Chancellor of Justice Act

Passed 25 February 1999

(RT¹ I 1999, 29, 406),

entered into force 1 June 1999,

amended by the following Acts:

11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142;
29.01.2003 entered into force 15.03.2003 - RT I 2003, 20, 119;
16.06.2002 entered into force 01.08.2002 - RT I 2002, 57, 357;
13.03.2002 entered into force 06.04.2002 - RT I 2002, 30, 176;
06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 353;

Chapter 1

General Provisions

§ 1. Duties of Chancellor of Justice

(1) The Chancellor of Justice is in his or her activities an independent official who reviews the legislation of general application of the legislative and executive powers and of local governments for conformity with the Constitution of the Republic of Estonia (hereinafter the Constitution) and the Acts of the Republic of Estonia.

(2) The Chancellor of Justice shall analyse proposals made to him or her concerning the amendment of Acts, passage of new Acts and activities of state agencies, and, if necessary, shall present a report to the Riigikogu².

(3) The Chancellor of Justice shall make a proposal to the Riigikogu that criminal charges be brought against a member of the Riigikogu, the President of the Republic, a member of the Government of the Republic, the Auditor General, the Chief Justice of the Supreme Court or a justice of the Supreme Court pursuant to law.

(4) The Chancellor of Justice may submit a request to the Supreme Court en banc to declare of the President of the Republic incapable of performing his or her duties for an extended period.

(5) The Chancellor of Justice resolves discrimination disputes which arise between persons in private law on the basis of the Constitution and other Acts.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 2. Participation of Chancellor of Justice in sessions of Riigikogu and Government of the Republic

(1) The Chancellor of Justice may participate in sessions of the Riigikogu and the Government of the Republic, with the right to speak.

(2) Agendas of sessions of the Riigikogu and the Government of the Republic together with draft legislation to be debated shall be sent to the Chancellor of Justice.

§ 3. Interpellations of members of Riigikogu

The Chancellor of Justice shall reply to the interpellations of members of the Riigikogu pursuant to the procedure provided by law.

§ 4. Overview of Chancellor of Justice to Riigikogu

(1) The Chancellor of Justice shall present an annual overview to the Riigikogu during the third working week of the autumn plenary session of the Riigikogu on the conformity of legislation of general application of the legislative and executive powers and of local governments with the Constitution and Acts. The overview of the Chancellor of Justice shall be published in the Riigi Teataja Lisa.

(2) The Chancellor of Justice shall present an overview of his or her activities in reviewing the guarantee of constitutional rights and freedoms in the plenary session of the Riigikogu. A printed overview of the preceding calendar year shall be published as a separate publication not later than by 1 October and presented to the Riigikogu.

Chapter 2

Status of Chancellor of Justice

§ 5. Appointment of Chancellor of Justice to office

The Chancellor of Justice shall be appointed to office by the Riigikogu on the proposal of the President of the Republic for a term of seven years.

§ 6. Requirements for Chancellor of Justice
(1) The Chancellor of Justice must be an Estonian citizen who has active legal capacity, is of high moral character and is fully proficient in the official language.

(2) The Chancellor of Justice must have completed an academic education in law and he or she must be an experienced and recognised lawyer.

§ 6. Security check of candidate for Chancellor of Justice

(1) The candidate for Chancellor of Justice must pass a security check before being appointed the Chancellor of Justice, except if he or she has a valid access permit in order to access state secrets classified as “top secret”.

(2) A person acquires the status of the candidate for Chancellor of Justice after the President of the Republic has proposed to the person to apply for the office and the person agrees to it in writing.


(4) In order to pass the security check, the candidate for Chancellor of Justice shall submit a completed form for an applicant for a permit to access state secrets classified as “top secret” to the Security Police Board through the Office of the President of the Republic, and also written consent which permits the agency which performs security checks to obtain information concerning the person from natural and legal persons and state and local government agencies and bodies during the performance of the security check.

(5) The Security Police Board shall, within three months as of receipt of the documents specified in subsection (4) of this section, present the information gathered as a result of the security check to the President of the Republic and shall provide an opinion concerning the compliance of the candidate for Chancellor of Justice with the conditions for the issue of a permit for access to state secrets.

