

# **Citizen of European Union Act**

Passed 20 November 2002

(RT<sup>1</sup> I 2002, 102, 599),

entered into force 1 May 2004,

amended by the following Act:

17.03.2004 entered into force 01.05.2004 - RT I 2004, 19, 134.

## **Chapter 1**

### **General Provisions**

#### **§ 1. Scope of application**

(1) This Act regulates the bases for stay in Estonia of citizens of the European Union and their family members.

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

#### **§ 2. Citizen of European Union**

For the purposes of this Act, a citizen of the European Union is a person who is a citizen of another member state of the European Union than Estonia.

#### **§ 3. Family member of citizen of European Union**

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

- 1) a spouse of the citizen of the European Union (hereinafter spouse);
- 2) a child under 21 years of age or a dependent adult child or grandchild of the citizen of the European Union;
- 3) a dependent parent or grandparent of the citizen of the European Union or of his or her spouse;
- 4) a person not specified in clauses 1)-3) of this section who is dependent on the citizen of the European Union or residing with him or her and has a shared household with him or her.

## **Chapter 2**

### **Stay in Estonia**

#### **§ 4. Stay in Estonia of citizens of European Union and their family members**

(1) A citizen of the European Union may stay in Estonia without a residence permit:

1) for up to three months as of the date of his or her arrival in Estonia, also if he or she is employed in Estonia or engaged in business in Estonia;

2) if he or she is employed in another member state of the European Union but resides in Estonia and returns to Estonia at least once a week;

3) if he or she is a seasonal worker in Estonia;

4) for up to six months for the purpose of seeking employment if he or she has registered the employment seeking pursuant to the procedure provided for in the Employment Service Act (RT I 2000, 57, 370; 2001, 59, 359; 2002, 61, 375).

(2) A family member has the right to stay in Estonia together with a citizen of the European Union who has legal basis for stay in Estonia. A family member who is not a citizen of the European Union shall hold a residence permit or a visa to stay in Estonia. Visa is not required from a family member if:

1) a residence permit of a member state of the European Union has been issued to the family member;

2) the family member is a citizen of the state with which Estonia has entered into an agreement to forego the visa requirement or in the case of which Estonia has unilaterally foregone the visa requirement.

#### **§ 5. Residence permits**

(1) In the cases not provided for in § 4 of this Act, citizens of the European Union and their family members shall hold residence permits to stay in Estonia.

(2) A residence permit shall be issued to a citizen of the European Union:

1) for employment;

2) for engagement in business;

3) for study;

4) if the citizen of the European Union has sufficient legal income which ensures his or her own subsistence and that of his or her family members in Estonia;

5) for long-term stay in Estonia.

(3) Residence permits shall be issued to family members of a citizen of the European Union for the purpose of settling with the citizen of the European Union.

## **§ 6. Conditions for issue of residence permits**

(1) A residence permit shall be issued to a citizen of the European Union and his or her family member under the following conditions:

1) he or she has sufficient legal income which ensures his or her own subsistence and that of his or her family member in Estonia. Lawfully earned remuneration for work, income received from lawful business activities or property, pensions, scholarships, support and the maintenance ensured by family members earning legal income are deemed to be legal income;

2) he or she has an insurance contract guaranteeing that any costs related to his or her medical treatment as a result of illness or injury during the period of validity of the residence permit will be met;

3) his or her actual residence is in Estonia;

4) he or she complies with the conditions provided for in this Act and no circumstances exist in respect of him or her which could be the basis for refusal to issue the residence permit.

(2) A citizen of the European Union and his or her family member shall register their residence pursuant to the procedure provided for in the Population Register Act (RT I 2000, 50, 317; 2001, 31, 173; 2002, 41, 254; 53, 336; 57, 355; 61, 375) within one month as of the date of issue of the residence permit.

## **§ 7. Residence permit for employment and engagement in business**

(1) (Repealed - 17.03.2004 entered into force 01.05.2004 - RT I 2004, 19, 134)

(2) A residence permit for engagement in business shall be issued to a citizen of the European Union for participation in a company or activities as a sole proprietor if the company or sole proprietor is registered pursuant to the procedure provided for in the Commercial Code (RT I 1995, 26–28, 355; 1998, 91–93, 1500; 1999, 10, 155; 23, 355; 24, 360; 57, 596; 102, 907; 2000, 29, 172; 49, 303; 55, 365; 57, 373; 2001, 34, 185; 56, 332 and 336; 89, 532; 93, 565; 2002, 3, 6; 35, 214; 53, 336; 61, 375; 63, 387 and 388).

