

## **Law on Border Guard**

Passed in Riigikogu on June 30, 1994

Proclaimed by the President of the Republic by Resolution No. 387 of July 13, 1994  
(Riigi Teataja Part I 1994. No. 54, Art. 903) – In force from July 31, 1994

### **Chapter I**

#### **GENERAL PROVISIONS**

##### **Article 1. Field of Application of the Law**

The present Law shall enact the legal status of the Border Guard, its duties, obligations and rights in safeguarding the integrity of the Estonian national frontiers (hereinafter: state border).

##### **Article 2. Border Guard, its Main Duty and Area of Activities**

(1) The Border Guard shall be a national armed organisation, its main duties being the following:

- 1) to guard and secure the state border on the mainland, at sea and on border bodies of water;
- 2) to prevent forceful alteration of the state border;
- 3) to prevent illegal crossing of the state border;
- 4) to prevent illegal conveyance of goods across the state border;
- 5) to guarantee the observance of the border regime;
- 6) to carry out control of the border;
- 7) to control the legality of the sojourn of the foreigners in Estonia.

(2) The area of activities of the Border Guard shall be established by the Government of the Republic.

##### **Article 3. The Flag, Pennant and other Symbols of the Border Guard**

The Estonian Border Guard shall carry its own flag, pennant and other symbols the description and statutes of which shall be approved by the Government of the Republic.

## Chapter II

## DUTIES OF THE BORDER GUARD

**Article 4. Duties of the Border Guard**

(1) For the performance of its basic duties the Border Guard shall:

- 1) prevent illegal alteration of the demarcation of the state border;
- 2) maintain crossing of the border at the set points, in the established order and at the fixed time and shall prevent the illegal crossing of the border;
- 3) guarantee the observance of the border regime;
- 4) hinder the illegal conveyance of goods and other values into, and out of, the customs territory across the Customs border between the Customs offices and Customs control stations and in the territorial waters;
- 5) observe the situation on the border strip and of the border marks and shall be responsible for the maintenance of these according to the interstate agreements and in the order established by the Government of the Republic;
- 6) inquire into and investigate the cases of felony and initiate proceedings concerning the cases of violations of administrative law and carry out prosecution according to the Law on Prosecution (*Riigi Teataja* Part I 1994, No. 16, Art. 290), within the authority vested in them;
- 7) effect the Customs surveillance according to the Customs Law (*RT* Part I 1993, No. 62, Art. 891; No. 76, Art. 1129; 1994, No. 30, Art. 466; Legal Acts of Estonia 1993, No. 6; 1994, No.1);
- 8) inspect documents on the border;
- 9) control the legality of the sojourn of foreigners in Estonia;
- 10) collect, analyze and maintain information about the situation on the state border in the order established by the Government of the Republic;

(2) The Border Guard shall participate in rescue service, in aiding the police, in safeguarding the legal system of the economy zone, in effecting supervision over the fulfilment of navigation, piscatorial and hunting regulations, likewise the control of the air space, applying its own technical means.

(3) The Border Guard officials shall notify the relevant Border Guard office about the cases of pursuit of the persons violating the border regime, or other operations carried through.

**Article 5. Reinforced Guarding of the State Border**

(1) The reinforced guarding of the state border may be established along the whole state border or in a certain fixed sector.

(2) The order of the reinforcement of guarding of the state border shall be established by the Government of the Republic.

**Article 6. Mission of the Border Guard in the Case of an Armed Conflict**

(1) In the case of an armed conflict taking place on the state border the Border Guard shall apply all the forces and means in its supply for the immediate detention of the violators of the border or for driving them out of the territory of Estonia.

(2) The Government of the Republic shall establish the order of the activities of the Border Guard in the case of an armed conflict on the state border and driving the violators of the border out of the territory of Estonia, as well as the order of the participation of the defence forces and the state defence organisations in aiding the Border Guard in the said case and other matters.

Chapter III

**RIGHTS OF BORDER GUARD**

**Article 7. The Rights of the Border Guard**

(1) The Border Guard shall be entitled:

1) to move along public, provisional and private roads and coast tracks, as well as exterior, while prosecuting a violator of the borders, on foot or on vehicles without restraint or an owner's or holder's permit;

2) to check additional documents of a person suspected of violating the border regime, and to search the person and his personal articles and the means of transport on spot;

3) to stop a means of transport suspected of violating the border regime and to check the documents of the driver, of the means of transport and of the cargo, and to inspect the means of transport and the cargo;

4) to take the violator of the border to the premises of Border Guard, Customs or police for identification and clearing the particulars of the offence, when needed;

5) to enter living space, buildings, constructions, possessions, places of work or means of transport for pursuing a person suspected of having committed an offence (illegal crossing of the border or smuggling) or for precluding him from crossing the border illegally;

6) to escort civil vessels to harbours and vehicles to Border Guard offices in case these vessels or vehicles have violated the border regime, and to place Border Guard officials on them, when needed.