(06.06.2001 entered into force 12.07.2001 - RT I 2001, 58, 353)

(6) In the cases where the authority of the Chancellor of Justice has terminated prematurely, the security check of the candidate for Chancellor of Justice shall be performed within one month as of the receipt of the documents specified in subsection (4) of this section. With the permission of the Committee for the Protection of State Secrets, the term for performing the security check may be extended by one month if circumstances specified in clause 30 (2 1) 1) or 2) of the State Secrets Act (RT I 1999, 16, 271; 82, 752; 2001, 7, 17; 93, 565; 100, 643; 2002, 53, 336; 57, 354; 63, 387; 2003, 13, 67; 23, 147) exist or if it is possible that circumstances specified in clause 30 (2 1) 3) or 4) of the State Secrets Act may arise within one month.
§ 7. Oath of office of Chancellor of Justice

(1) The Chancellor of Justice shall assume office during the first working week of the plenary session of the Riigikogu following his or her appointment by taking the following oath of office before the Riigikogu:

“I swear to remain faithful to the people of Estonia, the Republic of Estonia and its constitutional order, and to perform, in an impartial manner, all the duties required of my office according to my conscience and in conformity with the Constitution of the Republic of Estonia and the law.”

(2) The text of the oath of office shall be signed by the Chancellor of Justice and deposited in the Chancellery of the Riigikogu during the term of office of the Chancellor of Justice; after the Chancellor of Justice leaves office, the text shall be deposited in the State Archives.

§ 8. Termination of authority of Chancellor of Justice

The authority of the Chancellor of Justice is deemed to be terminated:

1) as of the date of expiry of the seven year term referred to in § 5 of this Act;

2) as of the date of his or her resignation from office;

3) as of the date of entry into force of a judgment of the Supreme Court en banc in the case of his or her extended inability to perform his or her functions for more than six consecutive months;

4) as of the date of entry into force of a conviction by a court against him or her for an intentionally committed criminal offence;

5) as of the date of entry into force of a conviction by a court against him or her which prescribes imprisonment for a criminal offence committed due to negligence;

6) upon his or her death.

§ 9. Resignation of Chancellor of Justice

The Chancellor of Justice shall notify the President of the Republic of his or her resignation from office at least four months in advance.

§ 10. Extended inability of Chancellor of Justice to perform functions

(1) If the Chancellor of Justice is unable to perform his or her functions for six consecutive months due to illness or for any other reason, the President of the Republic shall file a reasoned petition with the Supreme Court to declare by a decision that the Chancellor of Justice is unable to perform his or her functions.
The Supreme Court en banc shall review the petition and make a decision promptly.

A judgment of the Supreme Court en banc, by which the Chancellor of Justice is declared unable to perform his or her functions for and extended period, enters into force as of the date of proclamation of the decision.

A decision of the Supreme Court en banc which has entered into force releases the Chancellor of Justice from office.

§ 11. Bringing criminal charges against Chancellor of Justice

Criminal charges may be brought against the Chancellor of Justice only on the proposal of the President of the Republic and with the consent of the majority of the membership of the Riigikogu.

The authority of the Chancellor of Justice shall be suspended as of the date of a resolution of the Riigikogu to approve the bringing of criminal charges against the Chancellor of Justice.

The authority of the Chancellor of Justice shall be restored as of the date of entry into force of a judgment of acquittal or a conviction by a court against him or her for a criminal offence committed due to negligence (except upon his or imprisonment), or as of the date of termination of criminal procedure in his or her criminal matter.

The Chancellor of Justice shall be removed from office as of:

1) the date of entry into force of a conviction by a court against him or her for an intentionally committed criminal offence;

2) the date of entry into force of a conviction by a court against him or her which prescribes imprisonment for a criminal offence committed due to negligence.

The procedure for bringing criminal charges against the Chancellor of Justice is provided for in the Procedure for Bringing Criminal Charges against Member of Riigikogu, Auditor General, Chancellor of Justice, Chief Justice of Supreme Court and Justice of Supreme Court Act (RT I 1995, 83, 1440; 1998, 41/42, 625; 2002, 64, 390).

§ 12. Restrictions on activities of Chancellor of Justice

During his or her term of office, the Chancellor of Justice shall not:

1) hold another state or local government office or an office of a legal person in public law;

2) participate in the activities of political parties;

3) belong to the management board, supervisory board or supervisory body of a commercial undertaking;
4) engage in enterprise, except his or her personal investments and the interest and dividends received therefrom and income received from the disposal of his or her property.

(2) The Chancellor of Justice is permitted to engage in research or teaching unless this hinders the performance of his or her functions.

§ 13. Duty of confidentiality of Chancellor of Justice

The Chancellor of Justice is required to maintain state secrets, business secrets and information subject to banking secrecy and not to disclose information of which he or she becomes aware concerning the family or private life of individuals or other information the disclosure of which is prohibited by law.

§ 14. Benefits of Chancellor of Justice related to office

(1) The salary of the Chancellor of Justice is provided by the Salaries of State Public Servants Appointed by Riigikogu or President of the Republic Act (RT I 1996, 81, 1448; 1999, 29, 406; 2000, 55, 359; 2002, 21, 117; 64, 390).

