

Bar Association Act

(valid until 31.12.2005)

Passed 21 March 2001

(RT¹ I 2001, 36, 201),

entered into force 19 April 2001,

amended by the following Acts:

28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403;

14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208;

18.12.2002 entered into force 23.01.2003 - RT I 2003, 4, 22;

16.06.2002 entered into force 01.08.2002 - RT I 2002, 57, 357;

19.12.2001 entered into force 10.01.2002 - RT I 2001, 102, 676.

Chapter 1

General Provisions

§ 1. Scope of application

This Act provides the organisation of Estonian Bar Association (hereinafter Bar Association) and the legal bases for the activities of advocates, associated members of the Bar Association and advocates of a foreign state.

§ 2. Definition and legal status of Bar Association

(1) Estonian Bar Association, founded on 14 June 1919, is a self-governing professional association which organises the provision of legal services in private and public interests and protects the professional rights of advocates.

(2) The Bar Association is a legal person in public law.

(3) The Bar Association shall operate pursuant to the law, legal acts of the bodies of the Bar Association, and good morals.

(4) The Bar Association shall be registered in the state register of state and local government agencies pursuant to the procedure provided for in the statutes of the register.

(16.06.2002 entered into force 01.08.2002 - RT I 2002, 57, 357)

§ 3. Competence of Bar Association

The Bar Association is competent to:

1) admit members to and exclude members from the Bar Association;

- 2) exercise supervision over the professional activities of the members of the Bar Association and their compliance with the requirements for professional ethics;
- 3) exercise supervision over the professional activities of advocates of foreign states who are practising in Estonia and their compliance with the requirements for professional ethics;
- 4) organise in-service training for advocates;
- 5) provision of state legal aid;
- 6) administer the assets of the Bar Association;
- 7) resolution of other matters relating to advocates' professional activities.

§ 4. Ensurance of legality of activities of Bar Association

- (1) An interested person may file an action with an administrative court against a legal act adopted or measure taken by a body of the Bar Association.
- (2) If the Minister of Justice finds that a legal act adopted or a measure taken by a body of the Bar Association is contrary to the law, he or she shall file a corresponding protest with an administrative court.
- (3) Copies of the resolutions of the general assembly of the Bar Association shall be sent to the Minister of Justice. The Minister of Justice has the right to access other documents of the bodies of the Bar Association which do not contain a professional secret of an advocate. The Board of the Bar Association shall decide on the secrecy of a document.
- (4) (Repealed - 28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

§ 5. Dissolution of Bar Association

The Bar Association may be dissolved only by an Act.

Chapter 2

Organisation of Bar Association

§ 6. Bodies of Bar Association

- (1) The Bar Association shall act through its bodies.
- (2) The bodies of the Bar Association are the general assembly, the Board, the Chairman, the audit committee, the court of honour and the professional suitability assessment committee.
- (3) The competence of the bodies of the Bar Association shall be provided by law.

(4) The legal acts and resolutions adopted by the bodies of the Bar Association shall be mandatory for the members of the Bar Association.

§ 7. General assembly

(1) The general assembly is the highest body of the Bar Association. The general assembly shall consist of all members of the Bar Association. Attornies at law and senior clerks of attornies at law have the right to vote.

(2) The Board shall convene an ordinary general assembly at least once a year.

(3) The Board shall convene an extraordinary general assembly on its own initiative, on the proposal of the audit committee or at the request of at least one-tenth of the members of the Bar Association.

(4) The Board shall notify the advocates of the time and place of an ordinary general assembly at least one month before the assembly is held. The Board shall notify the advocates of the time and place of an extraordinary general assembly at least two weeks before the assembly is held.

(5) The general assembly has a quorum if more than one-half of the advocates with the right to vote participate. If fewer advocates participate in a general assembly, the Board shall, within two weeks as of the convocation of the general assembly, convene a new general assembly who shall have a quorum regardless of the number of participants.

§ 8. Resolutions of and voting at general assembly

(1) The general assembly shall adopt resolutions by open vote unless the general assembly decides otherwise. A resolution is adopted if more than one-half of the advocates with the right to vote participating at the assembly vote in favour and this Act does not provide for a greater majority requirement.

(2) Every advocate with the right to vote has one vote at the general assembly.

(3) Elections of bodies of the Bar Association at the general assembly shall be conducted in accordance with the following principles.

1) votes are given to each candidateseparately;

2) votes are given by secret ballot;

3) the candidate who receives the greatest numbers of votes shall be elected unless this Act provides for a different majority requirement.

(4) The bodies of the Bar Association shall be elected in the following order: the Chairman, the members and alternate members of the Board , the members and alternate members of the

audit committee, and finally the members and alternate members of the court of honour who are advocates.

(5) In the election of the Chairman, the candidate who receives more than one-half of the votes of the participants shall be elected. If no candidate receives the required majority of votes, a second round shall be held between the two candidates who received the largest number of votes. The candidate who receives the larger number of votes in the second round shall be elected. If votes are divided equally, lots shall be drawn.

§ 9. Competence of general assembly

The general assembly shall:

- 1) determine the number of the members and alternate members of the Board and of the audit committee and the number of the alternate members of the court of honour who are advocates;
- 2) elect the Chairman, the members and alternate members of the Board and of the audit committee and the members and alternate members of the court of honour who are advocates;
- 3) approve the report on the implementation of the budget of the Bar Association for the previous financial year and approve the budget for the new financial year;
- 4) approve the annual economic activity report of the Bar Association and the annual report of the audit committee;
- 5) adopt the internal rules of the Bar Association and the requirements for the professional ethics of advocates;
- 6) resolves complaints submitted against the resolutions of the Board of the Bar Association or the acts of the Chairman;
- 7) approve the insignia of the Bar Association;
- 8) determine the bases for payment of remuneration to advocates for work performed in the interests of the Bar Association;
- 9) determine the conditions of and procedure for the payment and the amount of the membership fee of the Bar Association
- 10) (Repealed - 28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)
- 11) decide other matters provided by law and in the internal rules of the Bar Association.

§ 10. Chairman

(1) The Chairman shall represent the Bar Association in all legal acts. The Chairman belongs to the Board of the Bar Association, organises the activities of the Board and chairs the sessions of the Board.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(2) The Chairman shall be elected from among attorneys at law for a term of three years.

(3) In the absence of the Chairman, his or her duties shall be performed by the Deputy Chairman.

§ 11. Board

(1) The Board is a permanent governing body of the Bar Association. The Board shall consist of at least seven members.

(2) The Board shall be elected from among attorneys at law for a term of three years.

(3) The members of the Board shall not be members of the audit committee, court of honour or the professional suitability assessment committee.

(4) The Board shall adopt resolutions by the majority of the votes of the persons present in favour. The management board has a quorum if more than one-half of the members of the management board are present.

(5) The sessions of the Board shall be public unless the Board has declared a session or a part thereof to be held *in camera*.

§ 12. Competence of Board

The management board shall:

1) direct the Bar Association;

2) administer the assets and organise the accounting of the Bar Association;

3) elect the Deputy Chairman of the Bar Association from among the members of the Board;

4) appoint a Chancellor who shall perform the executive and organisational duties assigned by the Board;

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

5) appoint the members of the professional suitability assessment committee who are advocates;

6) on the basis of a resolution of the professional suitability assessment committee, decide on admission to the Bar Association and on grant of a title of a attorney at law or senior clerk of a attorney at law;

- 7) decide on grant of right to act as an associate member of the Bar Association;
- 7¹) decide, in justified cases, the grant of permission specified in clause 27 (1) 4) and 36 (1) 8) of this Act to advocates;
(19.12.2001 entered into force 10.01.2002 - RT I 2001, 102, 676)
- 8) exercise supervision over the professional activities of the members of the Bar Association and their compliance with the requirements for professional ethics;
- 9) exercise supervision over the professional activities of advocates of foreign states who are practising in Estonia and their compliance with the requirements for professional ethics;
- 10) appoint a patron for a senior clerk of a attorney at law;
- 11) exclude an advocate from the Bar Association at his or her request or on other grounds provided by law;
- 12) approve the decisions of the court of honour concerning disbarment;
- 13) organise in-service training for advocates;
- 14) organise the verification of professional suitability of advocates;
- 15) if elements of a disciplinary offence become evident, make a proposal to the court of honour for the commencement of proceedings of the court of honour with regard to the advocate;
- 16) issue the Bar Association membership certificates and advocates' certificates;
- 17) organise the provision of state legal aid by advocates pursuant to the State Legal Aid Act and establish the procedure for the grant of state legal aid;
(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)
- 18) perform other duties arising from the law or relating to the directing of the Bar Association.

