

Estonian Health Insurance Fund Act

Passed 14 June 2000

(RT¹ I 2000, 57, 374),

entered into force 1 January 2001.

Chapter 1

General Provisions

§ 1. Scope of application of Act

This Act provides the objective, functions, competence, legal status, bases for activities and the bodies of the Estonian Health Insurance Fund (hereinafter health insurance fund).

§ 2. Objective and functions of health insurance fund

- (1) The objective of the health insurance fund is to ensure the payment of health insurance benefits pursuant to the Republic of Estonia Health Insurance Act (RT 1991, 23, 272; RT I 1999, 7, 113; 29, 397), other legislation and health insurance costs prescribed in the budget of the health insurance fund.
- (2) In order to achieve its objective, the health insurance fund shall perform the following functions:
 - 1) organise health insurance by ensuring the effective and purposeful use of the health insurance funds;
 - 2) perform the functions arising from the Republic of Estonia Health Insurance Act and other Acts;
 - 3) maintain a register necessary for granting health insurance benefits and for performing other functions arising from this Act in accordance with the Personal Data Protection Act (RT I 1996, 48, 944; 1998, 59, 941; 111, 1833; 2000, 50, 317) and the Databases Act (RT I 1997, 28, 423; I 1998, 36/37, 552; 1999, 10, 155; 2000, 50, 317);
 - 4) monitor the quality of services partly or wholly paid for by the health insurance fund, and determine whether the provision of services has been justified;
 - 5) organise performance of international agreements pertaining to health insurance and the health insurance fund;
 - 6) participate in the planning of health care and provide an opinion concerning draft legislation and the drafts of international agreements related to the health insurance fund and health insurance;
 - 7) advise on issues related to health insurance.

(3) In order to achieve its objective, the health insurance fund has the right to demand submission of relevant documents and information from all persons and agencies, unless otherwise provided by law.

(4) For the performance of its functions, the health insurance fund may form committees pursuant to the procedure provided in its statutes.

§ 3. Duties of health insurance fund in organisation of health insurance

For the performance of its functions arising from this Act, the Republic of Estonia Health Insurance Act, the statutes of the health insurance fund and other legislation, the Health Insurance Fund shall:

- 1) enter into contracts for payment for the provision of health promotion services, disease prevention services and health services, and for performance of other functions;
- 2) pay medical institutions for services prescribed in contracts pursuant to contractual provisions, unless otherwise prescribed by law;
- 3) pay pharmacies for medicinal products distributed at a discount, unless otherwise prescribed by law;
- 4) pay the benefits for temporary incapacity for work to insured persons, unless otherwise prescribed by law;
- 5) pay the health insurance benefits for persons for whom payers of social tax failed to pay social tax, except for benefits payable to sole proprietors for temporary incapacity for work;
- 6) ensure the confidentiality of information concerning the state of health and private life of insured persons which becomes known to the employees and representatives of the health insurance fund in connection with the performance of their professional duties or contractual obligations or exercise of their contractual rights, unless otherwise provided by law.

§ 4. Competence of health insurance fund for ensuring purposeful use of health insurance funds

(1) The health insurance fund shall verify whether the services are properly provided and justified and the certificates of incapacity for work and prescriptions issued by the providers of health promotion services, disease prevention services and health services are correct and justified, and whether the distribution of medicinal products by pharmacies at a discount is correct and justified. In the cases where incorrect or unjustified action is established, the health insurance fund has the right to contest the amount paid or refuse payment of the amount. The health insurance fund has the right to reclaim an incorrectly paid or unjustified amount or to deduct the amount from the payments of the subsequent periods.

- (2) If a payer of social tax has failed to pay social tax during the term for payment thereof, the health insurance fund shall collect from the payer of social tax for the benefit of the health insurance fund the costs which the health insurance fund has incurred upon payment of the health insurance benefits. The payment of such costs does not release the payer of social tax from the duty to pay social tax.
- (3) The health insurance fund shall collect the costs from insured persons or payers of social tax for the benefit of the health insurance fund in the cases prescribed in the Republic of Estonia Health Insurance Act.
- (4) In the case of reasonable doubt, the health insurance fund shall require an insured person to undergo medical examination and to submit the results thereof to the health insurance fund.