(2) Upon attaining pensionable age, the Chancellor of Justice has the right to receive an occupational pension if he or she has been employed as Chancellor of Justice for at least five years. An occupational pension shall not be paid upon attaining pensionable age in the event of continued employment in a position which grants the right to receive the specified occupational pension or as a member of the Riigikogu, the President of the Republic, a member of the Government of the Republic, the Chief Justice or a justice of the Supreme Court, the Commander or Commander-in-Chief of the Defence Forces, the Auditor General or the President of the Bank of Estonia, or in the case of removal from office of the Chancellor of Justice. The occupational pension for a retired Chancellor of Justice shall be 70 per cent of the salary rate for the Chancellor of Justice. Upon a change in the salary rate, the pension shall be paid in the altered amount as of the first day of the following month.

(3) The part of the occupational pension of Chancellor of Justice which exceeds the state old-age pension shall be paid from the state budget.

(4) When receiving the occupational pension of Chancellor of Justice, a person does not have the right to receive other state pensions. The occupational pension of Chancellor of Justice shall not be increased pursuant to the provisions of subsection 57 (2) of the Public Service Act (RT I 1995, 16, 228; RT I 1999, 7, 112; 10, 155; 16, 271 and 276; 2000, 25, 144 and 145; 28, 167; 102, 672; 2001, 7, 17 and 18; 17, 78; 24, 133; 47, 260; 2002, 21, 117; 62, 377; 110, 656; 2003, 4, 22; 13, 67).

(5) Upon the death of the Chancellor of Justice, every family member who is incapacitated for work and who was maintained by him or her shall be granted a survivor’s pension, the amount of which shall be 25 per cent of the occupational pension of Chancellor of Justice. The survivor’s pensions of the family members of the Chancellor of Justice together shall not exceed 75 per cent of the occupational pension rate for Chancellor of Justice.
(6) A Chancellor of Justice whose authority is terminated pursuant to clause 8 1) of this Act or due to illness pursuant to clause 8 3) of this Act has the right to receive compensation in an amount equal to the salary rate for six months.

Chapter 3

Constitutional Review and Supervision of Legality of Legislation of General Application

§ 15. Right of recourse to Chancellor of Justice to review conformity of legislation of general application with Constitution and law

Everyone has the right of recourse to the Chancellor of Justice to review the conformity of an Act or other legislation of general application with the Constitution or the law.

§ 16. Duty to submit legislation of general application

Copies of all legislation of general application of the legislative and executive powers and of local governments, international agreements which have not entered into force and all judgments of the Supreme Court which concern constitutional disputes and which have entered into force and resolutions to hold a referendum shall be sent to the Chancellor of Justice within ten days after their corresponding proclamation, passage, signature or entry into force.

(13.03.2002 entered into force 06.04.2002 - RT I 2002, 30, 176)

§ 17. Proposal to bring legislation of general application into conformity

If the Chancellor of Justice finds that legislation of general application, in full or in part, is contrary to the Constitution or the law, he or she shall propose to the body which passed the legislation that the legislation or a provision thereof be brought into conformity with the Constitution and the law within twenty days.

§ 18. Proposal to repeal legislation of general application

(1) If a body which passed legislation of general application has not brought the legislation or a provision thereof into conformity with the Constitution or the law within twenty days after the date of receipt of a proposal of the Chancellor of Justice, the Chancellor of Justice shall propose to the Supreme Court that the legislation of general application or a provision thereof be repealed.

(11) If the Chancellor of Justice finds that a draft Act, except a draft Act to amend the Constitution, or other national issue which is submitted to a referendum is in conflict with the Constitution or that the Riigikogu has materially violated the established procedure upon passage of the resolution to hold the referendum, he or she shall, within fourteen days as of receipt of the resolution of the Riigikogu, make a proposal to the Supreme Court to repeal the resolution of the Riigikogu concerning the submission of a draft Act or other national issue to a referendum.
(13.03.2002 entered into force 06.04.2002 - RT I 2002, 30, 176)

(2) The procedure for participation of the Chancellor of Justice and his or her rights in the constitutional review proceedings shall be provided by law.

Chapter 4

Supervision over Observance of Fundamental Rights and Freedoms

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

Division 1

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

General Provisions

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 19. Right of recourse to Chancellor of Justice

(1) Everyone has the right of recourse to the Chancellor of Justice in order to have his or her rights protected by way of filing a petition to request verification whether or not a state agency, local government agency or body, legal person in public law, natural person or legal persons in private law performing public duties (hereinafter agency under supervision) adheres to the principles of observance of the fundamental rights and freedoms and to the principles of sound administration.

(2) Everyone has the right of recourse to the Chancellor of Justice for the conduct a conciliation procedure if he or she finds that a natural person or a legal person in private law has discriminated against him or her on the basis of:

1) sex;

2) race;

3) nationality (ethnic origin),

4) colour;

5) language;

6) origin;

7) religion or religious beliefs;
8) political or other opinion;
9) property or social status;
10) age;
11) disability;
12) sexual orientation, or
13) other attributes specified by law.

