

Persons Repressed by Occupying Powers Act (17 December 2003)¹

(RT¹ I 2003, 88, 589), entered into force 1 January 2004.

Chapter 1

General Provisions

§ 1. Purpose and scope of application of Act

(1) The purpose of this Act is to alleviate the injustices committed against persons who were unlawfully repressed by the powers that occupied Estonia between 16 June 1940 and 20 August 1991.

(2) This Act provides the definition of the term “unlawfully repressed person”, the privileges and benefits, and pension rights granted to unlawfully repressed persons. Unlawful expropriation of property or the alleviation of consequences thereof do not fall within the scope of application of this Act. The term “unlawfully repressed person” is defined in this Act on the basis of international law together with all the consequences arising therefrom.

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

§ 2. Unlawfully repressed person

(1) For the purposes of this Act, an unlawfully repressed person (hereinafter repressed person) is a person who, at the time of repression, was a citizen of the Republic of Estonia or who was not a citizen of the Republic of Estonia but a permanent resident legally residing in Estonia as at 16 June 1940, except persons who were brought or who came to Estonia on the basis of the agreement entered into by the Republic of Estonia and the Soviet Union on 28 September 1939 (so-called bases agreement) or acts arising therefrom, and:

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- 1) who is a victim of genocide, as defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (RT II 1994, 27, 103);
- 2) who was sentenced to imprisonment or exilement or who was committed to a psychiatric institution for his or her beliefs, political or other opinions, religion, racial or ethnic origin, nationality, birth, social origin or property;
- 3) who was sentenced to imprisonment or exilement for failure to comply with a special obligation established for the citizens of the occupying state (military service, allegiance, mandatory worldview, prohibition on leaving a territory, etc.);
- 4) who was sentenced to imprisonment or exilement for an act committed prior to the occupation or during a temporary cessation of occupation, unless such act would also have been punishable under the law of the Republic of Estonia;
- 5) who was sentenced to imprisonment or exilement because of his or her origin or general personal characteristics without ascertaining his or her guilt;
- 6) who was sentenced to imprisonment or exilement for participating in an anti-occupation protest or an act of national self-determination or for exercising or attempting to exercise his or her internationally recognised human rights or fundamental freedoms regardless of the type of criminal offence with which the occupying state formally charged the person;
- 7) who was unlawfully deported or displaced from his or her permanent place of residence in the occupied territory to the territory of the occupying state or another state, whether occupied or not, or who was subject to forced exile outside of the territory of Estonia after having served his or her sentence;
- 8) who was taken from Estonia to the Soviet Union in 1941 and subjected to forced labour with restriction of liberty in a labour battalion or a labour or construction unit or who was forcibly sent to work outside of the territory of Estonia during occupation by Greater Germany;

9) who, after having been taken as a prisoner of war or as a person to be repatriated, was subjected to forced labour with restriction of liberty in a labour battalion or a labour or construction unit of the Soviet Union;

10) who, having concealed himself or herself from unlawful repression, was sentenced to imprisonment or exile for an act or acts which the person committed as self-defence or out of necessity without exceeding the limits established by the law of the Republic of Estonia, unless such act would also have been punishable under the law of the Republic of Estonia;

11) who was prohibited from residing in Estonia;

12) who was subjected to radiation as a test subject in connection with the explosion of a nuclear device;

13) who was forcibly sent to an area of nuclear disaster for the elimination of the effects of the disaster.

(2) A child of a person specified in subsection (1) of this section who was born while the parent was in forced exile or in a custodial institution or after the parent's release until the time when the parent was granted permission and had an actual opportunity to return to Estonia is also deemed to be a repressed person.

(3) A person described in subsection (1) or (2) of this section who has worked as a staff member of an agency which carried out the acts of repression specified in subsection (1), except as a member of the lower level service personnel or support staff, or a person who joined the Communist (Bolshevik) Party of the Soviet Union before 1 January 1954, or a person who was sentenced for a criminal offence which would also have been punishable under the law of the Republic of Estonia is not deemed to be a repressed person.

§ 3. Occupying state

For the purposes of this Act, occupying states are the states which occupied the Republic of Estonia from 16 June 1940 until 20 August 1991.

§ 4. Person treated as repressed person

(1) A citizen of the Republic of Estonia who does not receive and has not received any compensation from a foreign state for activities specified in clauses 1) and 2) of this subsection shall be treated as a repressed person (hereinafter person treated as a repressed person) provided that:

1) the person participated in the armed fight for the restoration of the independence of the Estonian state after 16 June 1940;

2) the person became an invalid while mobilised or as a conscript in the armed forces of the Soviet Union and did not participate in the commission of acts of repression in Estonian territory.

(2) A person who was mobilised into the Red Army as a member or candidate member of the Communist (Bolshevik) Party of the Soviet Union, the Leninist Communist Youth League of the Soviet Union (ÜLKNÜ) or the Leninist Communist Youth League of Estonia (ELKNÜ), or who belonged to a destruction battalion or defence battalion or workers' regiment of the People's Commissariat for Interior Affairs (NKVD) or the Ministry of Interior Affairs (MVD), or who was mobilised into the German army as a member or candidate member of the National Socialist German Workers' Party (NSDAP) and who meets the criteria set out in subsection 2 (3) of this Act shall not be treated as a repressed person.