§ 13. Audit committee

- (1) The audit committee shall audit the economic activities of the Bar Association and the activities the Chairman, the Board and the Chancellor.
- (2) The audit committee shall consist of at least three members, elected from among attorneys at law for a term of four years.
- (3) The audit committee shall elect the chairman of the audit committee from among its members.
- (4) The audit committee adopts resolutions by a majority of the votes of the members in favour.

(5) The members of the audit committee shall not be members of the Board, the court of honour or the professional suitability assessment committee, and they shall not be employed by the Bar Association.

§ 14. Audit of economic activities of Bar Association and annual economic activity report

(1) The financial year of the Bar Association is the calendar year.

(2) The Board shall submit the annual economic activity report to the audit committee for review and for issue of opinion, and then to the general assembly for approval within six months as of the termination of the financial year.

(3) The annual economic activity report shall be published in the yearbook of the Bar Association.

(4) At the request of the general assembly, the audit committee or one-tenth of the members of the Bar Association, the Board shall appoint an auditor to audit the economic activities or the annual economic activity report of the Bar Association.

(5) The audit committee shall submit the audit report to the general assembly.

(6) With the consent of the Board of the Bar Association, the Minister of Justice has the right to appoint an auditor to audit the economic activities or annual economic activity report of the Bar Association at the expense of the state.

§ 15. Court of honour

(1) The court of honour shall hear matters concerning disciplinary offences committed by advocates, and other matters which are placed within the competence of the court of honour by law.

(2) The court of honour shall be formed for a term of four years and shall consist of seven members.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(3) The court of honour shall consist of four attorneys at law elected by the general assembly of the Bar Association, two judges elected by the Court en banc and one jurist designated by the council of the Law Faculty of the University of Tartu.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(4) The members of the court of honour shall not be members of the Board, the professional suitability assessment committee or the audit committee.

(5) Attorneys at law who have practised as attorneys at law for at least ten years may be elected to the court of honour.

(6) The members of the court of honour shall elect the Chairman of the court of honour from among the members who are attorneys at law.

(7) The court of honour shall hear matters in a panel of at least three members.

(8) The court of honour shall make a decision by the majority of the votes of the members who participated in the hearing of the matter.

§ 16. Commencement of proceedings of court of honour

(1) Any interested person has recourse to the court of honour or the Board for the commencement of proceedings of the court of honour. An application for the commencement of proceedings of the court of honour shall be submitted within six months after the date on which the complainant became or should have become aware of the circumstances on which the application was based.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(2) A court of honour shall commence proceedings of the court of honour on the initiative of an interested person, itself or a body of the Bar Association if elements of a disciplinary offence become evident in the activities of an advocate.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(3) The court of honour shall decide on the commencement of proceedings of the court of honour within two months as of the date on which the court of honour became aware of elements of a disciplinary offence.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

§ 17. Proceedings of court of honour

(1) Matters concerning disciplinary offences shall be heard in the presence of the advocate with regard to whom the proceedings of the court of honour were commenced. The advocate is notified of the summons to a session of the court of honour by delivery such that he or she has sufficient time to prepare for the matter and to appear in court on time. The advocate is required to appear at a session of the court of honour. If the advocate fails to appear at a session of the court of honour without good reason, the matter may be heard without his or her attendance.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(1¹) A court of honour has the right to collect evidence on its own initiative or at the request of an advocate or an interested person and the advocate is required to submit the evidence at his or her disposal to the court of honour at the request of the court of honour. The

advocate has the right to examine the records of the matter, provide oral or written statements to the court of honour, present objections, submit reasons and considerations related to all questions which arise in the course of proceedings in the court of honour, submit petitions of challenge against a member or recording secretary of the court of honour, if circumstances give reason to doubt his or her impartiality, submit evidence and applications and participate in the inspection and examination of evidence, submit questions to persons invited to a session and receive a copy of the decisions of the court of honour.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(2) A court of honour shall adjudicate a matter concerning a disciplinary offence and make a decision within six months as of commencement of the proceedings of the court of honour. The period during which the proceedings of the court of honour are suspended shall not be included in such term. Proceedings of the court of honour shall be suspended for a period during which the matter concerning the disciplinary offence cannot be heard due to circumstances which depend on the advocate with regard to whom the proceedings of the court of honour were commenced.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(3) Taking into consideration the matter being heard and the personal characteristics of the advocate concerned, the court of honour may suspend the professional activities of the advocate for the time of the proceedings of the court of honour. Suspension of professional activities for the time of a proceedings of the court of honour is not deemed to be a disciplinary penalty.

(4) A decision of the court of honour shall enter into force as of the making of the decision. A decision concerning disbarment shall enter into force upon approval thereof by the Board.

(5) The Board shall justify a refusal to approve a decision of the court of honour concerning disbarment. In such case, the court of honour shall review the matter regarding the disciplinary offence. The second decision of the court of honour shall enter into force as of the making thereof.

(6) The procedure of the court of honour shall be established by the internal rules of the Bar Association.

§ 18. Contestation of decisions of court of honour

An interested person may file an action with an administrative court against a decision of the court of honour.

§ 19. Disciplinary Liability

(1) The court of honour may impose a disciplinary penalty for violation of legislation which provides for the activities of advocates or for violation of the requirements for professional ethics.

(2) Disciplinary penalties are:

- 1) reprimand;
- 2) fine in favour of the Bar Association in the extent of up to two months earnings of the advocate;
- 3) suspension of professional activities for up to one year;
- 4) disbarment.

(3) Upon imposition of a penalty, the court of honour shall take into consideration the nature of the matter being heard and the personal characteristics of the advocate.

(4) Only one disciplinary penalty may be imposed for one and the same disciplinary offence. Upon imposing a disciplinary penalty, criminal punishment imposed for the same offence shall not be taken into account.

(5) A disciplinary penalty shall not be imposed if more than two years has passed from the commission of the disciplinary offence. The period during which the proceedings of the court honour are suspended shall not be included in such term.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

§ 20. Internal rules of Bar Association

(1) Pursuant to law, the internal rules of the Bar Association shall provide the following:

- 1) procedure for creation, suspension and termination of membership of the Bar Association;
- 2) rights and obligations of advocates in relations with the Bar Association;
- 3) procedures for the activities of the bodies of the Bar Association;
- 4) procedure for adoption of resolutions of the bodies of the Bar Association and for election of the bodies of the Bar Association;
- 5) procedure for substituting for the members of the bodies of the Bar Association;
- 6) issue, extension and revocation of advocates' certificates and Bar Association membership certificates;
- 7) organisation of advocates' examinations;
- 8) other issues which must be provided for in the internal rules pursuant to law.

(2) The internal rules of the Bar Association are deemed to be adopted or amended if at least two-thirds of the advocates who have the right to vote and participate in the general assembly vote in favour.

(3) The internal rules of the Bar Association and amendments thereto shall be published in the *Riigi Teataja Lisa*².

§ 21. Bar Association register

(1) The Board of the Bar Association shall maintain the Bar Association register. The Bar Association register shall consist of registry cards and advocates' files.

(2) A registry card shall be opened for each advocate and it shall contain the following information:

- 1) the registration number;
- 2) the name and personal identification code of the advocate;
- 3) data concerning education and academic degree;
- 4) the local government of the residence of the advocate;
- 5) the name and commercial registry code of the company of advocates which is the place of business of the advocate or, in case of an advocate practising as a sole proprietor, the commercial registry code and the address of the law firm;
- 6) the date of admission to the Bar Association;
- 7) the professional title of the advocate and the time of when the title was obtained;
- 8) a notation concerning suspension of membership in the Bar Association;
- 9) the time and grounds for exclusion from the Bar Association or for disbarment.