(3) No court judgment shall have entered into force in the matter of the petition, and at the time of the filing of the petition, the matter shall not be subject to judicial proceedings or mandatory pre-trial complaint proceedings.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 20. Choice of form and purposefulness of proceedings by Chancellor of Justice

(1) Unless the form and other details of a procedural act are provided by law, the form and details of procedural acts shall be determined by the Chancellor of Justice based on the principles of purposeful, efficient, straightforward performance without undue delay, avoiding superfluous costs and inconveniences to persons.

(2) The Chancellor of Justice may authorise the Deputy Chancellor of Justice-Adviser or adviser to the Chancellor of Justice to perform acts the performance of which is prescribed for the Chancellor of Justice in this Chapter.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 21. Principle of investigation and specialists

(1) During proceedings in a matter, the Chancellor of Justice shall establish the facts relevant to the matter and, if necessary, collect evidence on his or her own initiative for such purpose.

(2) The Chancellor of Justice may obtain the opinion of specialists in issues relevant to the adjudication of a matter.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 22. Removal

A Deputy Chancellor of Justice-Adviser or adviser to the Chancellor of Justice shall remove himself or herself from the conduct of the proceedings in a matter if he or she doubts his or her impartiality. A petition of challenge regarding a Deputy Chancellor of Justice-Adviser or adviser
to the Chancellor of Justice shall be submitted to the Chancellor of Justice by the petitioner or respondent. A petition must be substantiated.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 23. Filing of petitions

(1) A petitioner shall file a petition in person or through an authorised representative.

(2) In conciliation proceedings for resolution of discrimination disputes, a person who has legitimate interest to check compliance with the requirements for equal treatment may also act as a representative.

(3) A petition shall contain the following information:

1) the name, postal address, personal identification code or date of birth of the petitioner;

2) the name of the agency or person who allegedly violated the rights of the petitioner (hereinafter respondent);

3) a sufficiently clear description of the activity specified in the petition.

(4) The representative of the petitioner shall append a document certifying the right of representation to the petition.

(5) If a petition is not in conformity with the requirements set forth in subsections (3) and (4) but the deficiency can be eliminated, the Chancellor of Justice shall require additional clarification from the petitioner or set a term for elimination of the deficiency to the petitioner.

(6) A petitioner has the right to file a petition orally. In such event the Chancellor of Justice shall formalise the petition in writing.

(7) In addition to the information listed in subsection (3) of this section, the Chancellor of Justice may ask petitioners for other information for statistical purposes. Petitioners have the right to decline submission of such information.

(8) The Chancellor of Justice may classify a petition and information contained therein as information intended for internal use if so requested by the petitioner or if the Chancellor of Justice finds that access to the petition must be restricted in order to protect the rights and freedoms of persons.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 24. Forwarding of petitions
If a petition is filed with the Chancellor of Justice by a prisoner, conscript, or person in a psychiatric hospital, special care home, general care home, children's home or youth home, the relevant agency shall promptly forward the petition to the addressee at the agency’s expense without examining the contents of the petition.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 25. Refusal to review petition

(1) The Chancellor of Justice shall refuse to review a petition if resolution thereof does not fall within the competence of the Chancellor of Justice.

(2) The Chancellor of Justice may refuse to review a petition if:

1) the petition is not in conformity with the requirements provided for in this Act and the petitioner has failed to eliminate the deficiencies within the set term;

2) the petition is clearly unfounded.

(3) The Chancellor of Justice shall notify a petitioner of the refusal to review the petition in writing. The notice shall contain the reasons for the refusal to review the petition.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 26. Commencement of proceedings

If the Chancellor of Justice accepts a petition, he or she shall notify the petitioner thereof and set out the acts which he or she has performed or deems necessary to perform for the conduct of proceedings in connection with the petition.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 27. Unrestricted access and professional assistance

(1) In the course of proceedings in a matter, the Chancellor of Justice shall have unrestricted access to documents, other materials and areas which are in the possession of the agencies under supervision and the parties to conciliation proceedings. Agencies and persons shall grant the Chancellor of Justice unconditional and immediate access to all documents, materials and areas which are in the possession of the agencies and persons.

(2) Agencies under supervision shall provide professional assistance to the Chancellor of Justice in the course of proceedings.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 28. Demand for information
The Chancellor of Justice has the right to demand information necessary for the performance of his or her duties. Agencies under supervision, parties to conciliation proceedings, other persons and agencies shall communicate such information within the term set by the Chancellor of Justice.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 29. Collection of explanations

The Chancellor of Justice may demand that agencies under supervision and parties to conciliation proceedings submit written explanations concerning a petition. Agencies and persons shall comply with such demand within the term prescribed by the Chancellor of Justice.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 30. Taking of testimony

(1) In the course of proceedings, the Chancellor of Justice may take testimonies from persons concerning whom there is information that they know facts relevant to the matter and are capable of providing truthful testimonies concerning such facts.