(2) At the signal of a Border Guard official wearing a uniform natural persons must stop and means of transport be stopped, and upon demand an identification document as well as the documents concerning the means of transport and the cargo must be produced.

**Article 8. Arrestment of Vessels**

(1) The Border Guard shall be entitled to stop a vessel in case:

- 1) it does not answer the signals given by the Border Guard;
- 2) it practices illegal fishing or is engaged in illegal trade or any other illegal activity;
- 3) it violates the procedures of entry into, sojourn in or exit from, the territorial waters or the inland sea;
- 4) it is located in the restricted area of navigation;
- 5) it violates the regulations set for pacific navigation through the territorial waters.

(2) For signalling to the vessels to stop international signal flags as well as searchlights, pyrotechnical devices shall be made use of, or orders shall be transmitted over the radio, a loudspeaker or a megaphone; in exceptional cases arms shall be used.

(3) The Border Guard shall be entitled to pursue the vessel which did not obey the orders, outside the territorial waters up to the boundary of the territorial waters of a foreign state provided that the pursuit had started, but not ended, in the territorial waters.

(4) For the maintenance of legal order in the economic area the Border Guard shall be entitled to stop or to pursue a vessel, which had not obeyed the orders, up to the boundaries of the territorial waters of a foreign state.

(5) The Border Guard shall have no right to stop a warship.

Chapter IV

USE OF ARMS, MILITARY AND SPECIFIC EQUIPMENT

**Article 9. Armaments of the Border Guard**

(1) The categories and norms concerning armaments and military equipment of the Border Guard shall be established by the Government of the Republic.

(2) Armaments of the Border Guard must not include arms prohibited by international conventions.

**Article 10. Specific Equipment of the Border Guard**

(1) The specific equipment of the Border Guard shall include:

- 1) rubber truncheons;
- 2) handcuffs;
- 3) tear gas, gas pistols;
- 4) means for administering electro-shock;
- 5) lighting settings and sound devices for specific purposes;
- 6) means for compulsory arrestment of vehicles;
- 7) animals schooled for special service.

(2) Any conveniences may be used to tie up an infringer of the law.

**Article 11. Use of Arms and Military Equipment**

(1) Arms or military equipment shall be used by the Border Guard:

1) to repel any armed attack made on Estonia and to prevent privateering an aircraft or a vessel with no passengers, or stealing any other vehicle;

2) in counteraction to force used by a person, vessel, aircraft or other means of transport which has crossed or is crossing the border in a prohibited place or in a legally provided place but violating the established procedures for crossing the border.

(2) The Border Guard shall be entitled to use arms or military equipment:

1) to prevent an offensive in case it endangers life and health of other persons or of the Border Guard official himself;

2) to rescue a hostage;

3) to prevent a convoy or a person convoyed from being attacked;

4) to apprehend a wrongdoer or an armed person suspected of committing an offence, as well as to apprehend a wrongdoer or a person suspected of committing an offence in case they have escaped from under arrest;

(3) The Border Guard shall be entitled to use arms to make harmless an animal attacking or endangering a person, as well as to give a signal of danger or to call for help.

**Article 12. Use of Specific Equipment and Physical Force**

(1) The Border Guard shall be entitled to use specific equipment and force including hand-to-hand fight while performing their duty, in the following cases:

1) to repel a felonious attack;

2) to rescue a hostage;

3) to prevent violation of the border regime;

4) to free an illegally seized territory, building, premises or means of transport;

5) towards an infringer of the law, a person being detained or convoyed who disobeys the legal orders of the Border Guard or offers resistance or when there are reasonable grounds to believe that he may escape, or cause damage to other people or himself.

(2) The Border Guard shall use specific equipment and physical force taking into account the manner of the offence, the person of the wrongdoer and the circumstances of the case but shall avoid from causing more damage to the person than inevitable.

**Article 13. The Order and Conditions of Use of Arms, Military and Specific Equipment and Physical Force**

(1) Arms, military or specific equipment and physical force shall be used by the Border Guard at the utmost unless it is otherwise possible to perform the duties without endangering the life and health of other persons or of the Border Guard.