§ 5. Obligations of Government of Republic

The Government of the Republic shall:

1) form, involving repressed persons and persons treated as repressed persons, a government committee chaired by the Minister of Justice as a co-operation forum and the committee shall make proposals for the preparation of the necessary legislation and organise co-operation with government and local government structures, non-profit organisations and associations;

2) organise the preservation of the memory of repressed persons and persons treated as repressed persons and the study of the repressive policies of the occupying states;

- 3) organise the establishment of a foundation assisting repressed persons.

Chapter 2

Benefits and Privileges

§ 6. Compensation for health services and medicinal products

(1) The following shall be compensated to repressed persons and persons treated as repressed persons to the extent, under the conditions and pursuant to the procedure established by a regulation of the Minister of Social Affairs:

- 1) visit fees paid during one calendar year to health care providers who provide specialised medical care;
- 2) amounts paid during one calendar year for prescription medicinal products which are necessary for out-patient treatment;
- 3) the cost of a voucher for rehabilitation, if the person is receiving an old-age pension pursuant to the State Pension Insurance Act (RT I 2001, 100, 648; 2002, 53, 336 and 338; 61, 375; 2003, 20, 116; 48, 343) or if the person is over 63 years of age;
- 4) the amount paid for medical devices during one calendar year;
- 5) the amount paid for dental care services during one calendar year.

(2) The health care services specified in subsection (1) of this section shall be paid for out of the funds prescribed for such purpose in the state budget through the Ministry of Social Affairs.

§ 7. Privileges

(1) Repressed persons and persons treated as repressed persons shall, upon presentation of a repressed person's certificate, be entitled to:

- 1) free entrance to the Nationwide Song Festival and Nationwide Dance Festival and the Students' Song and Dance Festival;
 - 2) free entrance to state museums;
 - 3) the right to fish for recreation free of charge under the conditions provided for in the Fishing Act (RT I 1995, 80, 1384; 1996, 27, 567; 1998, 108/109, 1784; 1999, 10, 152; 54, 583; 95, 843; 2000, 13, 92; 54, 348; 81, 514; 2001, 18, 88; 2002, 41, 250; 61, 375; 63, 387; 2003, 9, 43).
- (2) Repressed persons and persons treated as repressed persons are entitled to a travel fare concession of up to 50 per cent in public transport on domestic regular services pursuant to the procedure provided for in the Public Transport Act (RT I 2000, 10, 58; 2001, 18, 85; 2002, 53, 336; 61, 375; 63, 387; 110, 654; 2003, 20, 116; 58, 387; 71, 471) and on the basis thereof.

Chapter 3

Repressed Person's Certificate and Badge of the Broken Cornflower

§ 8. Repressed person's certificate and procedure for issue thereof

- (1) A repressed person's certificate (hereinafter certificate) is a document which certifies that a person meets the criteria specified in subsection 2 (1) or (2) or subsection 4 (1) of this Act.
- (2) The procedure for the issue of certificates and the format of applications and certificates shall be established and the agency issuing the certificates shall be designated by a regulation of the Government of the Republic.

§ 9. Grounds for refusal to issue certificate

The issuer of certificate shall refuse to issue a certificate if:

- 1) the person does not meet the criteria provided for in subsection 2 (1) or (2) of this Act;
- 2) the person does not meet the criteria provided for in subsection 4 (1) of this Act;

- 3) the person meets the criteria provided for in subsection 2 (3) of this Act;
- 4) the person meets the criteria provided for in subsection 4 (2) of this Act.

§ 10. Badge of the Broken Cornflower

- (1) Repressed persons and persons treated as repressed persons have the right to wear the Badge of the Broken Cornflower.
- (2) The procedure for the issue and wearing of the Badge of the Broken Cornflower and the description of the Badge of the Broken Cornflower shall be established by the Government of the Republic.

Chapter 4

Pension Rights

§ 11. Subject of pension rights

The pension rights provided for in this Chapter do not extend to persons treated as repressed persons, unless the person meets the criteria specified in this Chapter.

§ 12. Old-age pension under favourable conditions

The following persons have the right to receive an old-age pension under favourable conditions as defined in the State Pension Insurance Act:

- 1) repressed persons who have earned the pension qualifying period required for the grant of an old-age pension and who have been unlawfully held in a custodial institution or in exile, and persons specified in subsection 2 (2) of this Act - one year before attaining the pensionable age for each full year they have been held in a custodial institution or in exile, but not more than five years before attaining the pensionable age;
- 2) persons who participated in the clean-up of the accident at the Chernobyl nuclear power station – five years before attaining the pensionable age.