(2) Persons specified in subsections 51 (2), (3) and (31) of the Code of Criminal Procedure (ENSV ÜT 1961, 1, 4 and Appendix; RT I 2002, 85, 503; 82, 480; 2003, 13, 67) may refuse to provide a testimony except in the cases where provision of testimony is requested by the person concerning whom the information is disclosed.

(3) A person asked to provide testimony is required to appear following a summons from the Chancellor of Justice. The following information concerning a person shall be set forth in a summons:

1) name;

2) the place and time of appearance;

3) the matter concerning which the person is summoned, the role of the person in the proceedings and the purpose of the summons;

4) description of consequences of failure to appear.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 31. Reimbursement of expenses of specialists, interpreters, translators and witnesses

(1) If in the proceedings conducted by the Chancellor of Justice the work performed by a specialist, interpreter or translator is not part of his or her official duties, the specialist, interpreter or translator shall be reimbursed out of the budget of the Chancellor of Justice on the bases and

(2) If the employer of a witness involved by the Chancellor of Justice is any other than the state or agency under supervision, the person shall be paid compensation for absence from work or his or her everyday activities form the budget of the Chancellor of Justice on the bases and pursuant to the procedure provided in §§ 53 and 55 of the Code of Civil Procedure.

(3) Agencies and persons participating in proceedings may involve specialists, interpreters, translators and witnesses at their own expense.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 32. Public disclosure of case concerning which proceedings are conducted

(1) The Chancellor of Justice may disclose the content of a petition concerning which proceedings are conducted and the final result of the proceedings in the media or through other channels without disclosing any information which would allow the persons involved to be identified.

(2) The Chancellor of Justice may disclose the names of persons who refuse to give testimony without good reason.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

Division 2

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

Supervision over Legality and Observance of Principles of Sound Administration

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 33. Scope of supervision

The Chancellor of Justice verifies whether or not agencies under supervision adhere to the principles of observance of the fundamental rights and freedoms and principles of sound administration.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 34. Commencement of proceedings

(1) The Chancellor of Justice shall commence proceedings on the basis of a petition filed by a person, or on his or her own initiative on the basis of obtained information.
(2) The Chancellor of Justice may refuse to review a filed petition if:

1) the petition is filed after one year as of the date on which the person became aware or should have become aware of the violation of his or her rights;

2) the person has the possibility to file a challenge or resort to other legal remedies;

3) challenge proceedings or other non-obligatory pre-trial proceedings are conducted.

(3) If the Chancellor of Justice commences the proceedings on his or her own initiative, he or she shall notify the relevant agency of the reasons for and purpose of the commencement of proceedings.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 35. Obstruction of activities of Chancellor of Justice

(1) Obstruction of the activities of the Chancellor of Justice means:

1) concealment of information from the Chancellor of Justice which is necessary for the performance of his or her duties, evading provision of such information and refusal to provide such information without good reason;

2) evading provision of explanation or testimony, or refusal to provide explanation or testimony without good reason;

3) provision of insufficient or incorrect explanation, testimony or information;

4) hindrance of unrestricted access.

(2) The Chancellor of Justice has the right to commence disciplinary proceedings against officials who obstruct the activities of the Chancellor of Justice or his or her adviser.

(3) The Chancellor of Justice may inform the public of obstruction of his or her activities.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 35. Completion of proceedings

(1) Proceedings are completed when the Chancellor of Justice formulates his or her position, assessing whether the activities of the agency under supervision are legal and in compliance with the principles of sound administration.

(2) The Chancellor of Justice may provide criticism, suggestions and express his or her opinion in other ways or make proposals for the elimination of the violation.
(3) The position of the Chancellor of Justice shall be communicated in writing to the petitioner and to the agency under supervision which participated in the proceedings. The position is final and can not be contested in court.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 35. Ensurance of compliance with proposal of Chancellor of Justice

(1) An agency who receives a suggestion or proposal from the Chancellor of Justice shall inform the Chancellor of Justice, within the term set by him or her, of the details of compliance with the suggestion or proposal.

(2) The Chancellor of Justice has the right to make inquiries concerning compliance with his or her suggestions and proposals. An agency who receives an inquiry shall answer without delay.

(3) Upon non-compliance with a suggestion or proposal of the Chancellor of Justice or failure to answer an inquiry of the Chancellor of Justice by an agency, the Chancellor of Justice may report such fact to the authority which exercises supervision over the agency, to the Government of the Republic or to the Riigikogu.

