UNITED NATIONS

E/NL.2003/62-64
14 November 2003
English only

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts

ESTONIA

Communicated by the Government of Estonia

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

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[1] Note by the Secretariat: A prior version of this text was published in E/NL.1999/59

E/NL.2003/62

Money Laundering Prevention Act

Passed 25 November 1998

(RT[1] I 1998, 110, 1811),

entered into force 1 July 1999,

amended by the following Act:

18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533.

Chapter 1

General Provisions

§ 1. Scope of application of Act

The Money Laundering Prevention Act regulates the activities of credit institutions, financial institutions, other undertakings provided for in this Act and the Financial Intelligence Unit in the prevention of money laundering.

§ 2. Money laundering

Money laundering is the conversion or transfer of, or the performance of legal acts with, property acquired as a direct result of an act punishable pursuant to criminal procedure, the purpose or consequence of which is the concealment of the actual owner or the illicit origin of the property.

§ 3. Credit institution

For the purposes of this Act, a credit institution is a credit institution as defined in the Credit Institutions Act (RT I 1995, 4, 36; 1998, 59, 941) or a branch of a foreign credit institution entered in the commercial register in Estonia.

§ 4. Financial institution

(1) For the purposes of this Act, a financial institution is a financial institution as defined in the Credit Institutions Act, or a branch of a foreign financial institution entered in the commercial register in Estonia.

(2) For the purposes of this Act, a financial institution specified in subsection (1) of this section is also the following:

1) an insurer, insurance agent or insurance broker as defined in the Insurance Act (RT 1992, 48, 601; RT I 1995, 26-28, 355; 1996, 23, 455; 40, 773; 1998, 61, 979);

2) an investment fund as defined in the Investment Funds Act (RT I 1997, 34, 535; 1998, 61, 979);

3) a professional securities market participant as defined in the Securities Market Act (RT I 1993, 35, 543; 1995, 22, 328; 1996, 26, 528; 1997, 34, 535; 1998, 61, 979).

§ 5. Other undertakings which can be used for money-laundering purposes

(1) The following are undertakings which are not credit or financial institutions for the purposes of this Act but which can be used for money-laundering purposes:

1) undertakings the principal or permanent activity of which is transactions with real estate or the organisation of gambling or lotteries, and undertakings which operate as intermediaries in such areas of activity;

2) other undertakings which carry out or act as intermediaries for transactions of at least the value specified in subsection 7 (3) of this Act.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(2) The provisions of this Act which directly regulate the activities of the undertakings specified in subsection (1) of this section apply to such undertakings.

Chapter 2

Identification

§ 6. General identification requirement

(1) Credit and financial institutions are required to identify all persons or representatives of persons who carry out a non-cash transaction involving a sum of more than 200 000 kroons or a cash transaction involving a sum of more than 100 000 kroons.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(2) A credit or financial institution is also required to identify any person who carries out a transaction where the value of the transaction is lower than a threshold specified in subsection (1) of this section if:

1) the transaction is apparently linked to another transaction or other transactions in such a manner that the value of the transactions exceeds a threshold specified in subsection (1) of this section. If the total value of the transactions is not known at the time when the apparently linked transactions are carried out, identification shall proceed as soon as it becomes known that the value of the transactions exceeds a specified threshold;

2) the credit or financial institution suspects that the money which is the object of the transaction is derived from criminal activity.

(3) Credit and financial institutions are required to identify all persons for whom an account is opened, and representatives of such persons.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(4) Accounts in credit and financial institutions shall be in the name of an account holder.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

§ 7. Specifications for identification

(1) The requirement specified in section 6 is deemed to be fulfilled if the credit or financial institution has identified the person in the course of a prior transaction.

(2) Subsection 6 (1) does not apply in the case of legal acts performed between Estonian credit institutions.

(3) Any undertaking specified in subsection 5 (1) is required to identify, on the basis of documents specified in § 9, all persons together with whom the undertaking, upon carrying out a transaction or transactions which are clearly interconnected, receives, acts as an intermediary for or pays out more than 100 000 kroons in cash, more than 200 000 kroons in the event of a non-cash settlement, or more than 200 000 kroons in total as cash and non-cash payments in the event of both a cash and non-cash settlement for a transaction or for transactions which are clearly interconnected.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(4) Subsection (3) of this section does not apply to the transport of cash and securities.

§ 8. Specifications for identification requirement upon entering into insurance contracts

(1) Insurers, insurance agents and insurance brokers are required to identify persons who pay cash in the following amounts pursuant to insurance contracts:

1) more than 14 000 kroons during a year as periodic premiums for one contract;

2) more than 35 000 kroons for a single premium contract;

3) more than 35 000 kroons as an advance payment of an insurance premium.

(2) Insurers, insurance agents and insurance brokers are required to identify persons who, on the basis of an insurance contract, receive a payment (surrender, insured sum) exceeding 14 000 kroons. Identification is also obligatory if a payment is made in parts with a total amount exceeding 14 000 kroons.

§ 9. Documents which are basis for identification

(1) In order to enable identification, a natural person or a representative of a legal person shall submit a document specified in subsection 2 (2) of the Identity Documents Act (RT I 1999, 25, 365; 2000, 25, 148; 26, 150; 40, 254), a valid driving licence issued in the Republic of Estonia, or a valid travel document issued by a foreign state. A copy shall be made of the pages of an identity document submitted to enable identification which contain entries and the copy shall be preserved.