§ 5. Legal status of health insurance fund

- (1) The health insurance fund is a legal person in public law established by this Act. The passive legal capacity of the health insurance fund commences as of entry into force of this Act.
- (2) The statutes of the health insurance fund shall be established and amended by the Government of the Republic. Prior to submitting a proposal for amendment of the statutes to the Government of the Republic, the Minister of Social Affairs shall hear the opinion of the supervisory board of the health insurance fund.
- (3) The health insurance fund shall be liable for its obligations with all its assets, unless otherwise provided by law. The health insurance fund shall not be liable for performance or non-performance of the obligations of the state. The state shall be liable for non-performance of the obligations of the health insurance fund only in the cases and under the conditions prescribed in this Act.
- (4) The state shall be liable for performance of the obligations of the health insurance fund if the legal reserve of the health insurance fund is insufficient or if there is no possibility of or grounds for using the legal reserve in the following cases:
 - 1) the health insurance fund cannot perform its contractual obligations or pay health insurance benefits because the receipt of tax in public revenue for health insurance benefits is lower than prescribed in the state budget for health insurance;
 - 2) the maximum prices or maximum rates for health insurance benefits established by the Government of the Republic do not enable the health insurance fund to perform its contractual obligations or to pay health insurance benefits.
- (5) The health insurance fund cannot be a bankrupt.
- (6) Upon taking of loans, the health insurance fund has the right to use as security only the things which are in the ownership of the health insurance fund. The health insurance fund is prohibited from giving loans and securing loan commitments of other persons.

(7) The Estonian Health Insurance Fund is the legal successor of the Central Health Insurance Fund and the regional health insurance funds which operate until the entry into force of this Act.

(8) The health insurance fund shall not be divided or merged with other legal persons. The health insurance fund shall not be transformed into a legal person of any other class.

§ 6. Name

The name of the health insurance fund is the Estonian Health Insurance Fund. The health insurance fund has the exclusive right to its name.

§ 7. Location

The seat of the health insurance fund shall be in Tallinn. The address of the health insurance fund shall be the place where the management board of the health insurance fund is located.

Chapter 2

Bodies and Structural Units of Health Insurance Fund

Division 1

Supervisory Board of Health Insurance Fund

§ 8. Supervisory Board

The highest body of the health insurance fund is the supervisory board of the health insurance fund. The supervisory body consists of fifteen members.

§ 9. Members of supervisory board

(1) The Minister of Social Affairs, the Minister of Finance and the Chairman of the Social Affairs Committee of the Riigikogu² are members of the supervisory board by virtue of office.

(2) On the proposal of the Social Affairs Committee, the Riigikogu shall designate one member of the supervisory board from among the members of the Riigikogu.

(3) On the proposal of the Ministry of Social Affairs, the Government of the Republic shall appoint one member of the supervisory board from among the officials of the Ministry of Social Affairs.

(4) On the basis of proposals made by the organisations designated by the Government of the Republic to represent the interests of the insured persons, the Government of the Republic shall appoint five members of the supervisory board.

(5) On the basis of proposals made by the organisations of employers designated by the Government of the Republic, the Government of the Republic shall appoint five members of the supervisory board.

(6) The Riigikogu may remove the member of the supervisory board designated by the Riigikogu at any time. The Government of the Republic may remove a member of the supervisory board appointed by the Government of the Republic on the proposal of the person who made the proposal to appoint such member.

§ 10. Requirements for members of supervisory board

(1) A member of the supervisory board must be a citizen of Estonia with active legal capacity whose permanent residence is in Estonia.

(2) Persons who have the knowledge necessary for performance of the duties of a member of the Supervisory Board and an impeccable reputation may be appointed as members of the supervisory board prescribed in subsections 9 (3)-(5) of this Act.

§ 11. Term of authority of member of supervisory board

(1) The authority of the members of the supervisory board specified in subsection 9 (1) of this Act shall terminate upon termination of the authority of the corresponding persons in the positions specified in subsection 9 (1) of this Act.

(2) The authority of the persons specified in subsection 9 (2) of this Act shall terminate upon termination of the term of authority of the corresponding composition of the Riigikogu, or upon suspension or termination of the authority of such persons as members of the Riigikogu.

(3) The term of authority of the members of the supervisory board specified in subsections 9 (3)-(5) of this Act is three years. The persons specified in subsections 9 (3)-(5) of this Act shall not be appointed as members of the supervisory board for more than two consecutive terms.

§ 12. Competence of supervisory board

(1) The supervisory board shall:

1) approve the development plan of the health insurance fund;

2) after hearing the opinion of the management board, make proposals to the Government of the Republic through the Minister of Social Affairs for establishment of maximum prices and maximum rates to be applied upon payment for health promotion services, disease prevention services and health services provided to insured persons, and upon distribution of medicinal products by pharmacies at a discount to insured persons;

3) approve the budget of the health insurance fund on the basis of the state budget on the proposal of the management board;

- 4) approve, on the proposal of the management board, the structure of the health insurance fund to the extent not regulated by this Act or the statutes of the health insurance fund;
- 5) approve, on the proposal of the management board, the internal work procedure rules and operations procedure of the health insurance fund and the rules for maintaining the database specified in clause 2 (2) 3) of this Act;
- 6) approve, on the proposal of the management board, the accounting policies and procedures;
- 7) decide, on the proposal of the management board, the acquisition, transfer and encumbrance of immovables, and of movables which are entered or shall be entered in the register, and decide the taking of loans;
- 8) designate or remove the chairman of the management board;
- 9) designate or remove members of the management board on its own initiative, or on the proposal of the chairman of the management board;
- 10) decide the entry into a contract of service with the chairman of the management board, and decide the entry into contracts of service with the members of the management board on the proposal of the chairman of the management board;
- 11) decide the filing of proprietary claims against members of the management board;
- 12) approve remuneration of and additional sums payable to the chairman of the management board and members of the management board after hearing the opinion of the chairman of the management board;
- 13) approve reports submitted by the management board and requirements set for the reports;
- 14) designate an auditor for the health insurance fund and decide the amount of remuneration of the auditor after hearing the opinion of the management board.