(4) The Chancellor of Justice may inform the public of his or her suggestions or proposals, and compliance or failure to comply therewith.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 35. Legal aid and exemption from state fees

The Chancellor of Justice may make a recommendation for provision of legal aid to petitioners or exemption of petitioners from state fees in court proceedings in matters within his or her competence.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 35. Notification of offence

If the Chancellor of Justice finds that an official has violated the Constitution or the law, he or she shall notify either an investigative body or another competent body thereof in writing and, if necessary, shall forward all relevant information and documents to the body.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

Division 3

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

Conciliation Proceedings for Resolution of Discrimination Disputes
§ 35. Competence to resolve discrimination disputes

(1) The Chancellor of Justice exercises supervision over the activities of natural persons and legal persons in private law and conducts conciliatory proceedings based on petitions filed by persons who find that they are discriminated on the basis of an attribute specified in subsection 19 (2).

(2) Petitions concerning the activities of natural persons or legal persons in private law do not fall within the competence of the Chancellor of Justice if they concern:

1) professing and practising of faith or working as a minister of a religion in religious associations with registered articles of association;

2) relations in family or private life;

3) performance of right of succession.

§ 35. Term of recourse to Chancellor of Justice

The Chancellor of Justice may refuse to review a filed petition if it is filed later than four months as of the date on which the person became aware or should have become aware of the alleged discrimination.

§ 35. Commencement of conciliation proceedings

(1) After accepting a petition, the Chancellor of Justice shall send a copy of the petition to the respondent whose activities are contested in the petition and shall set a term for submission of a written response. In the written response, the respondent may propose to resolve the dispute.

(2) The Chancellor of Justice shall send a copy of the written response specified in subsection (1) to the petitioner. The petitioner shall inform the Chancellor of Justice within the set term whether or not the petitioner consents to the proposal of the respondent to resolve the dispute.

(3) If the petitioner consents to the proposal to resolve the dispute specified in subsection (2) and such resolution ensures a fair balance in the rights of the parties, the Chancellor of Justice shall deem the petition to be resolved and shall conclude the proceedings.

§ 35. Conduct of proceedings
(1) Sessions conducted in the course of conciliation proceedings shall be closed. Documents and information pertaining to conciliation proceedings shall not be disclosed.

(2) Information pertaining to conciliation proceedings may be disclosed in the manner prescribed in § 32.

(3) Taking of explanations and oral testimonies and use of unrestricted access shall be recorded pursuant to the procedure prescribed in § 18 of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117).

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 35. Review of petition in session

(1) A petition filed by a person may be reviewed in a session in the presence of the petitioner and respondent or their representatives. The Chancellor of Justice may obligate the parties to appear in person.

(2) The Chancellor of Justice shall set the time and place for holding a session and notify the petitioner and respondent thereof.

(3) A session shall be chaired by the Chancellor of Justice who shall:

1) explain the content of the petition and the corresponding rules of law;

2) grant the petitioner a possibility to provide his or her position and provide reasons therefor;

3) grant the respondent a possibility to provide his or her position as to whether the respondent accepts or contests the petitioner’s allegations.

(4) At a session, documents and other evidence are examined and assessed. With the Chancellor of Justice’s consent, witnesses and specialists may be summoned to and heard at a session.

(5) Minutes shall be taken of a session in the manner prescribed in § 18 of the Administrative Procedure Act.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 35. Conclusion of conciliation proceedings

Conciliation proceedings shall be concluded if:

1) proceedings are terminated,

2) the parties fail to reach an agreement, or
3) the Chancellor of Justice approves the agreement.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 35. Termination of conciliation proceedings

(1) Conciliation proceedings are terminated if:

1) the petitioner submits a written notice concerning his or her withdrawal of the petition filed with the Chancellor of Justice,

2) the respondent fails to submit the written response specified in § 35 within the term set by the Chancellor of Justice or communicates refusal to participate in the conciliation proceedings in the response, or

3) the petitioner or respondent fails to perform procedural acts without good reason within the term set by the Chancellor of Justice, refuses to perform the acts or obstructs the organisation of the conciliation proceedings in any other manner.

(2) The Chancellor of Justice shall give written notice of termination of the conciliation proceedings to the petitioner and respondent.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 35. Proposal to resolve dispute and enter into agreement

(1) The Chancellor of Justice shall make a proposal to resolve the dispute and enter into an agreement, and shall communicate such proposal to the parties to the conciliation proceedings at the end of a session, or shall set a term during the session within which he or she will communicate the proposal to the petitioner and respondent.

(2) In the proposal, the Chancellor of Justice shall present his or her substantiated opinion on the discrimination allegations formed by him or her in the course of the proceedings based on obtained evidence and established facts. In the proposal, the Chancellor of Justice may suggest that the respondent perform appropriate acts, and take measures for payment of compensation and restitution of the petitioner’s rights. The Chancellor of Justice may propose to the respondent to compensate for the reasonable expenses which the petitioner has borne or will bear for the services of specialists, interpreters, translators or witnesses.