(2) In order to enable identification, a legal person registered in Estonia or a branch of a foreign company registered in Estonia shall submit an extract from the corresponding registry card and a foreign legal person shall submit an extract from the corresponding register or a copy of its certificate of registration. The document submitted in order to enable identification shall set out:

1) the name, area of activity, seat and address of the legal person;

2) the registration number;

3) the names, residences and personal identification codes (if they have personal identification codes) of the director and the members of the management board, and their authority in representing the legal person.

(3) A representative of a foreign legal person is required to submit a notarised document containing authorisation in order to use the account of the legal person.

(4) If the data or documents specified in subsections (2) and (3) of this section are not available, other notarised documents shall be used for identification, and the credit or financial institution or the undertaking specified in subsection 5 (1) shall carry out the transaction only if there is no reason to doubt the identity of the counterparty.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

§ 10. Determination of real identity of person

(1) If, upon identification, there is good reason to suspect that a person is acting on behalf of someone else, the credit or financial institution or the undertaking specified in subsection 5 (1) shall obtain information as to the real identity of the person on whose behalf the person is acting.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(2) If it is impossible to identify the person on whose behalf another person is acting, the credit or financial institution or the undertaking specified in subsection 5 (1) is prohibited from carrying out the transaction. The credit or financial institution or the undertaking specified in subsection 5 (1) is also required to inform the Financial Intelligence Unit immediately of an expression of intention by the person to carry out a transaction or of a transaction which has already been carried out by the person.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

Chapter 3

Data

§ 11. Registration of data

(1) Upon fulfilment of the requirement specified in § 6, a credit or financial institution shall register the following personal data:

1) the name and residence or seat of the person or representative thereof;

2) the document used for identification, and the number and date and place of issue thereof;

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

3) in the case of a natural person, the personal identification code or the date and place of birth of the natural person;

4) in the case of a legal person, information regarding the legal person obtained on the basis of subsection 9 (2) or (3).

(2) A credit or financial institution shall register the following data concerning a transaction to be carried out:

1) the type of transaction;

2) upon the opening of an account: the type of account, account number, currency or securities account;

3) upon the deposit of property: the deposit number, the market price of the property on the day of deposit or, if it is not possible to determine the market price of the specified property, an exact description of the property;

4) upon the renting and use of a safe deposit box: the number of the safe deposit box and other data necessary for identification of the user thereof;

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

5) upon the making of a payment relating to shares, debt instruments or other securities: a description of the securities, the monetary value of the transaction, the currency and the account number;

6) upon entry into an insurance contract: the number of the account from which the first premium amount is debited;

7) upon the making of a payment on the basis of an insurance contract: the number of the account to which the payment is credited;

8) upon the transfer of money: data submitted by the person concerning the origin, sender and recipient of the money;

9) in the case of other transactions: the amount of the transaction, the currency and the account number or account numbers.

(3) For the purposes of identification, an undertaking specified in subsection 5 (1) of this Act shall register the time of the transaction, a description of the transaction and information concerning the counterparty to the transaction pursuant to the provisions of subsection (1).

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(4) A credit or financial institution has the right to refuse to carry out a transaction if a person does not submit documents certifying the legality of the source of the money or other property which is the object of the transaction despite a corresponding demand having been made.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

§ 12. Preservation of data

Credit and financial institutions and undertakings specified in subsection 5 (1) of this Act shall preserve data specified in § 11 for at least five years after the end of a contractual relationship with a client.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

Chapter 4

Internal Security Measures of Credit Institutions and Financial Institutions

§ 13. Internal security measures

(1) The head of a credit or financial institution shall appoint a person to be the contact person for the Financial Intelligence Unit specified in chapter 6 of this Act (hereinafter contact person).

(2) The head of a credit or financial institution is required to establish a code of conduct for employees to prevent money laundering and to establish internal audit rules to monitor compliance with the code of conduct. Credit and financial institutions shall guarantee regular training in the prevention of money laundering for employees who carry out cash and non-cash transactions.

(3) The procedure for implementation of internal security measures in credit institutions shall be established by the Bank of Estonia.

§ 14. Contact person

(1) The duties of a contact person appointed by the head of a credit or financial institution are:

1) to monitor compliance with money laundering prevention requirements in the credit or financial institution;

2) to forward information to the Financial Intelligence Unit in the event of a suspicious transaction;

3) to inform the head of the credit or financial institution in writing of deficiencies in compliance with the internal audit rules.

(2) A contact person may only forward information or data which become known to him or her in connection with a suspicious transaction to:

1) the head of the credit or financial institution or an employee appointed by him or her;

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

2) the Financial Intelligence Unit;

3) a preliminary investigation authority in connection with a criminal proceeding;

4) a court on the basis of a court ruling or court judgment.

Chapter 5

Conduct in Event of Suspicious Transaction

§ 15. Notification obligation

(1) If, upon carrying out a transaction, a credit or financial institution or an undertaking specified in subsection 5 (1) of this Act identifies a situation which might be an indication of money laundering, the institution or undertaking shall promptly notify the Financial Intelligence Unit thereof. Information shall be forwarded orally, in writing or by electronic means of communication. If information is forwarded orally, the information shall be repeated in writing not later than by the end of the following working day.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(2) In the event of justified suspicion of money laundering, the Financial Intelligence Unit may suspend a transaction or impose restrictions on the use of money in an account for up to two working days as of the first attempt to carry out the transaction. In such case, the transaction may be carried out or the restriction on using money in the account may be removed earlier than during the given term only with the written permission of the Financial Intelligence Unit.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(3) If postponement of a transaction may cause significant damage, the transaction shall be carried out and the information shall be communicated to the Financial Intelligence Unit in writing promptly thereafter.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(4) Credit or financial institutions and undertakings specified in subsection 5 (1) of this Act shall not inform a person suspected of money laundering of a notice forwarded to the Financial Intelligence Unit concerning the person.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(5) (Repealed - 18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(6) The format for notices to be forwarded to the Financial Intelligence Unit and instructions for preparation thereof shall be established by the Minister of Internal Affairs.