(3) A residence permit for employment and engagement in business shall be issued for five years.

(4) A residence permit for employment and engagement in business shall be extended on the basis of an application of the citizen of the European Union for five consecutive years if the basis for the issue of the residence permit has not ceased to exist, the conditions for the issue of the residence permit are complied with and the circumstances which could be the basis for refusal to extend the residence permit do not exist.

## **§ 8. Residence permit for study**

(1) A residence permit for study shall be issued to a citizen of the European Union for study at a basic school, upper secondary school, vocational school, institution of applied higher education or university, for participation in preparatory or foundation courses organised at the specified educational institutions, for research at a university or institution of applied higher education or for participation in training mediated by an international student organisation (hereinafter study).

(2) Upon application for a residence permit for study, an educational institution or a student organisation shall submit to the Citizenship and Migration Board a document which certifies that a citizen of the European Union has commenced studies and sets out the area of specialisation, the title of the course or research paper or the type of training, and the presumed duration of study.

(3) A residence permit for study shall be issued to a citizen of the European Union for the period of study but not for longer than one year.

(4) A residence permit for study shall be extended on the basis of an application of the citizen of the European Union for up to one year if the basis for issue of the residence permit has not ceased to exist, the conditions for issue of the residence permit are complied with and the circumstances which could be the basis for refusal to extend the residence permit do not exist.

## **§ 9. Residence permit upon existence of sufficient legal income**

(1) A residence permit shall be issued to a citizen of the European Union whose legal income is sufficient to ensure his or her own subsistence and that of his or her family members in Estonia.

(2) Upon existence of sufficient legal income, a residence permit shall be issued for five years.

(3) Upon existence of sufficient legal income, a residence permit shall be extended on the basis of an application of the citizen of the European Union for further five years if the basis for issue of the residence permit has not ceased to exist, the conditions for issue of the residence permit are complied with and the circumstances which could be the basis for refusal to extend the residence permit do not exist.

## **§ 10. Residence permit of family member**

(1) Residence permits shall be issued to family members of a citizen of the European Union for the purpose of settling with the citizen of the European Union who has the legal basis for stay in Estonia.

(2) If a citizen of the European Union holds a residence permit for study, a residence permit for settling with the citizen of the European Union shall be issued only to the spouse and dependent children of the citizen of the European Union.

(3) During the period of validity of the residence permit, the spouse and dependent children of a citizen of the European Union have the right to study, work and engage in business.

(4) The spouse and dependent children of a citizen of the European Union shall register employment in Estonia with the Labour Market Board.

(5) A family member shall be issued a residence permit with the same period of validity as the residence permit of the citizen of the European Union, but not for longer than until the expiry of the residence permit of the citizen of the European Union.

(6) A residence permit of a family member shall be extended if the residence permit of the citizen of the European Union is extended and if the basis for issue of the residence permit has not ceased to exist, the conditions for issue of the residence permit are complied with and the circumstances which could be the basis for refusal to extend the residence permit do not exist.

(7) A residence permit of a family member shall be extended for the same period of validity as that of the residence permit of the citizen of the European Union, but not for longer than for five consecutive years.

## **§ 11. Residence permit for long-term stay in Estonia**

(1) A residence permit for long-term stay in Estonia shall be issued to a citizen of the European Union who:

1) by the date of termination of his or her employment or engagement in business, has attained the age of retirement and has been employed or has engaged in business in Estonia for at least the last twelve months and has permanently stayed in Estonia at least the last three consecutive years;

2) has permanently stayed in Estonia for at least the last two consecutive years and has terminated employment or engagement in business due to permanent incapacity for work;

3) has terminated employment due to permanent incapacity for work arising from a work injury or occupational disease;

4) has been employed or has engaged in business in Estonia for at least three consecutive years and has commenced employment in another member state of the European Union but resides in Estonia and returns to Estonia at least once a week.