(3) The Chancellor of Justice shall explain the consequences of approval of the agreement specified in § 35 to the parties.

(4) The petitioner and respondent may, within ten working days as of the receipt of the proposal of the Chancellor of Justice, present their positions expressing consent or opposition to the content of the proposal. Failure to present a position shall be considered as consent to the proposal.
§ 35. Approval of agreement

(1) If the petitioner and respondent consent to the proposal of the Chancellor of Justice, the Chancellor of Justice shall approve the agreement and notify the parties thereof in writing.

(2) If the petitioner or the respondent fails to consent to the proposal of the Chancellor of Justice, the Chancellor of Justice shall state the failure to reach an agreement and shall notify the parties thereof in writing.

§ 35. Performance of agreement

(1) Performance of an agreement approved by the Chancellor of Justice is mandatory to the parties to conciliation proceedings. An agreement shall be performed within thirty days as of the date on which a copy of the agreement is received, unless another term is prescribed in the agreement.

(2) If an agreement is not performed within the term specified in subsection (1), the petitioner or respondent may submit the agreement approved by the Chancellor of Justice to a bailiff for enforcement pursuant to the procedure provided by the Code of Enforcement Procedure.

§ 35. Recourse to courts

(1) If conciliation proceedings are terminated or the Chancellor of Justice has stated failure to reach an agreement, the petitioner has, within thirty days as of the receipt of the notice, the right of recourse to a court or to an authority conducting pre-trial proceedings as provided by law for the protection of his or her rights.

(2) An agreement approved by the Chancellor of Justice shall be final and can not be contested in court, except if the Chancellor of Justice has materially violated a provision of conciliation procedure and such violation affects or may affect the content of the agreement.

(3) An action may be filed with an administrative court for establishment of the Chancellor of Justice’s material violation of a provision of conciliation procedure within thirty days after the date on which approval of an agreement is communicated.

(4) If a court establishes material violation by the Chancellor of Justice of a provision of conciliation procedure which affects or may affect the content of the agreement, the agreement approved by the Chancellor of Justice shall be deemed to be null and void and the person has the right to recourse to court for the protection of his or her rights within thirty days as of the entry into force of the court judgment.
Division 4

Activities of Chancellor of Justice in Application of Principles of Equality and Equal Treatment

§ 35. Promotion of principles of equality and equal treatment

The Chancellor of Justice shall perform the following duties for application of the principles of equality and equal treatment:

1) analyse the effect of the implementation of legislation to the condition of the members of the society;

2) inform the Riigikogu, Government of the Republic, governmental agencies, local government agencies and bodies, other interested persons and the public of application of the principles of equality and equal treatment;

3) make proposals for amendment of legislation to the Riigikogu, Government of the Republic, governmental agencies, local government agencies, local government bodies and employers;

4) promote, in the interests of adherence to the principles of equality and equal treatment, the development of national and international co-operation between individuals, legal persons and agencies;

5) promote, in co-operation with other persons, the principles of equality and equal treatment.

Chapter 5

Office of Chancellor of Justice

§ 36. Office of Chancellor of Justice

(1) The Office of the Chancellor of Justice is the agency servicing the Chancellor of Justice as a constitutional institution.

(2) The Office of the Chancellor of Justice is directed by the Chancellor of Justice who approves the statutes, structure and staff of the structural units thereof.
(3) The Chancellor of Justice decides on grant of right of signature to the employees of the office and the extent of such right.

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

(5) The office hours of the Chancellor of Justice and his or her advisers specified in subsections 38 (5) and (6) of this Act shall be published in national daily newspapers.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

§ 37. Deputy Chancellor of Justice-Adviser

(1) On the proposal of the Chancellor of Justice, the Riigikogu shall appoint two advisers to the Chancellor of Justice to office as Deputy Chancellor of Justice-Advisers. Upon assumption of office, the Deputy Chancellor of Justice-Advisers shall take the oath of office referred to in § 7 of this Act.

(2) If the Chancellor of Justice is temporarily unable to perform his or her functions, or upon termination of the authority of the Chancellor of Justice on the bases provided for in § 8 of this Act, one of the Deputy Chancellor of Justice-Advisers shall perform the functions of the Chancellor of Justice until a new Chancellor of Justice assumes office, pursuant to the procedure for substitution determined by the Chancellor of Justice.