§ 16. Co-operation with Financial Intelligence Unit

(1) Credit and financial institutions and undertakings specified in subsection 5 (1) are required to inform the Financial Intelligence Unit of all suspicious transactions.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(2) Credit and financial institutions and undertakings specified in subsection 5 (1) are required, on the basis of a written request of the Financial Intelligence Unit, to provide the Financial Intelligence Unit with information relating to suspicious transactions.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

§ 16^1. Verification of information relating to suspicious transactions

The Financial Intelligence Unit shall verify information relating to suspicious transactions pursuant to the procedure provided for in the Code of Criminal Procedure (ENSV $ÜT^2$ 1961, 1, 4 and annex; RT I 2000, 56, 369; 75, correction notice), take necessary measures to preserve property and, if elements of a criminal offence are detected, send material to a pre-trial investigation authority for a decision to be made on the commencement of criminal proceedings.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

§ 17. Relief from liability

(1) Credit and financial institutions and undertakings specified in subsection 5 (1), and employees thereof and persons acting on their behalf are not liable for damage which results from failure to carry out a transaction or from failure to carry out a transaction within the given term and which is caused to a client in connection with informing the Financial Intelligence Unit of a suspicious transaction.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(2) A head or employee of a credit or financial institution, or an undertaking specified in subsection 5 (1) who submits information to the Financial Intelligence Unit shall not, on the basis of the information submitted, be accused of a breach of a confidentiality requirement imposed on them by law or contract.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

Chapter 6

Financial Intelligence Unit

§ 18. Financial Intelligence Unit

(1) The Financial Intelligence Unit is a structural unit of the Police Administration within the area of government of the Ministry of Internal Affairs.

(2) In order to prevent or establish money laundering or criminal offences related thereto and in order to facilitate pre-trial investigation thereof, the Financial Intelligence Unit is required to forward significant information to pre-trial investigation authorities, to the prosecutor, and to the courts in connection with court proceedings.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(3) If, upon the verification of indications of money laundering, the need arises to ensure the preservation of property which is the object of money laundering, the Financial Intelligence Unit has the right of recourse to the courts to apply for the seizure of the property.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

§ 19. Functions of Financial Intelligence Unit

The functions of the Financial Intelligence Unit are:

1) to collect, register, process and analyse information received pursuant to § 15 of this Act. In the course of these activities, the significance of the information submitted to the Financial Intelligence Unit for the prevention, establishment or investigation of money laundering and criminal offences related thereto shall be assessed and the use of the information shall be decided pursuant to the provisions of subsection 18 (2);

2) to inform persons who submit information to the Financial Intelligence Unit of the use of the information in the prevention, establishment or investigation of money laundering and criminal offences related thereto, with the aim of improving performance of the notification obligation;

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

3) to conduct investigations into money laundering, improve prevention and establishment of money laundering and inform the public thereof;

4) to co-operate with credit and financial institutions, undertakings specified in subsection 5 (1) of this Act and police authorities in the prevention of money laundering;

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

5) to organise foreign relations and the exchange of information pursuant to § 24 of this Act.

§ 20. Requirements for officials of Financial Intelligence Unit

Officials of the Financial Intelligence Unit are required to maintain the confidentiality of information made known to them in the course of their official duties, including information subject to banking secrecy, even after the performance of their official duties or the termination of a service relationship connected with the processing or use of the information, and to comply with the personal data processing requirements provided by the Databases Act (RT I 1997, 28, 423; 1998, 36/37, 552) and the Personal Data Protection Act (RT I 1996, 48, 944; 1998, 59, 941).

§ 21. Restrictions on use of information

(1) Information registered in the Financial Intelligence Unit shall only be forwarded to a preliminary investigation authority, the prosecutor or a court in connection with a court proceeding on the basis of a written request of the preliminary investigation authority, the Prosecutor’s Office or the court or on the initiative of the Financial Intelligence Unit if the information is significant for the prevention, establishment or investigation of money laundering or a criminal offence related thereto. The Financial Intelligence unit has the right to inform the supervisory authority specified in § 25 of this Act of a suspicious transaction in a credit or financial institution.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(2) Only officials of the Financial Intelligence Unit shall have access to and the right to process the information in the Financial Intelligence Unit database.

(3) The procedure for the registration and processing of information collected by the Financial Intelligence Unit shall be established by the Minister of Internal Affairs.

§ 22. Requests for additional information

(1) If there is good reason to suspect money laundering, the Financial Intelligence Unit has the right to request additional information concerning a suspicious transaction or legal acts pertaining thereto from the credit or financial institution which informed the Financial Intelligence Unit and from other credit and financial institutions, undertakings specified in subsection 5 (1) and the supervisory authority of the credit or financial institution.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(2) Credit and financial institutions which have been requested to submit additional information pursuant to subsection (1) of this section are required to submit such information, including information subject to banking secrecy, to the Financial Intelligence Unit in writing, by electronic means of communication or orally during a reasonable term specified by the Financial Intelligence Unit.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

(3) In order to prevent money laundering, the Financial Intelligence Unit has the right, pursuant to the procedure provided by legislation, to obtain relevant information, including information collected in the course of surveillance, from all agencies which are engaged in surveillance. In order to forward information collected in the course of surveillance to other agencies, the Financial Intelligence Unit shall have the written agreement of the agency engaged in surveillance from which the information was obtained.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

§ 23. Interbase cross-usage of data

In order to perform the functions imposed on the Financial Intelligence Unit by law, the Financial Intelligence Unit has the right to make inquiries to and to receive data from state and local government databases and databases maintained by persons in public law, pursuant to the procedure provided by law.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

§ 24. International exchange of information

The Financial Intelligence Unit has the right to exchange information with foreign agencies which perform the functions of a Financial Intelligence Unit.