(3) An advocate's file shall be opened for each advocate and it shall contain the following information:

- 1) a copy of a document certifying education and academic degree;
- 2) the resolution of the professional suitability assessment committee regarding the passing of an advocate's examination;
- 3) a certificate concerning the professional liability insurance of the advocate;
- 4) the text of the advocate's oath signed by a attorney at law;
- 5) copy of the passport or other identity document;
- 6) the resolution of the Board concerning admission of the advocate to the Bar Association;
- 7) the resolution of the Board concerning appointment of a patron to the advocate and appointment of the advocate as a patron;

- 8) the resolution of the Board concerning the grant of a professional title to the advocate;
 - 9) a decision concerning the exclusion of the advocate from the Bar Association, or his or her disbarment;
 - 10) decisions of the court of honour made with regard to the advocate.
- (4) The Board may, on its own initiative or at the request of the advocate, add other documents concerning the professional activities of the advocate to his or her file.
 - (5) An advocate shall notify the Board immediately of any change in the data specified in clauses (2) 2)–5) or (3) 1), 3) or 5) of this section in order for the changes to be entered in the register.
 - (6) The registry card information, except the personal identification code and residence of an advocate, is public and is made available to the public in an electronic database.
(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)
 - (7) A person with legitimate interest may have access to an advocate's file. The Board shall decide whether a person has legitimate interest to access an advocate's file.

Chapter 3

Advocate

§ 22. Members of Bar Association

- (1) Attornies at law, senior clerks of attornies at law and clerks of attornies at law are members of the Bar Association (advocates).
- (2) All persons who comply with the requirements provided for in this Act and have passed the advocate's examination may be members of the Bar Association.
- (3) In Estonia, only members of the Estonian Bar Association may provide legal services as advocates, unless otherwise provided in this Act.
- (4) Membership in the Bar Association is certified by a Bar Association membership certificate and an advocate's certificate. The advocate's certificate shall contain the information specified in clauses 21 (2) 2) – 8) of this Act.

§ 23. Requirements for advocates

- (1) A person may be admitted to the Bar Association, if he or she:
 - 1) has active legal capacity;
 - 2) resides in Estonia or is a citizen of the Republic of Estonia or of a Member State of the European Union;

- 3) has fulfilled an accredited law curriculum of academic studies
- 4) has oral and written proficiency in Estonian;
- 5) is honest and of high moral character.

(2) In order to be admitted to the Bar Association, a person must submit a written application and pass an advocate's examination. In the application, a person shall certify that the circumstances provided for in sub section 27 (1) which exclude admission of a person to the Bar Association do not exist with respect to the applicant.

(3) Members are admitted to the Bar Association by a resolution of the Board.

(4) The Board of the Bar Association shall publish notices concerning admission of advocates to the Bar Association in the official publication *Ametlikud Teadaanded*³.

§ 24. Attornies at law' clerks

(1) Persons who have passed the examination of a attorney at law's clerk may be admitted to the Bar Association as attornies at law' clerks.

(2) Attornies at law' clerks shall practise under the supervision of their patrons.

§ 25. Attornies at law' senior clerks

(1) The professional title of a attorney at law's senior clerk may be granted to a member of the Bar Association on the basis of a written application if he or she has worked as a attorney at law's clerk for at least one year and has passed the examination of a attorney at law's senior clerk.

(2) Persons who immediately prior to admission to the Bar Association have worked for at least two consecutive years in an office or position which requires completion of studies of higher education in law and who have passed the examination of a attorney at law's senior clerk may be accepted into the Bar Association as attornies at law' senior clerks.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(3) Working in the field of law before completion of studies of higher education in law shall not be taken into consideration for the purposes of subsection (2) of this section.

(4) Attorney at law's senior clerks shall practise under the supervision of attornies at law.

§ 26. Grant of professional title of attorney at law

(1) A member of the Bar Association may become a attorney at law on the basis of a written application if he or she has passed the attorney at law's examination and has practised:

- 1) as a attorney at law's clerk for at least two years, or

- 2) as a attorney at law's senior clerk for at least one year.
 - (2) The professional title of a attorney at law shall be granted by a resolution of the Board.
 - (3) A person may be admitted to the Bar Association as a attorney at law if he or she has passed the attorney at law's examination and:
 - 1) is a professor of law;
 - 2) was a attorney at law and becomes a member of the Bar Association within five years after he or she was excluded from the Bar Association on the grounds provided for in clauses 36 (1) 1) or 4) of this Act.
 - (3¹) A person may be admitted to the Bar Association as a attorney at law if he or she has acted as a justice of the Supreme Court for at least three years.
- (28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)
- (4) A attorney at law shall be at least 24 years old.

§ 27. Grounds for refusal of membership in Bar Association

- (1) A person shall not be admitted to the Bar Association if he or she:
 - 1) does not comply with the requirements for advocates;
 - 2) has been disbarred or removed from the position of a notary;
 - 3) has been punished pursuant to criminal procedure for an intentionally committed criminal offence;
 - 4) is in public service, is employed under an employment contract or a contract of service, belongs without the permission of the Board of the Bar Association to the management board or supervisory board of a company, except a company of advocates, or is the director of a branch of a foreign company, except a branch of a foreign company of advocates, is a partner or shareholder who holds the right of representation of an undertaking or a procurator of an undertaking;
- (19.12.2001 entered into force 10.01.2002 - RT I 2001, 102, 676)
- 5) is a bankrupt;
 - 6) operates in a profession which is contrary to the requirements for the professional ethics of advocates or the principle of independence;
 - 7) has been deprived of the right to be an advocate, judge, prosecutor, notary or operate as an undertaking by a court judgment.
- (2) Working in teaching or research capacity shall not prevent a person from being admitted to the Bar Association.

§ 28. Oath of attorney at law

(1) After the Board of the Bar Association has adopted a resolution concerning the grant of the professional title of a attorney at law to a person, the advocate shall take the oath of a attorney at law. An advocate may practise as a attorney at law after he or she has taken the oath.

(2) A attorney at law shall take the following oath before the Board of the Bar Association: “I swear to remain faithful to the Republic of Estonia and its constitutional order and perform all duties required from the profession of a attorney at law.”

§ 29. Professional suitability assessment committee

(1) The professional suitability assessment committee of the Bar Association shall be formed for a term of five years and shall consist of eleven members.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(2) Members of the professional suitability assessment committee shall not be members of the Board, the court of honour or the audit committee.

(3) The professional suitability assessment committee shall consist of:

- 1) six attorneys at law appointed by the Board of the Bar Association;
- 2) two judges elected by the Court en banc;
- 3) a representative of the Ministry of Justice, appointed by the Minister of Justice;
- 4) a public prosecutor elected by the Prosecutors' Assembly;
- 5) a jurist appointed by the council of the Law Faculty of the University of Tartu.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(4) The members of the professional suitability assessment committee shall elect the chairman of the committee from among the members who are attorneys at law.

§ 30. Competence of professional suitability assessment committee

(1) The professional suitability assessment committee shall:

- 1) examine persons who apply for admission to the Bar Association or for qualification as attorneys at law;
- 2) carries out an aptitude test for education acquired in a foreign state;
- 3) assess the professional suitability of an advocate periodically or at the request of the Board.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(2) The professional suitability assessment committee has a quorum if at least five members of the committee are present and the majority of those present are members who are attorneys at law. A meeting of the professional suitability assessment committee shall be chaired by the chairman of the committee or a member of the committee who is an attorney at law and designated by the chairman.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

§ 31. Advocate's examination

(1) Advocate's examination is the verification of the professional knowledge and personal characteristics of a person who applies for admission to the Bar Association or for qualification as an attorney at law.

(2) Advocate's examinations are: the examination of an attorney at law's clerk, examination of an attorney at law's senior clerk and examination of an attorney at law.

(3) Examinations shall be organised as necessary but not less frequently than once in every two months.