(3) An adviser to the Chancellor of Justice shall be released from the office of Deputy Chancellor of Justice-Adviser:

1) as of the date of his or her resignation from office;

2) in the case of his or her extended inability to perform his or her functions for more than six consecutive months, as of the date on which a new Deputy Chancellor of Justice-Adviser assumes office on the proposal of the Chancellor of Justice;

3) as of the date on which a new Deputy Chancellor of Justice-Adviser appointed by a new Chancellor of Justice assumes office;

4) as of the date of entry into force of a conviction by a court against him or her for an intentionally committed criminal offence;

5) as of the date of entry into force of a conviction by a court against him or her which prescribes imprisonment for a criminal offence committed due to negligence;

6) upon his or her death.

§ 38. Adviser to Chancellor of Justice
(1) A person who has higher education may be appointed as an adviser to the Chancellor of Justice.

(2) Advisers and senior advisers are advisers to the Chancellor of Justice.

(3) A person who has been employed as a judge, notary, sworn advocate, or teacher at an institution of higher education for at least three years, or who has been employed in other public service for at least three years, may be appointed as an adviser to the Chancellor of Justice.

(4) A person who has been employed as an adviser to the Chancellor of Justice, or as a judge, notary, sworn advocate, or teacher at an institution of higher education for at least five years, or who has been employed in other public service for at least five years, may be appointed as a senior adviser to the Chancellor of Justice.

(5) The Chancellor of Justice may designate certain advisers to work on the review of specific areas of fundamental rights.

(6) The Chancellor of Justice may designate advisers to counties.

§ 39. Restrictions on activities of Deputy Chancellor of Justice-Advisers and advisers to Chancellor of Justice

The restrictions provided for in §§ 12 and 13 of this Act apply to Deputy Chancellor of Justice-Advisers and advisers to the Chancellor of Justice.

§ 40. Salaries

(1) The work of Deputy Chancellor of Justice-Advisers, advisers to the Chancellor of Justice and employees of the Office of the Chancellor of Justice shall be remunerated pursuant to Acts providing the salary conditions for state and public servants; the Chancellor of Justice has the right to increase the salary rates prescribed by the corresponding Acts by up to 50 per cent.

(2) All social guarantees prescribed for state public servants, with the exceptions provided for in this Act, extend to the Chancellor of Justice, Deputy Chancellor of Justice-Advisers, advisers to the Chancellor of Justice and employees of the Office of the Chancellor of Justice.

§ 41. Occupational pension of Deputy Chancellor of Justice-Adviser

(1) Upon attaining pensionable age, a Deputy Chancellor of Justice-Adviser has the right to receive an occupational pension if he or she has been employed in the specified position for at least five years, and if he or she has been employed as a judge, notary, sworn advocate, or teacher at an institution of higher education for at least fifteen years, or has been employed in other public service for at least fifteen years. An occupational pension shall not be paid in the event of continued employment in a position which grants the right to receive the specified occupational pension.
(2) The occupational pension for a Deputy Chancellor of Justice-Adviser shall be 65 per cent of the salary for his or her position. Upon a change in the salary, the pension shall be paid in the altered amount as of the first day of the following month.

(3) The part of the occupational pension of Deputy Chancellor of Justice-Adviser which exceeds the state old-age pension shall be paid from the state budget.

(4) When receiving the occupational pension of Deputy Chancellor of Justice-Adviser, a person does not have the right to receive other state pensions, and the occupational pension shall not be increased pursuant to the provisions of subsection 57 (2) of the Public Service Act.

§ 42. Budget of Office of the Chancellor of Justice

(1) The budget of the Office of the Chancellor of Justice shall be approved by the Chancellor of Justice based on the state budget.

(2) The budget of the Office of the Chancellor of Justice shall prescribe funds for payment for consultations, translation, interpretation and expert assessment in the amount of up to 20 per cent of the annual salary fund. The procedure for payment of remuneration to consultants, translators, interpreters and specialists shall be established by the Chancellor of Justice.

(11.02.2003 entered into force 01.01.2004 - RT I 2003, 23, 142)

Chapter 6

Implementing Provisions

§ 43. Amendment of Salaries of State Public Servants Appointed by Riigikogu or President of the Republic Act

Section 6 of the Salaries of State Public Servants Appointed by Riigikogu or President of the Republic Act (RT I 1996, 81, 1448; 1999, 29, 406; 2000, 55, 359; 2002, 21, 117; 64, 390) is amended and worded as follows:

«§ 6. The factor for the salary of the Chancellor of Justice shall be 1.8.”

§ 44. Entry into force of Act

(1) This Act enters into force on 1 June 1999, and the Chancellor of Justice Activities Organisation Act (RT I 1993, 25, 436; 1996, 81, 1448; 1999, 16, 271) is repealed as of the same date.

(2) Proceedings concerning petitions filed with the Chancellor of Justice before the entry into force of this Act shall be completed pursuant to the procedure which was in force before the entry into force of this Act.
1 RT = Riigi Teataja = State Gazette

2 Riigikogu = the parliament of Estonia

3 Riigi Teatja Lisa = Appendix to the State Gazette