(2) A residence permit for long-term stay in Estonia shall be issued for five years.

(3) A residence permit with the period of validity of up to five years shall be issued to a family member in the following cases:

1) a residence permit is issued to the citizen of the European Union in the cases specified in subsection (1) of this section;

2) the citizen of the European Union dies before attaining the age of retirement and has, by the date of his or her death, permanently stayed in Estonia for at least the last two consecutive years;

3) the citizen of the European Union dies before attaining the age of retirement as a result of a work injury or occupational disease.

(4) A residence permit specified in subsections (1) and (3) of this section shall be extended on the basis of an application of a person for five consecutive years.

(5) In the cases specified in clauses (1) 1)-3) of this section, a citizen of the European Union may apply for a residence permit within two years as of the date on which the corresponding circumstances become evident.

## **§ 12. Refusal to issue residence permit or extend residence permit**

If a citizen of the European Union or his or her family member endangers public order, national security or public health, a residence permit shall not be issued thereto, nor shall the residence permit thereof be extended.

## **§ 13. Expiry of residence permit**

A residence permit shall expire:

- 1) upon arrival of the date indicated in the residence permit;
- 2) upon the grant of Estonian citizenship to the holder of the residence permit or upon his or her resumption of Estonian citizenship;
- 3) upon the death or declaration of death of the holder of the residence permit.

## **§ 14. Revocation of residence permit**

(1) A residence permit shall be revoked:

- 1) on the basis of a request of the holder of the residence permit;
- 2) if the basis for issue of the residence permit has ceased to exist or the conditions for issue of the residence permit are not complied with;
- 3) if the holder of the residence permit stays outside Estonia for more than a total of 183 days in a year and does not register his or her absence from Estonia with the Citizenship and Migration Board;
- 4) if circumstances which could be the basis for refusal to issue the residence permit become evident.

(2) In addition to the cases specified in subsection (1) of this section, a residence permit of a family member shall also be revoked if:

- 1) the residence permit of the citizen of the European Union is revoked;
- 2) the residence permit of the citizen of the European Union expires and this Act does not provide otherwise.

### **§ 15. Issue of residence permit**

(1) The Citizenship and Migration Board shall decide on issue or refusal to issue, extension or refusal to extend and revocation of a residence permit.

(2) In order to submit an application for a residence permit, a citizen of the European Union and his or her family members applying for a residence permit are required to appear at a representation of the Republic of Estonia or the Citizenship and Migration Board.

(3) A citizen of the European Union and his or her family members applying for extension of a residence permit shall submit standard applications for the extension of the residence permits (hereinafter application) to the Citizenship and Migration Board at least two months before the expiry of the residence permits.

(4) The term provided for in subsection (3) of this section shall not be restored if the residence permits issued to a citizen of the European Union and his or her family members have expired.

(5) The procedure for application for, issue, extension and revocation of residence permits of citizens of the European Union and their family members, the list of certificates and information to be submitted upon application for residence permits, the format of permits and the amounts of legal income provided for in this Act shall be established by a regulation of the Government of the Republic.

### **§ 16. Exercise of supervision**

(1) Citizens of the European Union and their family members are required to prove the legal basis for their stay in Estonia at the request of a police officer, border guard official or an official of the Citizenship and Migration Board.

(2) In order to ensure compliance with the requirements of this Act, the Citizenship and Migration Board may, pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580), issue the following precepts to citizens of the European Union and their family members:

- 1) to legalise the stay in Estonia pursuant to the procedure provided for in the Obligation to Leave and Prohibition on Entry Act (RT I 1998, 98/99, 1575; 2001, 68, 407; 2002, 53, 336; 61, 375);

- 2) to register employment in Estonia;

- 3) to register residence in Estonia.

(3) In order to ensure compliance with a precept specified in subsection (2) of this section, the Citizenship and Migration Board may impose penalty payment with the upper limit of 10 000 kroons.

## **Chapter 3**

### **Implementing Provisions**

#### **§ 17. Application of this Act with regard to citizens of member states of European Economic Area**

This Act applies with regard to the citizens of the member states of the European Economic Area.