(4) The professional suitability assessment committee shall determine the time and place of an examination.

§ 32. Content of advocate's examination

(1) An advocate's examination shall consist of an oral and a written part.

(2) The written part of an examination shall consist of legal case analyses.

(3) In the oral part of an advocate's examination, the theoretical knowledge of the examinee is verified by random questions.

(4) Whether the personal characteristics of a person who applies for admission to the Bar Association are suitable to exercise the activities of an advocate shall be assessed on the basis of an essay written on a given legal topic, and a conversation. In assessing the suitability of personal characteristics, the committee may take into consideration other information concerning the person who applies for admission to the Bar Association which are relevant to the performance of an advocate's duties.

§ 33. Evaluation of examination results

(1) The results of the parts of an advocate's examination shall be evaluated on a ten-point scale. Separate grades shall be given for the results of the written examination and to the answers in each branch of law in the oral examination

(2) The grade for an examination shall be the average of the grades given by the members of the committee, rounded to the whole number. A grade below five is deemed to be non-satisfactory.

(3) If an examinee receives a non-satisfactory grade for the written part of an examination or for at least one branch of law in the oral part of the examination, the examinee is deemed to have failed the examination.

(4) The personal characteristics of a person who applies for admission to the Bar Association are graded by the committee as suitable or unsuitable.

(5) If the committee has graded the personal characteristics of an examinee as unsuitable, the examinee is deemed to have failed the examination. The committee shall give reasons for such resolution.

§ 34¹. In-service training for advocates

(1) An advocate is required to undergo periodic in-service training.

(2) The bases and procedure for in-service training shall be decided by the Board of the Estonian Bar Association. Upon organisation of in-service training, the specialisation of a attorney at law to a certain area of law shall be taken into account. The bases and procedure for in-service training shall be reviewed by the Board as required.

(3) A attorney at law and a senior clerk of a attorney at law, if five years have passed since he or she passed the last advocate's examination (hereinafter assessment period), are required to submit information concerning the in-service training completed by the person during the assessment period to the professional suitability assessment committee at least fifteen days before the end of the assessment period.

(4) At least three months before the date when the assessment period prescribed in subsection (3) of this section ends, the professional suitability assessment committee shall notify the advocate thereof by delivery and shall explain which information the advocate has to submit for the assessment of his or her professional suitability.

(5) The professional suitability assessment committee shall assess the compliance of the volume of the professional development of the advocate with the procedure established pursuant to subsection (2) of this section on the basis of the information submitted by the advocate according to subsection (3) of this section. If necessary, the professional suitability assessment committee may request that the advocate submit additional evidence concerning the completion of in-service training.

(6) If an advocate has not undertaken professional development in the required volume or in the prescribed manner during the assessment period or has failed to submit information concerning the completion of in-service training to the professional suitability assessment committee by the specified due date, the professional suitability assessment committee shall conduct an assessment interview with the advocate in order to verify his or her professional expertise. The assessment interview shall be conducted within six months after the end of the assessment period. The advocate shall be notified of the decision regarding the date of the professional suitability assessment by delivery at least three months in advance.

(7) An advocate who fails to appear at an assessment interview or is deemed to be unsuitable to exercise the activities of an advocate as a result of the assessment shall submit a corresponding application to the professional suitability assessment committee for the determination of a new date for the professional suitability assessment. The new assessment shall take place six months after submission of the application. The advocate shall be notified of the decision regarding the date of the professional suitability assessment by delivery at least three months in advance.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

§ 34. Re-examination

(1) If an examinee fails an advocate's examination, he or she may re-take the examination after six months have passed from the examination which he or she failed.

(2) A person may take an advocate's examination of the same level for a third time or more after five years have passed from the last advocate's examination which he or she failed.

§ 35. Suspension of membership in Bar Association and professional activities of advocate

(1) Membership in the Bar Association shall be suspended by a resolution of the Board if a person:

1) is temporarily unable to provide legal services for six consecutive months due to health reasons or other reasons;

1¹) has failed to perform the obligation to undergo in-service training prescribed in § 34¹ of this Act and six years have passed since he or she passed the last advocate's examination or his or her professional suitability was assessed;

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

2) joins public service or commences work under an employment contract or a contract of service in an office or position which requires completion of studies of higher education in law;

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

3) is elected to the Riigikogu⁴ or as a Member of the European Parliament or as the President of the Republic;

(18.12.2002 entered into force 23.01.2003 - RT I 2003, 4, 22)

4) is appointed as a member of the Government of the Republic.

(2) Election to a local government council shall not suspend membership in the Bar Association.

(3) The Board may suspend the professional activities of an advocate by a resolution if he or she is a suspect, the accused or the accused at trial in criminal proceedings.

(4) If the grounds for suspension of membership in the Bar Association or the professional activities cease to exist, the Board shall, by a resolution, restore the membership or the right to engage in professional activities.

(5) The professional activities of an advocate may be suspended by a decision of the court of honour on the grounds provided for in subsection 17 (3) of this Act.

(6) The Board of the Bar Association shall publish notices concerning suspension of membership in the Bar Association and suspension of the professional activities of advocates, and restoration of membership in the Bar Association and resumption of the professional activities of advocates in the official publication *Ametlikud Teadaanded*².

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

§ 36. Exclusion from Bar Association

(1) An advocate shall be excluded from the Bar Association by a resolution of the Board of the Bar Association if:

1) the advocate has submitted a corresponding application;

2) the attorney at law's clerk fails to take the examination of a attorney at law's senior clerk or the examination of a attorney at law three times or within four years after admission to the Bar Association;

2¹) the advocate has failed to perform the obligation to undergo in-service training prescribed in § 34¹ of this Act and seven years have passed since he or she passed the last advocate's examination or his or her professional suitability was assessed;

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

3) the professional suitability assessment committee has certified that the advocate does not comply with the requirements for professional suitability, except in the case prescribed in clause 2¹);

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

4) the advocate has not practised as an advocate for more than three consecutive years due to health reasons or other reasons;

5) the advocate has been deprived of the right to be an advocate or operate as an undertaking by a court judgment;

6) the advocate is a bankrupt;

7) the advocate enters a profession which is contrary to the requirements for the professional ethics of advocates or the principle of independence;

8) the advocate commences work under an employment contract or a contract of service not specified in clause 35 (1) 2) of this Act, is appointed, without the permission of the Board of the Bar Association, to the management board or supervisory board of a company, except a company of advocates, or is designated as the director of a branch of a foreign company, except a branch of a foreign company of advocates, as a partner or shareholder who holds the right of representation of an undertaking or as a procurator of an undertaking.

(19.12.2001 entered into force 10.01.2002 - RT I 2001, 102, 676; 28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(2) On the basis of an application of an advocate, he or she shall not be excluded from the Bar Association during proceedings of the court of honour held against him or her.

(3) An advocate shall not be excluded from the Bar Association if he or she enters into an employment contract with the Bar Association or engages in teaching or research or if his or her membership in the Bar Association is suspended on the grounds provided for in clauses 35 (1) 2)-4) of this Act.

§ 37. Disbarment

An advocate shall be disbarred:

1) as a penalty for a disciplinary offence imposed under the procedure provided for in this Act;

2) on the basis of a resolution of the Board if a judgment of conviction for an intentionally committed criminal offence or any other criminal offence has entered into force with regard to the advocate which renders the professional activities of the advocate impossible;

3) on the basis of a resolution of the Board, if the advocate fails to pay the membership fee of the Bar Association by the due date without good reason and regardless of a warning given by the Board.

§ 38. Consequences of exclusion from Bar Association or disbarment

(1) If a person is excluded from the Bar Association or is disbarred, he or she loses the right to practise as an advocate.

(2) If an advocate is excluded from the Bar Association or is disbarred, the documents and information contained in other media relating to the professional activities of the advocate shall remain with the company of advocates. If the person disbarred or excluded is the sole shareholder of a company of advocates or operates as a sole proprietor, the specified documents and other media shall be transferred to the Board of the Bar Association.

