2009, the Social Insurance Board may refuse to enter into a framework contract with a service provider, in addition to the cases specified in clause 11<sup>24</sup> (8) 2) of this Act, in the case the service provider or the special care service provided thereby fails to comply with the requirements provided for in or on the basis of this Act or the requirements provided for in the Administrative Co-operation Act.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(29) The Social Insurance Board may, depending of the gravity of violation, issue an activity licence to a service provider who provides special care service as at 1 January 2009 and to whom a precept has been issued concerning the provision of the special care service, including the premises used therefor, if the service provider has prepared a written plan for the compliance with the precept within the term set out in the precept. The Social Insurance Board may issue an activity licence for a service provider for the term of two years.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(30) In addition to the persons specified in subsection 11<sup>25</sup> (1), a provider of special care service shall, until the date provided for in subsection (24) of this section, provide the service on the basis of a framework contract to the following persons:

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

- 1) persons who turn to the service provider with a letter of referral issued by a county government, a provider of rehabilitation service or a psychiatrist before 14 January 2008 and
- 2) persons to whom the service provider commenced the provision of a service specified in clause 10<sup>12</sup>), 1<sup>3</sup>), 1<sup>4</sup>) or 1<sup>5</sup>) of this Act or 24-hour care service or 24-hour care service with intensified support or intensified surveillance before 1 January 2009.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(31) In addition to the service provided to persons specified in subsection 11<sup>25</sup> (1) of this Act, the Social Insurance Board is required to reimburse, by a framework contract, a service provider for the expenses of the provision of the service each month on the basis of the submitted invoices to the extent of the maximum cost of the service established by the Government of the Republic on the basis of subsection 11<sup>18</sup> (5) of this Act, but in the amount not exceeding the amount indicated on the invoice, if the service was provided to the persons specified in subsection (24) of this section and the service provided complied with the requirements provided for in this Act.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(32) In addition to the persons specified in subsection 11<sup>34</sup> (1) of this Act, until 31 December 2014

special care services may be provided by activity supervisors, who have acquired at least basic education and who has registered themselves to the 260- hour training specified in clause 11<sup>34</sup> (1) 1) of this Act and who comply with the requirements established in subsection (2) of the abovementioned section.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(33) Subsection 11<sup>34</sup> (3) of this Act is applied as of 1 January 2015.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(34) In addition to activity supervisors specified in clause 11<sup>34</sup> (4) 1) of this Act, until 31 December 2014, activity supervisors, who comply with at least one of the requirements established in subsection (1), the requirement established in subsection (2) of the abovementioned section and who have registered themselves to in-service training for work with persons with higher risk rate in accordance with the plan established by the Minister of Social Affairs on the basis of subsection 11<sup>34</sup> (5) of this Act, may provide services to persons placed in a social welfare institution by a court ruling.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(35) In addition to activity supervisors specified in clause 11<sup>34</sup> (4) 2) of this Act, until 31 December 2014, activity supervisors, who comply with at least one of the requirements established in subsection (1), the requirement established in subsection (2) of the abovementioned section and who have registered themselves to 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 by the Minister of Social Affairs on the basis of subsection 11<sup>34</sup> (5) of this Act, may provide services to persons with a profound multiple disability or a severe, profound or permanent mental disorder with unstable remission.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(36) A provider of 24-hour special care service shall ensure performance of the obligation concerning the availability of independent nursing care specified in § 11<sup>51</sup> to the prescribed extent not later than by 1 January 2010.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(37) Until 31 December 2014, a provider of 24-hour special care service, who provides a service to a person with a profound multiple disability or a severe, profound or permanent mental disorder with unstable remission or a person placed in a social welfare institution by a court ruling, may ensure the availability of nursing care to the extent provided for in subsections 11<sup>51</sup> (4) and (5) of this Act by a nurse who has acquired nursing speciality other than mental health nursing or psychiatric nursing.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(38) Until 31 December 2014, a provider of 24-hour special care service shall ensure the presence of at least one activity supervisor per 30 persons receiving the service 24-hours a day and in addition to that the presence of at least one activity supervisor per 30 persons receiving the service during daytime and in the evening.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(39) If 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 service provider shall, until 31 December 2014, ensure the presence of at least one activity supervisor per 15 persons with a mental disorder with unstable remission or with a mental disorder who have a profound multiple disability 24 hours a day and in addition to that the presence of at least one

activity supervisor per 15 persons with a severe, profound or permanent mental disorder or persons with a mental disorder who have a profound multiple a disability during daytime and in the evening.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(40) If 24-hour special care service is provided to a person placed in a social welfare institution by a court ruling, the service provider shall, until 31 December 2014, ensure the presence of at least one activity supervisor per 20 persons placed in a social welfare institution by a court ruling receiving the service 24-hours a day and in addition to that the presence of at last one activity supervisor per 20 persons placed in a social welfare institution by a court ruling receiving the service during daytime and in the evening.

(17.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 329)

(41) A person receiving a service specified in clause 10<sup>14)</sup>, 1<sup>5)</sup> or 1<sup>6)</sup> of this Act whose rehabilitation plan terminates during the period from entry into force of this section until 31 December 2012, is entitled to receive the same special care service if he or she complies with the requirements for persons entitled to receive special care service, excluding a recommendation in the rehabilitation plan valid for the use of the special care service, during the total of five years as of the date indicated in the referral decision from which the person has the right to receive the abovementioned special care service.

(29.10.2009 entered into force 12.11.2009 - RT I 2009, 53, 360)

<sup>1</sup> RT = *Riigi Teataja* = *State Gazette*

<sup>2</sup> Riigikogu = the parliament of Estonia