#### **§ 18. Amendment of Population Register Act**

Subsection 22 (2) of the Population Register Act is amended by adding clause 15<sup>1</sup>) worded as follows:

«15<sup>1</sup>) a residence permit issued pursuant to the Citizen of the European Union Act;”.

#### **§ 19. Amendment of State Fees Act**

The State Fees Act (RT I 1997, 80, 1344; 2001, 55, 331; 53, 310; 56, 332; 64, 367; 65, 377; 85, 512; 88, 531; 91, 543; 93, 565; 2002, 1, 1; 18, 97; 23, 131; 24, 135; 27, 151 and 153; 30, 178; 35, 214; 44, 281; 47, 297; 51, 316; 57, 358; 58, 361; 61, 375; 62, 377; 90, 519) is amended by adding Division 15<sup>1</sup> worded as follows:

“Division 15<sup>1</sup>

Acts Performed on Basis of Citizen of European Union Act and Legislation of General Application Issued for Implementation Thereof

§ 171<sup>1</sup>. Review of applications for residence permit and applications for extension of residence permit

A state fee of 150 kroons shall be paid for the review of an application for a residence permit or an application for the extension of a residence permit.

§ 171<sup>2</sup>. Right to exempt from payment of state fee and to reduce of state fee rates

(1) The Director General of the Citizenship and Migration Board, his or her deputy and the heads of Estonian representations have the right to reduce the state fee rate payable by a person or to exempt a person from payment of the state fee provided for in § 171<sup>1</sup> of this Act based on the economic situation of the person.

(2) An application specified in subsection (1) of this section shall be submitted in writing. The application shall set out the following:

1) the given name, surname and personal identification code and, in the absence of a personal identification code, the date and place of birth, and the citizenship, residence, place of employment or service, the amount and sources of monthly income and the number of dependants of the payer of the state fee;

2) the act for the performance of which the reduction of the state fee rate or exemption from payment of the state fee is applied for;

3) the reasons for the application.

(3) Documents which certify that an application is reasoned shall be appended to the application.”

## **§ 20. Amendment of State Borders Act**

Section 11<sup>1</sup> of the State Borders Act (RT I 1994, 54, 902; 1997, 77, 1315; 1999, 25, 365; 2000, 86, 550; 2001, 23, 126; 2002, 58, 363; 63, 387; 90, 516) is amended by adding subsections (4) and (5) worded as follows:

“(4) A citizen of the European Union arriving in Estonia shall hold a valid identity document issued in a member state of the European Union.

(5) Upon arrival in Estonia, a family member of a citizen of the European Union who is not a citizen of the European Union shall hold a valid identity document recognised by the Republic of Estonia and conforming with international requirements and a visa or residence permit of Estonia or a residence permit of a member state of the European Union.”

## **§ 21. Amendments to Aliens Act**

The Aliens Act (RT I 1993, 44, 637; 1999, 50, 548; 54, 582; 71, 686; 88, 808; 101, 900; 2000, 25, 148; 33, 197; 40, 254; 2001, 16, 68; RT III 2001, 7, 75; RT I 2001, 58, 352; 2002, 56, 351; 63, 387; 90, 521) is amended as follows:

1) the existing text of § 1 is considered subsection (1), and the section is amended by adding subsection (2) worded as follows:

«(2) The Citizen of the European Union Act regulates the basis of stay in Estonia of citizens of the European Union and citizens of the member states of the European Economic Area and their family members.”;

2) in subsection 6 (3), the words “European Union,” and “Norway, Iceland, Switzerland” are omitted;

3) in subsection 12 (7), the words “member states of the European Union or” are omitted and the words “the spouses or minor children of such citizens” are substituted by the words “their spouses or minor children”.

## **§ 22. Amendment of Obligation to Leave and Prohibition on Entry Act**

Section 1 of the Obligation to Leave and Prohibition on Entry Act is amended by adding subsection (1<sup>1</sup>) worded as follows:

«(1<sup>1</sup>) This Act applies to the citizens of the European Union and citizens of the member states of the European Economic Area and their family members to the extent provided for in the Citizen of the European Union Act.»

**§ 23. Entry into force of Act**

This Act enters into force upon Estonia's accession to the European Union.

<sup>1</sup> RT = *Riigi Teataja* = *State Gazette*