(3) If a person is disbarred, the advocate's certificate and the Bar Association membership certificate shall be transferred to the Board of the Bar Association.

(4) If a person is excluded from the Bar Association, the advocate's certificate shall be transferred to the Board. At the request of a person who is excluded, he or she may retain the Bar Association membership certificate. The Board of the Bar Association shall make a notation concerning the exclusion in the Bar Association membership certificate of a person who is excluded.

(5) The Board shall publish a notice concerning the exclusion of a person from the Bar Association or his or her disbarment in the official publication *Ametlikud Teadaanded*.

§ 39. Patron

(1) A patron is a attorney at law who supervises the activities of a attorney at law's clerk.

(2) A attorney at law who has granted his or her consent may be appointed as a patron. The attorney at law's clerk and his or her patron shall agree on the remuneration of the attorney at law's clerk and the mutual rights and obligations of the attorney at law's clerk and his or her patron in a patronage agreement which is deemed to be an authorisation agreement.

(3) A attorney at law may have up to three clerks. The Board may allow a attorney at law with sufficient skills, experience and means to have more than three clerks.

(4) If a attorney at law's clerk has not received the consent of any attorney at law to be his or her patron, the Board of the Bar Association shall appoint a patron for the attorney at law's clerk.

Chapter 4

Advocates' Activities

§ 40. Legal services

- (1) Legal services mean providing legal counselling, representing and defending a person in court or in pre-trial proceedings or elsewhere, preparing a document for a person or performing other legal acts in the interests of a person as professional activity.
- (2) Advocates provide legal services on equal bases with other professional legal services providers, unless otherwise provided by law.

§ 41. Competence of attorneys at law

- (1) A attorney at law is competent to:
 - 1) represent and defend clients in court, in pre-trial proceedings and elsewhere in Estonia and in foreign states;
 - 2) collect evidence;
 - 3) in the provision of legal services, freely choose and use the means and methods which are in conformity with law;
 - 4) receive information necessary for provision of legal services from state and local government agencies, have access to documents, receive copies of and extracts from such documents, unless the receipt of the information or documents by the advocate is prohibited by law;
 - 5) in the framework of provision of legal services to a client, to verify for the client transcripts of and signatures on documents to be submitted to the court and other state offices;
(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)
 - 6) act as an arbitrator or conciliator;
 - 7) act as a trustee in bankruptcy.
- (2) The verification specified in clause (1) 5) of this section has the same legal force as official authentication. The specific procedure for the formalisation and registration of and statistical reporting on verification acts within the competence of a attorney at law shall be established by a regulation of the Minister of Justice.
(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

§ 42. Competence of attorneys at law' clerks and senior clerks

(1) Attornies at law' clerks and senior clerks shall have the competence of attornies at law within the limits provided by law.

(2) A attornies at law's senior clerk or attorney at law's clerk is not competent to perform the duties specified in clause 41 6) of this Act or represent or defend a client in the Supreme Court unless otherwise provided by law. A attorney at law's clerk is not competent to perform duties provided clause 41 7) of this Act.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(3) Attorney at law's clerks may provide legal services only under the supervision of his or her patron who is a attorney at law.

§ 43. Guarantees to advocates' activities

(1) In the provision of legal services, an advocate shall be independent and shall act pursuant to law, the legal acts and resolutions adopted by the bodies of the Bar Association, the requirements for the professional ethics of advocates, good morals and conscience.

(2) Information disclosed to an advocate shall be confidential. An advocate or employee of the Bar Association or a law office who is being heard as a witness may not be interrogated or asked to provide explanations on matters that he or she became aware of in the course of provision of legal services.

(3) Media related to the provision of legal services by an advocate are intact.

(19.12.2001 entered into force 10.01.2002 - RT I 2001, 102, 676)

(4) An advocate shall not be identified with a client or the client's court case due to the performance by the advocate of his or her professional duties.

(5) An advocate shall not be detained, searched or taken into custody on circumstances arising from his or her professional activities, except on the basis of a ruling of a county or city court. A law office through which an advocate provides legal services shall also not be searched on circumstances arising from his or her professional activities.

(19.12.2001 entered into force 10.01.2002 - RT I 2001, 102, 676)

§ 44. Obligations of advocates

(1) An advocate is required to:

1) use all means and methods which are in conformity with law in the interests of a client while preserving his or her professional honour and dignity;

2) notify a client of activities relating to the provision of legal services;

3) maintain a list of matters in which the advocate acts as a representative;

4) store media related to the provision of legal services separately from other media in his or her possession.

(19.12.2001 entered into force 10.01.2002 - RT I 2001, 102, 676)

(2) Advocates shall continuously enhance their professional knowledge and expertise.

(3) In the provision of legal services, an advocate shall not acquire the rights of his or her clients.

(4) An advocate shall not provide legal services if he or she provides or has provided legal services in the same matter to a person whose interests are contrary to those of the client or if provision of legal services is prohibited by law.

(5) On an advocate's own initiative and with the consent of the management of the law office, the advocate may waive the obligations assumed by a contract entered into with a client or to terminate the contract if the client has requested the performance of an act which is in violation of the law or requirements for the professional ethics, or if the client violates any of the essential conditions of the client contract.

§ 45. Maintenance of professional secrets

(1) An advocate is required to maintain the confidentiality of information which has become known to him or her in the provision of legal services, the confidentiality of persons who request the advocate to provide legal services and of the amount of remuneration paid for legal services. Such obligation shall have an unspecified term and it shall also apply after the termination of the activities of the advocate. Such obligation shall extend to the employees of law offices and of the Bar Association and to public servants to whom an advocate's professional secret has become known in connection with their official duties. The obligation to maintain the confidentiality persons who request the advocate to provide legal services and of the amount of remuneration paid to the advocate for legal services does not apply with regard to provision of state legal aid and the fee paid therefor.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(2) A client or his or her legal successor may, by his or her written consent, exempt an advocate from the obligation to maintain a professional secret.

(3) The obligation to maintain confidentiality shall not extend to the collection of costs for legal services provided by an advocate who participated in a matter.

(4) Disclosure of information to the Board in the exercise of supervision over the activities of an advocate or to the court of honour in the hearing of a matter concerning a disciplinary offence shall not be deemed to be a violation of professional secrecy.

(5) In order to prevent a criminal offence in the first degree, an advocate has the right to submit a reasoned written application for exemption from the obligation to maintain a professional secret to the Chairman of an administrative court or an administrative judge of the same court appointed by the Chairman. A judge shall hear a submitted application immediately and shall issue or refuse to issue a written permission.

§ 46. Supervision over activities of advocates

(1) The Board of the Bar Association shall exercise supervision over the activities of advocates.

(2) An advocate subject to supervision is, at the request of the Board, required to:

- 1) appear at a session of the Board;
- 2) submit documents related to the activities of the law office or the professional activities of the advocate to the Board or a person appointed by the Board;
- 3) give explanations regarding his or her activities;
- 4) allow a person appointed by the Board to access the premises of the law office.

§ 47. Proprietary Liability

The management of a law office and an advocate shall be solidarily liable for wrongfully caused direct pecuniary loss in the provision of legal services.

§ 48. Professional liability insurance of advocates

(1) In order to ensure compensation for damage caused by the management of a law office or an advocate, the management of a law office is required to enter into a professional liability insurance contract on the following conditions:

- 1) the insurer shall be a company which has permission to engage in insurance activities in Estonia;
- 2) the insured event involves direct pecuniary loss caused in connection with the provision of legal services by the management of the law office or an advocate, regardless of the place of provision of legal services. Liability for intentional breach of official duties need not be insured;

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

- 3) the minimum amount of insurance coverage for one insured event shall be not less than one million kroons;

4) in the case of excess policy, the insurer shall compensate for the full amount of the damage and claim the excess from the policyholder.

(2) The Minister of Justice has the right to establish additional conditions for professional liability insurance contracts of a management of a law office or an advocates, in particular concerning insured events, grounds for reduction of the indemnity or refusal to indemnify and the terms for indemnification.