(18.10.2000 entered into force 17.11.2000 - RT I 2000, 84, 533)

Chapter 7

Supervision

§ 25. Supervision over credit and financial institutions

(1) The supervisory authority specified in the Act regulating the activities of credit and financial institutions shall monitor compliance by credit and financial institutions with the requirements of this Act and of legislation established on the basis thereof.

(2) If, upon monitoring a credit or financial institution, a supervisory authority identifies a situation which might be an indication of money laundering, the supervisory authority is required to notify the Financial Intelligence Unit thereof.

§ 26. Data protection supervision

The data protection supervisory authority established pursuant to the Personal Data Protection Act shall exercise supervision over the legality of the processing of information registered in the Financial Intelligence Unit.

Chapter 8

Implementing Provisions

§ 27. Amendment of Credit Institutions Act

The Credit Institutions Act (RT I 1995, 4, 36; 1998, 59, 941) is amended as follows:

1) clause 46 (4) 2) is amended and worded as follows:

«2) to a pre-trial investigation authority on the basis of a ruling on commencement of criminal proceedings;”;

2) 7. chapter 7 is repealed.

§ 28. Entry into force of Act

This Act enters into force on 1 July 1999.

[1] RT = *Riigi Teataja = State Gazette*
[2] ENSV ÜT = *ESSR Supreme Council Gazette*

E/NL.2003/63

Penal Code (extracts)

Passed 6 June 2001

(RT[1] I 2001, 61, 364; consolidated text RT I 2002, 86, 504),

entered into force 1 September 2002,

amended by the following Acts:

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

04.12.2002 entered into force 02.01.2003 - RT I 2002, 105, 612.

[…]

Chapter 3

Types and Terms of Punishments

Division 1

Principal Punishments Imposed for Criminal Offences

§ 44. Pecuniary punishment

(1) For a criminal offence, the court may impose a pecuniary punishment of 30 to 500 daily rates.

(2) The court shall calculate the daily rate of a pecuniary punishment on the basis of the average daily income of the convicted offender. The court may reduce the daily rate due to special circumstances, or increase the rate on the basis of the standard of living of the convicted offender. The daily rate applied shall not be less than the minimum daily rate. The minimum daily rate shall be fifty kroons.

[…]

(5) If at the time of commission of an act, the person is less than 18 years of age, the court may impose a pecuniary punishment of thirty up to two hundred and fifty daily rates. A pecuniary punishment shall not be imposed on a person of less than 18 years of age if he or she does not have any independent income.

(6) A pecuniary punishment may be imposed as a supplementary punishment together with imprisonment unless imprisonment has been substituted by community service.

(7) A pecuniary punishment shall not be imposed as a supplementary punishment together with a fine to the extent of assets.

(8) In case of a legal person, the court may impose a pecuniary punishment of fifty thousand to two hundred and fifty million kroons on the legal person. A pecuniary punishment may be imposed on a legal person also as a supplementary punishment together with compulsory dissolution.

[…]

§ 45. Imprisonment

(1) For a criminal offence, the court may impose imprisonment for a term of thirty days to twenty years, or life imprisonment.

[…]

§ 46. Compulsory dissolution of legal person

A court may impose the compulsory dissolution on a legal person who has committed a criminal offence if commission of criminal offences has become part of the activities of the legal person.

Division 2

Principal Punishments Imposed for Misdemeanours

§ 47. Fine

(1) For a misdemeanour, a court or an extra-judicial body may impose a fine of three up to three hundred fine units. A fine unit is the base amount of a fine and is equal to sixty kroons.

(2) A court or an extra-judicial body may impose a fine of five hundred kroons up to fifty thousand kroons on a legal person who commits a misdemeanour.

§ 48. Detention

For a misdemeanour, a court may impose detention for a term of up to thirty days.

Division 3

Supplementary Punishments for Criminal Offences Imposed on Natural Persons

§ 49. Occupational ban

A court may deprive a convicted offender of the right to work in a certain position or operate in a certain area of activity for up to three years if the person is convicted of a criminal offence relating to abuse of professional or official status or violation of official duties.

§ 50. Deprivation of driving privileges

(1) A court may deprive a convicted offender of driving privileges for up to three years if the person is convicted of a criminal offence relating to violation of the safe traffic or of rules of operation of a motor vehicle, aircraft, water craft, tram or rolling stock.

(2) A person shall not be deprived of the right to drive a motor vehicle if he or she uses the motor vehicle due to disability, unless he or she drives the motor vehicle in a state of intoxication.

[…]

§ 53. Fine to the extent of assets

If a court convicts a person of a criminal offence and imposes imprisonment for a term of more than three years or life imprisonment, the court may, in the cases provided by law, impose a supplementary punishment according to which the convicted offender is to pay an amount up to the extent of the total value of all the assets of the convicted offender.