(2) The use of specific equipment or physical force should be preferred to that of arms, as circumstances permit.

(3) A warning call to attract attention or a warning shot should be made, as circumstances permit, prior to the application of arms, military or specific equipment or physical force.

(4) Without a preliminary warning arms, military or specific equipment or physical force may be applied:

- 1) in case of a sudden or armed attack made on a Border Guard official or any other person;
- 2) in case of an attack where military equipment, a vessel, an aircraft or other means of transport have been used;
- 3) in case of armed resistance;
- 4) to prevent the escape of an armed person under restraint;
- 5) to rescue a hostage.

(5) The category and way of use of arms, military and specific equipment or physical force by a Border Guard detail or subdivision shall be determined by the senior of the detail or the commander of the subdivision.

(6) The Border Guard officials who have been engaged in aiding the police shall use arms and specific equipment in the cases and order established in the Police Code (*RT* 1990, No. 10, Art. 113; 1991, No. 10, Art. 152; Part I 1993, No. 20, Art. 355; 1994, No. 34, Art. 533 and No. 40, Art. 654).

(7) The Government of the Republic or a board authorized by it shall set the order for reporting on every case of the use of arms, military or specific equipment or physical force.

(8) The Government of the Republic or a board authorized by it shall, when needed, establish regulations for the use of arms, military or specific equipment and physical force proceeding from the specific features of usage, type and safety regulations.

(9) A Border Guard official keeping guard may use arms, military or specific equipment or physical force on the occasion and in the order set in the garrison regulations of the Defence Forces.

**Article 14. Prohibition of the Use of Arms,  
Military and Specific Equipment**

The use of arms, military or specific equipment shall be prohibited:

- 1) against vessels, aircraft or other means of transport with passengers on;
- 2) against persons who have crossed or are crossing the border by apparent mistake, by virtue of an accident or *force majeure*;
- 3) in buildings, premises and places where explosives, ammunition, toxic, easily inflammable or radioactive substances are kept which, in case of active defence or by the agency of an offensive device, may endanger the life and health of people and jeopardize public security;

4) in regard to persons, buildings, premises, territories and means of transport enjoying diplomatic immunity unless otherwise provided in the international conventions or foreign treaties concluded by the Republic of Estonia;

5) in other cases provided by the law.

#### Chapter V

#### ORGANIZATION AND ADMINISTRATION OF BORDER GUARD

##### **Article 15. Organization and Administration of the Border Guard**

(1) The Border Guard is under the jurisdiction of the Ministry of Internal Affairs.

(2) The subordination and duties of the Border Guard in state of emergency shall be established in the law on state of emergency.

(3) In wartime the Border Guard shall be subjected to the Commander-in-Chief of the Defence Forces in the order set by the Government of the Republic.

(4) The Border Guard shall consist of:

1) the Border Guard Department;

2) Border Guard establishments, the Border Guard School and other institutions necessary to guarantee the missions of the border guard.

(5) The establishments of the Border Guard shall be:

1) border guard districts;

2) Border Guard Ships and Patrol Boats Special Division.

(6) Border guard districts shall include *inter alia* border guard cordons and posts and, when needed, border guard ships and patrol boats.

(7) The establishments listed in paragraph 4(2) of the present Article shall be founded by the Government of the Republic who shall likewise enact the order of approval of their statutes and staffs and the order of establishment of border guard cordons and posts.

##### **Article 16. Border Guard Ship and Patrol Boat**

For the purposes of the present Law a border guard ship or a patrol boat shall be any vessel in the possession of the Border Guard which carries the flag, pennant and badge of the Border Guard and is provided for guarding and defending the border.

##### **Article 17. Financing of the Border Guard**

The cost of maintenance of the Border Guard shall be funded from the state budget.

##### **Article 18. Material-Technical Supply of the Border Guard**

The order and norms of the material-technical supply of the Border Guard shall be established by the Government of the Republic.

**Article 19. Medical Service of the Border Guard**

The order of medical service of the Border Guard shall be established by the Government of the Republic.

Chapter VI

BORDER GUARD SERVICE

**Article 20. General Regulations of Border Guard Service**

(1) Border Guard service shall mean holding an office in the Border Guard by a border guard official.

(2) A person who, not being a Border Guard official, has been accepted to study at the Estonian National Defence and Public Service Academy, at the Border Guard School or in a Border Guard training subdivision, shall be considered as being in the border guard service and advantages set, as well as rights and legal protection, shall extend to him in the case he is performing the border guard duties or has, on his own initiative, set about preventing violation of borders or detaining or pursuing a violator of the borders.