(3) Copy of the professional liability insurance contract shall be promptly submitted to the Board of the Bar Association. The insurer shall notify the Board promptly of the expiry of a professional liability insurance contract if the insurer has not entered into a new contract with the policy holder.

§ 49. Advocate's law office

(1) An advocate shall provide legal services through a law office.

(2) The management of a law office shall be a company of advocates or a attorney at law operating as a sole proprietor.

(3) A company or a sole proprietor may operate one or several law offices.

(4) Attornies at law operating as sole proprietors may enter into an association contract in order to operate a law office.

(5) The relationships between the management of a law office and an advocate shall be determined by a contract.

(6) Another undertaking or branch of a foreign company besides a company of advocates or branch of a foreign company of advocates shall not operate in a law office. Upon violation of the specified prohibition, a disciplinary penalty prescribed in clause 19 (2) 3) or 4) shall be imposed on the management of the law office which is a sole proprietor or a attorney at law who is the director of the company of advocates and operates the law office.

(19.12.2001 entered into force 10.01.2002 - RT I 2001, 102, 676)

§ 49¹. Termination of activities of law office

(1) The activities of a law office shall be terminated:

1) on the basis of the decision of the management of the law office;

2) upon the death of a sole proprietor who operates the law office or upon the death of a sole unit-holder or shareholder of a company of advocates which operates the law office;

3) in the event of the bankruptcy or liquidation of the company of advocates which operates the law office;

- 4) if the management of the law office loses the right to operate the law office.
- (2) The activities of a law office shall be terminated under the supervision of the Board of the Bar Association. In the case of bankruptcy of the management of a law office, the court shall appoint a trustee in bankruptcy on the proposal of the Board of the Bar Association.
- (3) The activities of the management of a law office which is terminating activities or lawyers operating in a law office which is terminating activities shall immediately notify the Board of the Bar Association of termination of the activities of the law office or of occurrence of bases for termination specified in subsection (1) of this section. Upon the death of a person who operates a law office, a notary who issued a succession certificate shall submit the notification if no other lawyers operate in the law office.
- (4) Upon the bases for dissolution of a law office specified in subsection (1) of this section become evident, the management of the law office which is terminating activities or lawyers operating in the law office which is terminating activities are required to:
 - 1) immediately inform all persons who have valid legal aid contracts with the law office thereof;
 - 2) ensure that all urgent and absolutely necessary acts are performed on the basis of valid legal aid contracts;
 - 3) terminate valid legal aid contracts and provide assistance to persons who have valid legal aid contracts with the law office in finding a new legal counsel.
- (5) If a person who operates a law office dies and no other lawyers operate in the law office, performance of the obligations specified in subsection (4) of this section shall be organised by the Board of the Bar Association or a person authorised thereby.
- (6) The dissolution documents of a law office shall be preserved by the Board of the Bar Association.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

§ 50. Company of advocates

- (1) Attornies at law may found a company of advocates for the provision of legal services.
- (2) A company of advocates operate as a general partnership, limited partnership, private limited company or public limited company. A attorney at law may be a shareholder of only one company of advocates.
- (3) The provisions of law concerning a particular type of company apply to a company of advocates unless otherwise provided by law.

(4) The partnership agreement of a company of advocates operating as a general partnership or limited partnership shall be entered into in writing. The partnership agreement shall be appended to the application for entry of the company in the commercial register.

(5) (Repealed - 28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(6) A company of advocates may merge only with another company of advocates.

§ 51. Advocate operating as sole proprietor

(1) A attorney at law may operate as a sole proprietor in the provision of legal services.

(2) A attorney at law operating as a sole proprietor shall be entered in the commercial register.

§ 52. Business name

The business name of a company of advocates or an advocate operating as a sole proprietor shall contain the words “law office” or “advocate”.

§ 53. Area of activity

(1) A company of advocates shall engage in no other area of activity than the provision of legal services.

(2) A attorney at law operating as a sole proprietor shall not, under the same business name, engage in an area of activity other than the provision of legal services.

§ 54. Shareholders of company of advocates

(1) Only attorneys at law may be shareholders of a company of advocates.

(2) A successor of a shareholder may join a company of advocates operating as a general partnership or limited partnership only if he or she is a attorney at law.

(3) In the case of the death of a shareholder, his or her shares in a company of advocates operating as a private limited company may transfer to his or her successor only if the successor is a attorney at law. In other cases, the company of advocates shall compensate the heir for the value of the share within three months after the issue of the certificate of his or her right of succession.

(4) If a successor of a shareholder of a company of advocates is not a attorney at law, he or she is required to transfer the share within three months after the issue of the certificate of his or her succession. Upon transfer of the share, the shareholders of the company of advocates

have the right of pre-emption during one month as of the day when the deed of transfer of the share was submitted to them.

(5) If a successor of a shareholder of a company of advocates who is not a attorney at law fails to transfer his or her share during the term provided for in subsection (4) of this section, the company of advocates is required to cancel the share and compensate the successor for the value of the share.

(6) If a shareholder of a company of advocates is excluded from the Bar Association or is disbarred, the shareholder shall transfer his or her share within three months. Upon transfer of the share, the shareholders of the company of advocates have the right of pre-emption during one month as of the day when the deed of transfer of the share was submitted to them.

(7) If a person who is disbarred or excluded from the Bar Association fails to transfer his or her share during the term provided for in subsection (6) of this section, the company of advocates is required to cancel the share and compensate the person who is disbarred or excluded from the Bar Association for the value of the share.

(8) If a person who is disbarred or excluded from the Bar Association is the sole unit-holder or shareholder of a company of advocates and he or she fails to transfer his or her units or shares during the term provided for in subsection (6) of this section, the company of advocates shall be dissolved or transformed into a company of a different class.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(9) If a company of advocates has not cancelled a unit or share which belongs to a person who is disbarred or excluded from the Bar Association during the term provided for in subsection (6) of this section or, in the case specified in subsection (8) of this section, the company of advocates has not been dissolved or transformed into a company of a different class, the Board of the Bar Association shall submit an application for the compulsory dissolution of the company of advocates to the registrar of the commercial register. Upon liquidation of a law office, the provisions of § 49¹ of this act shall be taken into account.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

§ 55. Contracts with clients

(1) For the provision of legal services to a person, the management of a law office shall conclude a written contract with the person; the contract shall specify the name of the advocate providing the legal service, his or her authorisations and duties, the form and amount or rate of advocate's fee.

(2) The management of a law office shall not authorise an employee of the law office who is not an advocate to provide legal services to a client or grant joint authorisation for the provision of legal services to the advocate and a person who is not an advocate.

(28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

(3) The provisions of law regulating authorisation agreements apply to contracts with clients, taking into consideration the specifications provided by this Act.

(4) An advocate shall notify the management of the law office of conclusion of an oral agreement. An oral agreement shall not be entered into to defend a client in a criminal proceeding or represent a client in court or another administrative agency. A contract with a client shall be signed by the management of the law office, the advocate who assumed the task, and the client.

(5) If legal services are provided by a attorney at law's clerk, a contract shall set out that the task is performed by a attorney at law's clerk under the supervision of the patron.

§ 56. Substitution of advocate in performance of contract with client

(1) If an advocate is unable to perform a contract with a client for good reason, the management of the law office shall appoint another advocate to substitute for the advocate who previously performed the contract.

(2) An advocate may be appointed to substitute for another advocate in the performance of a contract only with the written consent of the client.

§ 57. Advocate's authorisation document

(1) In the provision of legal services, an advocate shall act on the basis of an advocate's authorisation document issued by the management of the law office. In an advocate's authorisation document, the management of the law office shall indicate the authorisation granted by the client to the advocate.

(2) An advocate shall hold a notarised authorisation document if a notarised authorisation document is necessary for the performance of a legal act pursuant to law.

§ 58. Advertising of advocates

(1) Advocates and companies of advocates shall not advertise themselves or their activities.

(2) For the purposes of this Act, information relating to the name, areas of activity, the office hours and the address and telecommunications numbers of a law office or an advocate is not deemed to be advertising.

(3) Information specified in subsection (2) of this section regarding all law offices shall be published in the yearbook of the Bar Association.