§ 54. Expulsion

(1) If a court convicts a citizen of a foreign state of a criminal offence in the first degree and imposes imprisonment, the court may impose expulsion with prohibition on entry within ten years as supplementary punishment on the convicted offender. If the spouse or a minor child of the convicted person lives with him or her in the same family in Estonia on a legal basis, the court in its judgment shall provide reasons for imposition of expulsion.

(2) Expulsion shall not be imposed on a convicted citizen of a foreign state who at the time of commission of the criminal offence was less than 18 years of age.

§ 55. Term of supplementary punishment

(1) If a supplementary punishment provided for in §§ 49–52 of this Code is imposed together with imprisonment, the supplementary punishment shall extend to the whole term of the principal punishment and additionally to the term determined by the court judgment.

(2) The term for a prohibition on entry supplementing expulsion provided for in § 54 of this Code shall be calculated as of the expulsion of the convicted offender.

[…]

§ 75. Supervision of conduct

[…]

(2) Taking into consideration the circumstances relating to the commission of the criminal offence and the personality of the convicted offender, the court may impose the following obligations on the convicted offender for the period of supervision of conduct:

[…]

2) not to consume alcohol or narcotics;

[…]

Chapter 12

Offences Against Public Health

Division 1

Offences Relating to Narcotics

§ 183. Unlawful handling of small quantities of narcotic drugs or psychotropic substances

Illegal trafficking or mediation of small quantities of narcotic drugs or psychotropic substances, or illegal manufacture, acquisition or possession of small quantities of narcotic drugs or psychotropic substances with the intention of trafficking is punishable by a pecuniary punishment or up to one year of imprisonment.

§ 184. Unlawful handling of large quantities of narcotic drugs or psychotropic substances

(1) Illegal manufacture, acquisition, possession, trafficking, mediation, transportation, import, export, transit or other illegal handling of large quantities of narcotic drugs or psychotropic substances is punishable by 1 to 5 years' imprisonment.

(2) The same act, if committed:

1) by a group or a criminal organisation, or

2) at least twice,

is punishable by 2 to 10 years' imprisonment.

(3) An act provided for in subsection (1) of this section, if committed by a legal person, is punishable by a pecuniary punishment.

(4) An act provided for in clause (2) 2) of this section, if committed by a legal person, is punishable by a pecuniary punishment or compulsory dissolution.

(5) For an offence provided for in this section, a court may impose a fine to the extent of assets as a supplementary punishment pursuant to § 53 of this Code.

§ 185. Providing of narcotic drugs or psychotropic substances to persons of less than 18 years of age

(1) An adult person who illegally provides small quantities of narcotic drugs or psychotropic substances to a person of less than 18 years of age shall be punished by up to 3 years' imprisonment.

(2) The same act, if the object of provision is large quantities of narcotic drugs or psychotropic substances, is punishable by 2 to 10 years' imprisonment.

§ 186. Inducing person to engage in illegal use of narcotic drugs or psychotropic substances

Inducing a person to illegally consume narcotic drugs or psychotropic substances is punishable by a pecuniary punishment or up to one year of imprisonment.

§ 187. Inducing minors to illegally consume narcotic drugs or psychotropic substances or other narcotic substances

An adult person who induces a person of less than 18 years of age to illegally consume narcotic drugs or psychotropic substances or other narcotic substances, or administers such substances illegally to a person of less than 18 years of age, shall be punished by 1 to 5 years' imprisonment.

§ 188. Illegal cultivation of opium poppy, cannabis or coca shrubs

Illegal cultivation of opium poppy, cannabis or coca shrubs is punishable by a pecuniary punishment or up to 5 years' imprisonment.

§ 189. Preparation for distribution of narcotic drugs or psychotropic substances

(1) Manufacture, possession or delivery of a device, equipment or substance necessary for the commission of an act provided for in § 184 of this Code, or provision of financial resources for the commission of such act, is punishable by a pecuniary punishment or up to 5 years' imprisonment.

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

§ 190. Violation of requirements for handling narcotic drugs or psychotropic substances or precursors thereof or of requirements for related recording keeping or reporting

(1) Violation of the requirements for manufacture, production, processing, packaging, storage, transportation, import, export, transit, delivery or record keeping concerning or reporting on narcotic drugs or psychotropic substances or precursors thereof by a person responsible for such activities, if such violation, through negligence, results in illegal trade in narcotic drugs or psychotropic substances, is punishable by a pecuniary punishment or up to 3 years' imprisonment.

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

§ 191. Application of confiscation

The court shall confiscate an object or substance which was the direct object of the commission of an offence provided for in this Division or an object used for the preparation of such offence.

[…]

Chapter 13

Offences Against Property

Division 1

Offences against Ownership

Subdivision 1

Illegal appropriation of thing

§ 199. Larceny

(1) A person who takes away movable property of another with the intention of illegal appropriation shall be punished by a pecuniary punishment or up to 3 years' imprisonment.

(2) Same act, if:

1) the object of the act is a firearm, ammunition, explosive substance or radiation source,

2) the object of the act is a narcotic drug or psychotropic substance or a precursor thereof,

3) the object of the act is an object of great scientific, cultural or historical significance,

4) the act is committed by a person who has previously committed larceny, robbery or embezzlement,

5) the act is committed publicly, but without the use of violence,

6) the act is committed on a large-scale basis,

7) the act is committed by a group or a criminal organisation, or

8) the act is committed by intrusion,

is punishable by up to 5 years' imprisonment.