§ 13. Periods included in pensionable service

(1) Years of pensionable service shall include:

1) in the case of a person who participated in the armed fight for freedom against foreign occupation in the territory of the Republic of Estonia or was in hiding from unlawful repression, the time during which the person participated in the fight for freedom or was in hiding;

2) the time during which a repressed person was held in custody, spent in a custodial institution or in exile, including any periods of time between escaping and subsequent arrest, multiplied by three;

3) time a person spent held as a prisoner of war, or in a concentration camp or ghetto during the Second World War, or in a labour and construction battalion or labour and construction unit in 1941–1942, multiplied by three;

4) time from when a repressed person was freed from custody or a custodial institution or returned from exile until he or she is granted the permission to settle in Estonia, if the right to live in Estonia was taken away from the person unlawfully, multiplied by one and a half;

5) the time a parent of a person specified in subsection 2 (2) of this Act spent in a custodial institution or in exile until the person specified in subsection 2 (2) of this Act was granted permission and had an actual opportunity to return to Estonia, multiplied by three.

(2) Years of pensionable service shall be calculated and certified pursuant to the procedure established by the State Pension Insurance Act and legislation issued on the basis thereof.

§ 14. Right to receive pension supplements

(1) A pension supplement of 20 per cent of the national pension rate shall be added to pensions for incapacity for work of repressed persons who have been held in a custodial institution or in exile, persons held as prisoners of war, or persons held in concentration camps or ghettos during the Second World War and persons specified in subsection 2 (2) of this Act.

(2) The right to retain a pension supplement provided for in subsection (1) of this section pursuant to subsection 19 (4) of the State Pension Insurance Act also extends to persons who are transferred from a disability pension or a pension for incapacity for work to an old-age pension as of 1 April 2000.

(3) The provisions of subsection (1) of this section do not apply to persons who, pursuant to subsection 24 (3) of the State Pension Insurance Act, have been granted another pension supplement specified in § 24 of the State Pension Insurance Act.

(4) 10 per cent of the national pension rate shall be added to the pensions granted, pursuant to the State Pension Insurance Act, to persons declared permanently incapacitated for work as a result of a nuclear disaster, nuclear test, or an accident at a nuclear power station if the percentage of the loss of their capacity for work is at least 40 per cent.

§ 15. Expenditure relating to pension rights

The expenditure arising from § 12 and clause 13 (1) 1) of this Act shall be financed pursuant to the provisions of clause 57 (1) 1) of the State Pension Insurance Act.

§ 16. Application of Act to rehabilitated persons

The provisions of clauses 12 1), 13 (1) 2) and 4), subsection 13 (2) and subsections 14 (1)-(3) of this Act extend to rehabilitated persons.

Chapter 5

Implementation of Act

§ 17. Implementing Provisions

(1) The Land Tax Act (RT I 1993, 24, 428; 1996, 41, 797; 89, 1589; 1997, 82, 1398; 1999, 27, 381; 95, 840; 2000, 95, 612; 2001, 102, 666; 2002, 44, 284; 2003, 71, 472) is amended as follows:

1) subsection (2¹) is added to § 11 worded as follows:

«(2¹) Local governments may exempt repressed persons and persons treated as repressed persons as defined in the Persons Repressed by Occupying Powers Act from the obligation to pay land tax on residential land in use of such persons provided that the person does not receive rent on the basis of the right of use of land.»;

2) in subsection 11 (3) the words “subsection (2)” are substituted by the words “subsections (2) or (2¹)”;

3) in subsection 11 (4) the words “subsection (2)” are substituted by the words “subsections (2) and (2¹)”.

(2) In the Fishing Act, the words "unlawfully repressed person" are substituted by the words "unlawfully repressed person and person treated as a repressed person" in the appropriate case form.

(3) § 29⁷ is added to 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; 102, 599; 105, 610; 2003, 4, 20; 13, 68; 15, 84 and 85; 20, 118; 21, 128; 23, 146; 25, 153 and 154; 26, 156 and 160; 30, correction notice; 51, 352; 66, 449; 68, 461; 71, 471), worded as follows:

«§ 29⁷. Exemption of unlawfully repressed persons and persons treated as unlawfully repressed persons from payment of state fees

Repressed persons and persons treated as repressed persons as defined in the Persons Repressed by Occupying Powers Act are exempt from payment of state fees for acts specified in § 106 of this Act with regard to information about immovables in the ownership of such persons.»

(4) The State Pension Insurance Act is amended as follows:

1) clauses 10 (1) 4) and 5) are repealed;

2) clause 24 (1) 2) and subsection 24 (2) are repealed;

3) clause 28 (2) 13) and clauses 28 (3) 1)-3) are repealed;

4) subsection 60 (5) is repealed.

(5) § 28¹ is added to the Public Transport Act worded as follows:

“§ 28¹. Travel fare concessions for repressed persons and persons treated as repressed persons

On domestic lines in railway, road and waterway traffic (including commercial lines), up to 50 per cent of the price of a ticket of a repressed person or person treated as a repressed person shall be compensated for to the extent, under conditions and pursuant to procedure established by a regulation of the Government of the Republic.”

§ 18. Entry into force of the Act

(1) This Act enters into force on 1 January 2004.

(2) Subsections 7 (2) and 17 (5) of this Act enter into force on 1 January 2005.

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