§ 59. Working hours of law offices

The management of a law office shall provide information regarding the office hours of advocates in the law office.

§ 60. Advocate's fees

- (1) An advocate's fee shall be agreed upon in a contract with a client.
- (2) The management of a law office or an advocate shall make the first proposal to the client as to the amount of a fee and explain the grounds for the formation of the fee.
- (3) The Bar Association shall not set limits to advocates' fees.
- (4) A client shall pay the management of a law office on the basis of an invoice in the manner and at the time as agreed.
- (5) A contract with a client may prescribe that the client pay the costs of legal services and the advocate's fee in advance. If a contract with a client is terminated before the performance of a duty, the management of the law office shall refund the advance payment to the client after deducting the fee for the work performed and the costs of legal services.
- (6) (Repealed - 28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

§ 61. Form of fee

- (1) A fee shall be determined:
 - 1) on the basis of time (hourly fee);
 - 2) in a fixed amount (flat fee);
 - 3) contingent on the the recovery obtained for the client as a result of the provision of the legal services (contingency fee);
- (2) A fee shall be paid in money.
- (3) On the basis of an agreement with a client, a fee may be determined as contingent on the results of the work of the advocate or other circumstances.

§ 62. Costs of legal services

- (1) A client shall compensate for the necessary costs incurred by the advocate or the management of the law office in the provision of the legal services.
- (2) An advocate is required to notify a client of all costs.

§ 63. Submission of invoice

An advocate is required to issue an invoice to a client regarding the advocate's fee and the costs of legal services; the amounts of the fee and the costs of legal services shall be separately indicated in the invoice.

§ 64. Contestation of advocates' fees and costs of legal services

If a client finds that a claim for an advocate's fee or the costs of legal services is unsubstantiated, the client may contest the claim in the court of honour of the Bar Association.

Chapter 5

Recognition of professional qualifications and associate member of Bar Association

§ 65. Recognition of professional qualifications

(1) A person who has the right to practice as an advocate on a permanent basis in a foreign state is admitted to the Bar Association on the basis of a written application and without passing a attorney at law's exam, if his or her professional qualifications are recognised according to the Recognition of Foreign Professional Qualifications Act (RT I 2000, 29, 168; 2002, 61, 375; 90, 521).

(2) The Government of the Republic shall establish the list of professional titles which grant the right to practice as an advocate on a permanent basis in a member state of the European Union.

(3) In the review of applications for recognition of professional qualifications, the provisions of this Act and of the internal rules of the Bar Association apply with respect to the professional suitability assessment committee.

(4) A state fee of 3000 kroons shall be paid for the review of an application for recognition of professional qualifications.

§ 66. Associate member of Bar Association

(1) The right to act as an associate member of the Bar Association (hereinafter associated member) is granted, on the basis of an application, to a person who is a citizen of a member state of the European Union and who has the right to practise as an advocate on a permanent basis in a member state of the European Union.

(2) In applying for the right to act as an associated member, a person shall submit a certificate issued by a competent authority of a member state of the European Union certifying that the person has the right to practise as an advocate on a permanent basis in that member state of the European Union. The certificate shall be valid if it is issued not more than three months prior to the submission thereof to the Board of the Bar Association.

(3) An associate member shall be a member of the general Assembly. He or she has the right to vote in the elections of the Chairman and members of the Board. An associated member as a member of the Bar Association and provider of legal services has the rights and obligations provided in this Chapter.

(4) An associated member shall be entered in the Bar Association register according to § 21 of this Act. Documents certifying that the associated member is a member of the management of a law office or a shareholder of a company of advocates in a member state of the European Union shall be included in the advocate's file.

(5) The Board of the Bar Association shall publish a notice concerning grant to a person of the right to act as an associated member in the official publication *Ametlikud Teadaanded*.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208)

§ 67. Competence of Associate member

(1) The provisions of § 41 of this Act apply to an associated member providing legal services, taking into account the specifications provided for in this section.

(2) An associated member has the right to represent or defend a client in court only together with a attorney at law.

(3) An associated member has the right to represent or defend a client in the Supreme Court only together with a attorney at law.

(4) An associated member shall comply with the same requirements for and obligations related to professional activity and professional ethics as other members of the Bar Association.

(5) An associated member shall not be required to hold professional liability insurance provided for in this Act if he or she has a professional liability insurance in a member state of the European Union which allows compensation for damages in Estonia in the extent as provided for in § 48 of this Act. A different guarantee which is provided for by law to ensure compensation for damages shall be deemed to be a professional liability insurance. If the professional liability insurance does not cover damages in the extent as provided for in § 48 of

this Act, the associated member is required to enter into a professional liability insurance contract in the necessary amount.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208)

§ 68. Use of professional title by associate member

(1) In provision of legal services in Estonia, an associate member shall use the professional title of an advocate which grants him or her the right to practise as an advocate in a member state of the European Union. The name of the body who granted such right or the name of the court where the associated member practises in a member state of the European Union shall be added to the professional title.

(2) The professional title of an associate member shall be expressed in at least one official language listed in subsection (1) of this section in a manner which enables it to be clearly differentiated from the professional titles of Estonian advocates.

(3) An associate member shall add the title "Associate member of the Estonian Bar Association" to his or her professional title.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208)

§ 69. Associate member as member of management of law office and shareholder of company of advocates

(1) An associate member may be member of the management of a law office and shareholder of a company of advocates and may inherit a share on the same grounds as a attorney at law. An associated member operating as a sole proprietor may conclude an association agreement to operate a law office on the same grounds as a attorney at law.

(2) Associate members may be members of the management of a law office on the basis of an association agreement concluded in a foreign state if the parties to the agreement are persons practising as advocates on a permanent basis in a member state of the European Union only.

(3) A foreign company operating as a company of advocates or a branch thereof, whose shareholder an associated member is, may also act as a company of advocates.

(4) A foreign company among whose shareholders there are persons who do not have the right to practise as advocates on a permanent basis in a member state of the European Union shall not operate a law office.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208)

§ 70. Supervision and exclusion of associate members from Bar Association

(1) The professional activities of an associate member shall be supervised over and he or she shall bear disciplinary liability on the same grounds and according to the same procedures as the members of the Bar Association.

(2) An associate member shall be excluded from the Bar Association if he or she loses the right to practise as an advocate on a permanent basis in a member state of the European Union.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208)

§ 71. Notification of competent authority of member state of European Union

The Bar Association shall notify a competent authority of the relevant member state of the European Union of grant to a person of the right to act as an associated member, of commencement of proceedings of the court of honour against an associate member, of disciplinary penalty imposed on an associated member or of suspension of the activities of an associate member, and communicate the relevant information to the competent authority.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208)

§ 72. Duty to inform

(1) An associated member shall submit to the Board of the Bar Association information concerning the professional liability insurance and his or her cooperation with other advocates. At the request of the Board of the Bar Association, an associated member is required to submit other information on his or her professional activities.

(2) If a competent authority of a member state of the European Union has commenced disciplinary proceedings against an associated member or if an associated member has lost the right to practise as an advocate on a permanent basis in a member state of the European Union, the associated member shall notify the Board of the Bar Association thereof without delay.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208)

§ 73. Conferral of professional title of attorney at law to associate member

(1) If an associated member has practised Estonian law on a permanent basis for at least three years in Estonia, he or she has the right to a professional title of attorney at law.

(2) If an associated member has practised in Estonia on a permanent basis for at least three years but has practised Estonian law for less than three years, he or she shall be entitled to a

professional title of attorney at law. In deciding the matter, the nature of his or her professional activities, knowledge and experience of Estonian law and his or her individual development shall be taken into consideration.

(3) In the cases listed in subsections (1) and (2) of this section, a person shall not be required to pass attorney at law's exam. An associated member shall submit a written application and information concerning his or her professional activities which certify his or her actual and continuous professional activity in Estonia to the Board of the Bar Association. The Board of the Bar Association may require additional information.

(4) In the case specified in subsection (2) of this section, the professional suitability assessment committee shall interview the associate member to find out the nature of his or her previous professional activities and knowledge of Estonian law.