(12.06.2002 entered into force 01.09.2002 - RT I 2002, 56, 350)

§ 200. Robbery

(1) A person who by using violence takes away movable property of another with the intention of illegal appropriation shall be punished by 2 to 10 years' imprisonment.

(2) Same act, if:

[…]

2) the object of the act is a narcotic drug or psychotropic substance or a precursor thereof,

[…]

§ 268. Provision of opportunity to engage in unlawful activities, or pimping

(1) Pimping, or providing premises for the purposes of illegal consumption of narcotic drugs or psychotropic substances, for organising illegal gambling, or for prostitution, is punishable by a pecuniary punishment or up to 5 years' imprisonment.

[…]

§ 325. Unlawful delivery of substance or object in custodial institution

(1) Delivery, in a custodial institution, of a prohibited substance or object to a prisoner or a person in detention or custody is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if:

1) committed at least twice;

2) committed by an official of the custodial institution, or

3) the object of the delivery is a weapon, ammunition, explosive substance, money, alcohol or a narcotic drug or psychotropic substance,

is punishable by a pecuniary punishment or up to one year of imprisonment.

(3) A court may, pursuant to the provisions of § 83 of this Code, apply confiscation of a substance or object which was the direct object of the commission of an offence provided for in this section.

[…]

§ 331. Preparation, acquisition and possession of narcotic drugs or psychotropic substances by prisoner or person in detention or custody and consumption by prisoner or person in detention or custody of such drugs or substances without prescription

A prisoner or person in detention or custody who prepares, acquires or possesses narcotic drugs or psychotropic substances or consumes such drugs or substances without a prescription shall be punished by a pecuniary punishment or up to 3 years' imprisonment.

[…]

§ 392. Illicit traffic in prohibited goods or goods requiring a special permit

(1) Illicit traffic in prohibited goods or carriage of radioactive substances, explosive substances, narcotic drugs or psychotropic substances, precursors for narcotic drugs or psychotropic substances, non-narcotic medicinal products, dangerous chemicals or waste, strategic goods, firearms or ammunition without the corresponding special permit is punishable by a pecuniary punishment or up to 5 years' imprisonment.

(2) The same act, if committed:

1) by an official taking advantage of his or her official position, or

2) by a group,

is punishable by 2 to 10 years' imprisonment.

(3) An act provided for in subsection (1) of this section, if committed by a legal person, is punishable by a pecuniary punishment.

(4) The court shall confiscate the substance or object which was the direct object of commission of an offence provided for in this section.

§ 393. Unlawful acts with goods subject to customs preferences

(1) Unlawful acts or transactions in a customs territory with goods imported with customs preferences or goods under customs supervision, where the object of the acts or transactions was a large quantity of goods, are punishable by a pecuniary punishment or up to 3 years' imprisonment.

(12.06.2002 entered into force 01.09.2002 - RT I 2002, 56, 350)

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

(3) A court may, pursuant to the provisions of § 83 of this Code, apply confiscation of a substance or object which was the direct object of the commission of an offence provided for in this section.

Division 5

Offences Relating to Money Laundering

§ 394. Money laundering

(1) Money laundering is punishable by a pecuniary punishment or up to 5 years' imprisonment.

(2) The same act, if committed:

1) by a group;

2) at least twice;

3) on a large-scale basis, or

4) by a criminal organisation,

is punishable by 2 to 10 years' imprisonment.

(3) An act provided for in subsection (1) of this section, if committed by a legal person, is punishable by a pecuniary punishment.

(4) An act provided for in subsection (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment or compulsory dissolution.

(5) A court may, pursuant to the provisions of § 83 of this Code, apply confiscation of an object which was the direct object of the commission of an offence provided for in this section.

§ 395. Failure to comply with identification requirement

Failure by an employee of a credit or financial institution to comply with the identification requirement provided for in the Money Laundering Prevention Act (RT I 1998, 110, 1811; 2000, 84, 533; 2001, 93, 565; 2002, 53, 336; 63, 387) is punishable by a pecuniary punishment.

§ 396. Failure to report suspicious transaction, submission of incorrect information

The head or a contact person of a credit or financial institution, or an undertaking, who fails to report a suspicious transaction or submits incorrect information to the Financial Intelligence Unit shall be punished by a pecuniary punishment or up to one year of imprisonment.[…]

E/NL.2003/64

Narcotic Drugs and Psychotropic Substances Act[1]

Passed 11 June 1997

(RT[1] I 1997, 52, 834),

entered into force 1 November 1997,

amended by the following Act:

17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531.

Chapter 1

General Provisions

§ 1. Area of regulation of Act

This Act regulates:

1) the procedure for preparation and approval of schedules of narcotic drugs and psychotropic substances and substances used for preparation thereof (hereinafter precursors);

2) the procedure for handling narcotic drugs, psychotropic substances and precursors;

3) the procedure for inspection and identification of narcotic drugs, psychotropic substances and precursors, the procedure for issue of permits required for the handling of narcotic drugs, psychotropic substances and precursors, and supervision over the implementation of such procedure;

4) the procedure regarding information and reporting on narcotic drugs, psychotropic substances and precursors;

5) the procedure for prevention of the spread of drug addiction, and treatment and rehabilitation of drug addicts.