(3) The rights, advantages and conditions of being guaranteed with a pension provided for a serviceman in contractual active service established by the Military Service Code (*RT* Part I 1994, No. 23, Art. 384) or by any other legal act, as well as the order of service set by the Government of the Republic, shall extend to the Border Guard officials.

(4) Military, garrison, drill and disciplinary regulations (up to the enforcement of the latter the non-judicial punishment regulations of the armed forces shall extend to the Border Guard service) of the armed forces shall apply also to the Border Guard service in the order established by the Government of the Republic.

(5) The Minister of Internal Affairs shall, in co-operation with the Commander-in-Chief of the Defence Forces, direct the training of the ranks, noncommissioned officers and officers of the Border Guard.

**Article 21. Personnel of Border Guard**

(1) The personnel of the Border Guard shall consist of:

- 1) officials of the Border Guard;
- 2) persons working by the contract of employment.

(2) A person working under the contract of employment shall not be entrusted with duties connected with the immediate guarding and defending of the borders and guaranteeing the observance of the border regime.

**Article 22. Border Guard Officials**

(1) An official of the Border Guard shall be a civil servant performing duties assigned to him by the present Law or other legal acts.

(2) The Border Guard officials shall also be appointed to the posts designated in the staff of the Border Guard College of the Estonian National Defence and Public Service Academy, of the Border Guard School and of the Border Guard training subdivisions.

(3) The officials of the Border Guard shall be classified into:

- 1) Border Guard officials;
- 2) Border Guard soldiers;
- 3) Border Guard non-commissioned officers;
- 4) Border Guard officers.

(4) The soldiers, non-commissioned officers and officers of the Border Guard shall be granted military ranks.

(5) The officials of the Border Guard shall not be granted military ranks.

(6) The person who enters the service of the Border Guard shall swear the oath of the Border Guard, the text and the order of taking of which shall be established by the Government of the Republic.

**Article 23. Taking into Border Guard Service**

(1) Citizens of Estonia may volunteer to be engaged in the Border Guard service provided they are at least 19 years old, have performed their obligatory military service and, proceeding from their personal and moral virtues, educational level, physical preparation and state of health, are able to perform the duties imposed on the Border Guard.

(2) The obligation of performance of military service enacted in the first paragraph of the present Article shall not apply to those citizens of Estonia who due to their studies at higher educational establishments as full-time resident students had been exempted from the obligatory military service before the enforcement of the Military Service Law.

(3) The knowledge of a Border Guard official of the official language of the state must correspond to the category of language knowledge set for the said office.

(4) A person who:

- 1) is under preliminary investigation or on trial;
- 2) has been convicted for having committed an intentional offence;
- 3) is serving a punishment inflicted for an intentional offence;
- 4) has not performed obligatory military service

shall not be taken into Border Guard service.

(5) The Government of the Republic shall establish more exact regulations of taking into Border Guard service.

**Article 24. Uniform of Border Guard Officials**

(1) The specification of the uniform of the Border Guard officials shall be approved by the Government of the Republic.

(2) The regulations of wearing the uniform shall be established by the Ministry of Internal Affairs.

(3) While performing official duties the Border Guard official shall wear a uniform. Exceptions to the said order may be established in the regulations of wearing the uniform.

Chapter VII

FINAL PROVISIONS

**Article 25. Obligatory Military Service in Border Guard**

(1) Conscripts performing obligatory military service who have received basic training at educational establishments of the Border Guard may be appointed to the staff of Border Guard soldiers and non-commissioned officers until a sufficient number of Border Guard officials have received training.

(2) The number of persons appointed for obligatory service in the Border Guard shall be determined by the Government of the Republic. The term of obligatory service in Border Guard shall be fixed according to the Military Service Law.

(3) The rights and duties of the relevant category of Border Guard officials (soldiers and non-commissioned officers) shall extend to the Border Guard conscripts.

(4) The distinction of service of the conscripts in Border Guard shall be established by the Government of Republic.

(5) The appointment of the conscripts to the staff of Border Guard shall be terminated by the decree issued by the Government of the Republic in case the need specified in the first paragraph of the present Article falls off.

**Article 26. Invalidation of a Prior Legal Act**

Decision of the Supreme Council of the Republic of Estonia on the Order of Usage of Specific Equipment and Fire Arms by the Officials of the State Board of Defence and Border Guard of the Estonian Republic (*Riigi Teataja* 1991, No. 37, Art. 455) shall be invalidated.

Chairman of the State Assembly Ülo NUGIS