(5) An associate member shall not be granted the professional title of a attorney at law if disciplinary proceedings have been commenced against him or her, or if the associate member has, while practising in Estonia, committed a material violation against requirements for professional activities or professional ethics.

(6) If the professional title of attorney at law has been conferred to an associate member, he or she shall lose the status of associate member.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208)

Chapter 6

Advocates of foreign states

§ 74. Advocates of foreign states

(1) An advocate of a foreign state means a person who has the right to practise as an advocate on a permanent basis in a member state of the European Union and who is not a member of the Estonian Bar Association.

(2) The provisions of § 41 of this Act apply to the professional activities of advocates of foreign states, taking into account the specifications provided for in this section.

(3) An advocate of a foreign state may not practise as an advocate on a permanent basis in Estonia.

(4) In Estonia, an advocate of a foreign state may represent or defend a client in court only together with a attorney at law.

(5) In Estonia, the requirements for the professional activities and professional ethics of advocates applicable to members of the Estonian Bar Association also apply to the activities

of advocates of foreign states, without prejudice to the requirements for professional activities applicable to him or her in the corresponding member state of the European Union

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208)

§ 75. Use of professional title by advocates of foreign states

(1) In provision of legal services in Estonia, an advocate of a foreign state shall practice under the professional title of an advocate which grants him or her the right to practise as an advocate in a member state of the European Union. The name of the body who granted such right or the name of the court where the advocate of the foreign state practises in a member state of the European Union shall be added to the professional title.

(2) The professional title of an associate member shall be expressed in at least one official languages listed in subsection (1) of this section in a manner that enables it to be clearly differentiated from the professional titles of Estonian advocates.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208)

§ 76. Supervision over professional activities of advocates of foreign states

(1) Supervision over the professional activities of advocates of foreign states in Estonia shall be performed by the Board of the Bar Association.

(2) An advocate of a foreign state shall have the obligations specified in subsection 46 (2) of this Act. The Board of the Bar Association may require an advocate of a foreign state to verify his or her right to practise as an advocate in a member state of the European Union.

(3) Upon commencing provision of legal services, an advocate of a foreign state shall submit a corresponding notice to the Board of the Bar Association.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208)

§ 77. Commencement of proceedings of court of honour against and imposition of disciplinary penalties on advocates of foreign states

(1) Proceedings of the court of honour are commenced against advocates of foreign states on the bases and pursuant to the procedure provided for in this Act.

(2) The court of honour may impose penalties specified in clause 19 (2) 2) of this Act on an advocate of a foreign state or deprive him or her of the right to practise as an advocate of a foreign state in Estonia. A decision of the court of honour on deprivation of a person of the right to practise as an advocate of a foreign state in Estonia shall take force as of the approval thereof by the Board of the Bar Association.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208)

§ 78. Notification of competent authority of member state of European Union

(1) The Board of the Bar Association shall notify the competent authority of a member state of the European Union of the commencement of proceedings of the court of honour against an advocate of the foreign state or of imposition of a disciplinary penalty of an advocate of a foreign state, and communicate the relevant information to the competent authority.

(2) The Board of the Bar Association shall comply with the requirement to maintain confidentiality while using and preserving information concerning an advocate of a foreign state received from the competent authority of a member state of the European Union.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 30, 208)

Chapter 7

Implementation of Act

§ 79. Repeal of Estonian Bar Association Act

The Republic of Estonia Bar Association Act (RT 1991, 45, 546; RT I 1994, 5, 50), which governed the activities of the Estonian Bar Association until the entry into force of this Act, is repealed.

§ 80. Amendment of State Fees Act

The State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 9, 45; 13, 78; 79; 81; 18, 97; 23, 131; 24, 135; 27, 151; 153; 30, 178; 35, 214; 44, 281; 47, 297; 51, 316; 57, 358; 58, 361; 61, 375; 62, 377; 82, 477; 90, 519; 102, 599; 105, 610; 2003, 4, 20) is amended by adding § 29³ worded as follows:

“§ 29³. Exemption from payment of state fees upon recognition of foreign professional qualification

An advocate of a foreign state is exempt from payment of state fees in the review of his or her application for recognition of professional qualifications.”

§ 81. Deletion of Bar Association from register of non-profit organisations and foundations

(1) The Estonian Bar Association is deleted from the register of non-profit organisations and foundations without liquidation proceedings.

(2) The provisions of § 53 (3) of the Non-profit Organisations Act (RT I 1996, 42, 811; 1998, 96, 1515; 1999, 10, 155; 23, 355; 67, 658; 2000, 55, 365; 88, 576; 2001, 24, 133; 56, 336; 93, 565; 2002, 53, 336) do not apply upon the deletion of the Estonian Bar Association from the register of non-profit organisations and foundations.

§ 82. Bodies and legal acts of Bar Association

(1) The Bar Association shall form its bodies in accordance with this Act by 31 May 2001 at the latest.

(2) The authority of the bodies of the Bar Association formed on the basis of the Republic of Estonia Bar Association Act shall terminate after the bodies of the Bar Association are formed according to this Act.

(3) The Bar Association shall bring its legal acts in conformity with this Act by 31 May 2001 at the latest.

(4) Until 1 January 2003, the bases for calculating state legal aid, the procedure for the payment thereof and the rate of fees payable for state legal aid shall be established by the Minister of Justice, after having considered the opinion of the Board of the Bar Association.

(19.12.2001 entered into force 01.01.2002 - RT I 2001, 102, 676)

§ 82¹. Application of restrictions on activities of advocates

(1) An advocate who belongs to the management board or supervisory board of a company or is the director of a branch of a foreign company, a partner or shareholder who holds the right of representation of an undertaking or a procurator of an undertaking is required to remove himself or herself from the management of the undertaking or branch or apply for a permission of the Board of the Bar Association for participation in the management of the undertaking or branch. The permission of the Board of the Bar Association is not required for participation in the management of a company of advocates or branch of a foreign company of advocates.

(2) In order to enter amendment of data on members of the management board of a company, the director of a branch of a foreign company, partners or shareholders who hold the right of representation of an undertaking or a procurator of an undertaking pursuant to subsection (1) of this section into the commercial register, an application shall be submitted to the registrar of the commercial register not later than by 1 January 2003 unless the advocate has been granted permission by the Board of the Bar Association for participation in the

management of the undertaking or branch by this time. State fees are not charged for entries in the commercial register which concern amendment of the specified data.

(3) The activities of undertakings and branches of foreign companies operating in a law office, except the activities of companies of advocates or branches of foreign companies of advocates in a law office shall be terminated not later than by 1 January 2003.

(19.12.2001 entered into force 10.01.2002 - RT I 2001, 102, 676)

§ 82². First professional suitability assessment of advocates

(1) The first assessment period in respect of attorneys at law and the senior clerks of attorneys at law ends on 31 December 2006 if five years have passed since their last advocate's examination before 31 December 2006, and they shall undergo the professional suitability assessment prescribed in § 34¹ of this Act.

(2) The bases and procedure for the in-service training for advocates which is the bases for the first professional suitability assessment of advocates shall be established pursuant to the procedure prescribed in subsection 34¹ (2) of this Act not later than by 31 December 2005.

(Repealed - 28.06.2004 entered into force 01.03.2005 - RT I 2004, 56, 403)

§ 83. Entry into force of Act

(1) The right of an attorney at law's senior clerk to act as a trustee in bankruptcy specified in subsection 42 (2) of this Act enters into force at a date as specified in a separate Act.

(2) Clause 9 10) and subsection 60 (6) of this Act enter into force on 1 January 2003.

(19.12.2001 entered into force 01.01.2002 - RT I 2001, 102, 676)

(3) Section 48 of this Act enters into force on 1 January 2000.

(4) Sections 66-78 enter into force into force on a date as specified in a separate Act.

¹ RT = *Riigi Teataja* = *State Gazette*

² RTL = *Riigi Teataja Lisa* = *Appendix to the State Gazette*

³ *Ametlikud Teadaanded* = *Official Notices*

⁴ Riigikogu = the parliament of Estonia