§ 2. Definitions used in Act

In this Act, the following definitions are used:

1) “narcotic drugs and psychotropic substances” mean substances and their stereoisomers, esters, ethers and salts listed in schedules prepared pursuant to the procedure provided for in subsections 8 (1) and (2) of this Act;

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[1] Note by the Secretariat: A prior version of this text was published in E/NL.1999/59

2) “precursors” mean substances listed in schedules prepared pursuant to the procedure provided for in subsections 8 (1) and (3) of this Act;

3) “to handle” means to own, possess, use, cultivate, gather, prepare, manufacture, process, package, preserve, store, load, transport, export or import, transit, retail or wholesale or in any other manner deliver to a consumer or another handler narcotic drugs, psychotropic substances or precursors;

4) “handler” means a natural person or legal person who handles narcotic drugs, psychotropic substances or precursors;

5) “handling permits” mean single activity licences issued for a specified period by the Ministry of Social Affairs or the Agency of Medicines to manufacturers, pharmacies, wholesalers, medical and scientific institutions; import and export certificates; and permits issued by surveillance agencies or the Customs Board in the cases referred to in § 5 of this Act;

6) “drug addiction” means a psychological or physical dependence which develops as a result of using narcotic drugs or psychotropic substances;

7) “drug addict” means a person who, as a result of using narcotic drugs or psychotropic substances, has a psychological or physical dependency on such substances.

Chapter 2

Handling Procedure

§ 3. Restrictions on handling narcotic drugs and psychotropic substances

(1) The handling of narcotic drugs and psychotropic substances is prohibited except for medical and scientific purposes and to prevent, detect or combat criminal offences relating to narcotic drugs or psychotropic substances.

(2) Cultivation of opium poppy or cannabis for the purpose of preparing narcotic substances is prohibited. The procedure for handling opium poppy and cannabis for the purpose of agricultural production shall be established by a regulation of the Government of the Republic. Permits for handling opium poppy and cannabis for the purpose of agricultural production are issued by the Minister of Social Affairs.

(3) Advertising of narcotic drugs and psychotropic substances is prohibited except in the cases prescribed by law.

(4) Internationally recognised proprietary medicinal products containing narcotic or psychotropic substances which are medicinal products carried for first-aid purposes on ships and aircraft engaged in international transportation are exempt from import and export restrictions arising from this Act. The applicable procedure shall be established by the Minister of Social Affairs.

§ 4. Handling of narcotic drugs and psychotropic substances for medical and scientific purposes and handling of precursors

(1) The procedure for handling narcotic drugs and psychotropic substances for medical and scientific purposes shall be established by the Minister of Social Affairs. The Agency of Medicines issues permits for handling narcotic drugs and psychotropic substances for medical and scientific purposes and supervises implementation of the established procedure.

(2) The Agency of Medicines has the right to refuse to issue a permit for handling narcotic drugs or psychotropic substances if the use thereof for medical or scientific purposes is not justified.

(3) If a substance is not included on a schedule of narcotic drugs and psychotropic substances approved pursuant to § 8 of this Act, the Agency of Medicines shall decide and specify its classification.

(4) The procedure for handling precursors shall be established by the Government of the Republic.

§ 5. Permits for handling narcotic drugs, psychotropic substances and precursors to prevent, detect and combat criminal offences

(1) Permits for handling narcotic drugs, psychotropic substances and precursors to prevent, detect and combat criminal offences may be issued by the heads of surveillance agencies and the Customs Board in accordance with the Surveillance Act (RT I 1994, 16, 290; 1995, 15, 173; 1996, 49, 955; 1997, 81, 1361; 93, 1557; 1998, 47, 698; 50, 753; 51, 756; 61, 981; 98/99, 1575; 101, 1663; 1999, 16, 271; 31, 425; 95, 845; 2000, 35, 222; 40, 251; 102, 671; 2001, 3, 9; 7, 17; 58, 353) and the Customs Code.

(17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531)

(2) The Agency of Medicines maintains records of narcotic drugs, psychotropic substances and precursors and the amounts thereof issued to surveillance agencies and the Customs Board.

§ 6. Recording of narcotic drugs, psychotropic substances and precursors

(1) Handlers shall appoint a natural person who is responsible for maintaining records of narcotic drugs and psychotropic substances and provides information regarding such substances to the Agency of Medicines pursuant to the procedure established by the Minister of Social Affairs.

(2) Exporters and importers of precursors are required to maintain records of precursors and to provide information regarding precursors pursuant to the procedure established by the Government of the Republic.

(3) The Agency of Medicines has the right to inspect the maintenance of records specified in subsections (1) and (2) of this section.

(4) Information on narcotic drugs, psychotropic substances and precursors gathered pursuant to the procedures prescribed in subsections (1) and (2) of this section shall be sent to a ministers' committee on drug policy.

(5) Statistical data on the total turnover of narcotic drugs, psychotropic substances and precursors in Estonia is public.

§ 7. Transfer, seizure and destruction of narcotic drugs and psychotropic substances

(1) Persons who do not hold a permit for handling narcotic drugs or psychotropic substances but who have such substances in their possession are required to deliver them promptly to the local police department. The procedure for documentation of delivery and storage of substances shall be established by the Minister of Internal Affairs.

(2) Narcotic drugs or psychotropic substances which are used as real evidence in matters concerning criminal or administrative offences or which are subject to seizure shall be delivered to the Bureau of Forensic Science and Criminalistics of the Police Administration. The procedure for storage and destruction of substances shall be established by the Minister of Internal Affairs.

§ 8. Schedules of narcotic drugs, psychotropic substances and precursors

(1) Schedules of narcotic drugs, psychotropic substances and precursors, and amendments to be made thereto on the proposal of the Agency of Medicines shall be approved by the Minister of Social Affairs.

(2) Narcotic drugs and psychotropic substances are classified into schedules as follows:

1) Schedule I comprises narcotic drugs and psychotropic substances the handling of which is prohibited in Estonia except in the cases prescribed by law;

2) Schedule II comprises narcotic medicinal products and substances which are dispensed only pursuant to a medical prescription for a narcotic medicinal product;

3) Schedule III comprises narcotic and psychotropic medicinal products and substances which are dispensed pursuant to a medical prescription;

4) Schedule IV comprises psychotropic medicinal products and substances which are dispensed pursuant to a medical prescription;

5) an activity license for narcotic substances is required for handling substances on schedules II and III.

(3) Precursors are classified into schedules as follows:

1) Schedule I comprises substances which are the bases in the synthesis of narcotic drugs or psychotropic substances;

2) Schedule II comprises reagents which may be used in the preparation of narcotic drugs or psychotropic substances.

(4) The definitions of small and large quantities of narcotic drugs and psychotropic substances shall be established by a regulation of the Government of the Republic.

§ 9. Final identification of narcotic drugs, psychotropic substances and precursors

(1) The final identification of narcotic drugs, psychotropic substances and precursors is ensured by the Bureau of Forensic Science and Criminalistics of the Police Administration.

(2) The identification of medicinal products containing narcotic drugs, psychotropic substances and precursors and usability thereof is ensured by the Agency of Medicines.

(3) The final identification of narcotic drugs and psychotropic substances from human body fluids and post-mortem materials is ensured by the Bureau of Forensic Medicine of Estonia.

(4) The Bureau of Forensic Science and Criminalistics of the Police Administration, the Bureau of Forensic Medicine of Estonia and the Agency of Medicines may order analyses from local and foreign laboratories.

§ 10. Prevention of spread of drug addiction

(1) Prevention of the illicit use of narcotic drugs and psychotropic substances and reduction of the spread of drug addiction are organised pursuant to this Act and a national programme. The national programme for prevention of drug addiction shall be approved by the Government of the Republic and financed from the state budget.

(2) The Government of the Republic and local governments shall promote the activities of non-profit associations and foundations striving to prevent the spread of drug addiction.

§ 11. Treatment of drug addiction

(1) Drug addiction is treated on the basis of a person's free will pursuant to the procedure prescribed in the Mental Health Act (RT I 1997, 16, 260; 1999, 31, 425; 2001, 50, 284; 53, 309).

(2) Hospitalization of drug addicts who pose a danger to themselves or others due to a mental disorder, regardless of their will, shall be effected pursuant to legislation regulating mental health care.

§ 12. Rehabilitation of drug addicts

The rehabilitation of and social assistance to persons suffering from drug addiction shall be organised by the Government of the Republic and local governments.

Chapter 3

Liability for Violation of this Act and Legislation Regulating Handling of Narcotic Drugs and Psychotropic Substances

§ 13. Liability of natural persons

Natural persons shall bear disciplinary, administrative or criminal liability pursuant to the procedure prescribed by law for violation of this Act or other legislation regulating the handling of narcotic drugs, psychotropic substances and precursors.

§ 14. Administrative liability of legal persons

(1) A fine of up to 200 000 kroons is imposed on a legal person who violates the procedure for handling narcotic drugs, psychotropic substances or precursors where an appropriate handling permit was issued.

(2) A fine of up to 300 000 kroons is imposed for handling a substance specified in subsection (1) of this section without a prescribed permit.

§ 15. Procedure in matters concerning offences specified in § 14 of this Act

(1) Administrative court judges have the right to hear, and impose administrative punishment in matters concerning offences specified in § 14 of this Act.

(2) In matters concerning offences specified in subsection 14 (2) of this Act, narcotic drugs, psychotropic substances or precursors which are the direct object of such offences are subject to mandatory seizure.

(3) The procedure in matters concerning administrative offences by legal persons specified in § 14 of this Act, including the imposition of punishment, contestation thereof and execution of orders concerning administrative punishments which have entered into force, is effected pursuant to the procedures prescribed in this Act, the Code of Administrative Offences (RT 1992, 29, 396; RT I 2001, 74, 453; 87, 524 and 526) and the Code of Enforcement Procedure (RT I 1993, 49, 693; RT I 2001, 29, 156; 43, 238).

(4) Police officials, customs officials and officials of the Agency of Medicines have the right to prepare reports concerning administrative offences by legal persons specified in § 14 of this Act. A report shall indicate the date and place of preparation of the report; the name and address of the agency in whose name the report is prepared; the official title, given name and surname of the person who prepared the report; the name or business name, registration number and location of the offending legal person; the given name and surname and official title of the competent representative of the legal person; the place, date and description of the offence; a reference to a subsection of § 14 of this Act which prescribes liability for such offence; the explanation provided by the representative of the offender or a notation concerning refusal to provide an explanation; and other information as required. A report is signed by the person who prepared the report and the representative of the offender. If the representative of the offender refuses to sign the report, a corresponding entry shall be made therein by the person who prepared the report. Written notations by the representative of the offender concerning the report and refusal to sign the report shall be appended to the report.

(5) If a natural person acting as an employee or by authority of a legal person commits an offence specified in § 14 of this Act, the natural person may be held liable for such offence pursuant to the Code of Administrative Offences simultaneously with the legal person pursuant to § 14 of this Act.

Chapter 4

Implementing Provisions

[§§ 16-18 omitted][2]

§ 19. Entry into force of Act

This Act enters into force on 1 November 1997.

[1] RT = *Riigi Teataja = State Gazette*
[2] The omitted sections amend other legislation.