(2) The issues specified in subsection (1) of this section are within the exclusive competence of the supervisory board. On the proposal of the management board or the chairman of the management board, the supervisory board may also decide issues relating to the health insurance fund which are not specified in subsection (1) of this section.

§ 13. Supervision exercised by supervisory board

- (1) The supervisory board shall exercise supervision over the management board.
- (2) For the performance of its functions, the supervisory board has the right to examine all documents of the health insurance fund and to audit the accuracy of accounting, the existence of assets and the conformity of the activities of the health

insurance fund with Acts, the statutes of the health insurance fund and decisions of the supervisory board, or to assign the task of auditing to relevant third persons.

§ 14. Chairman and deputy chairman of supervisory board

- (1) The Minister of Social Affairs is the chairman of the supervisory board by virtue of office.
- (2) The members of the supervisory board shall elect the deputy chairman of the supervisory board from among themselves.
- (3) The chairman of the supervisory board shall:
 - 1) organise the work of the supervisory board;
 - 2) chair the meetings of the supervisory board;
 - 3) represent the supervisory board;
 - 4) decide other issues which have been placed within the competence of the chairman of the supervisory board pursuant to this Act or the statutes of the health insurance fund.

(4) In the absence of the chairman of the supervisory board, the deputy chairman shall perform his or her functions. The deputy chairman of the supervisory board shall not substitute for the chairman of the supervisory board upon grant of consent for approval of the decisions of the supervisory board specified in clauses 12 (1) 2) and 3) of this Act pursuant to the provisions of subsection 17 (5) of this Act.

§ 15. Election of deputy chairman of supervisory board

- (1) The deputy chairman of the supervisory board shall be elected:
 - 1) at the meeting of the supervisory board following the assumption of office by a new chairman of the supervisory board;
 - 2) at the meeting of the supervisory board following the removal of the deputy chairman of the supervisory board;
 - 3) in the case of resignation or death of the deputy chairman of the supervisory board, at the meeting of the supervisory board following the withdrawal.
- (2) In the cases where the election of the deputy chairman of the supervisory board has been cancelled on two occasions due to a lack of quorum of a meeting of the supervisory board, the deputy chairman of the supervisory board shall be elected irrespective of the lack of quorum provided that all members of the supervisory board had been informed of the date, place and agenda of the meeting of the supervisory board pursuant to the procedure provided in the statutes of the health insurance fund.

(3) The deputy chairman of the supervisory board shall be elected by a majority of the members of the supervisory board present at the meeting of the supervisory board voting in favour. The procedure for election shall be provided in the statutes of the health insurance fund.

§ 16. Meetings of supervisory board

(1) Meetings of the supervisory board shall be held as necessary but at least once every three months. The procedure for announcing a meeting of the supervisory board shall be provided in the statutes of the health insurance fund.

(2) A meeting of the supervisory board shall be called by the chairman of the supervisory board or, in the absence of the chairman, by the deputy chairman of the supervisory board. A meeting of the supervisory board shall be called during the term prescribed in the statutes of the health insurance fund if this is requested by a member of the supervisory board, the management board, the chairman of the management board or the auditor.

(3) The place of a meeting of the supervisory board shall be the seat of the health insurance fund unless the person who calls the meeting determines a different place for the meeting in the Republic of Estonia.

(4) A meeting of the supervisory board has a quorum if at least two-thirds of the members participate in the meeting, including the chairman or the deputy chairman of the supervisory board, unless otherwise provided by this Act.

(5) Upon lack of the quorum necessary for holding a meeting of the supervisory board, a new meeting with the same agenda shall be held within seven days after the cancellation of the meeting.

§ 17. Decisions of supervisory board

(1) The decisions of the supervisory board shall be adopted at a meeting or without calling a meeting. The deputy chairman of the supervisory board shall be elected and the decisions provided for in clauses 12 (1) 2), 3), 8) and 10) of this Act shall be adopted only at a meeting of the supervisory board.

(2) Members of the supervisory board shall participate in the decision-making in person.

(3) Each member of the supervisory board shall have one vote. Members of the supervisory board do not have the right to abstain from voting or to remain undecided, except in the cases provided for in subsection (4) of this section.

(4) A member of the supervisory board shall not participate in voting in the cases provided by law where participation in adoption of decisions is prohibited, or if commencement or termination of a court action by the health insurance fund concerning the member is being decided.

(5) A decision of the supervisory board is adopted if more than one-half of the members of the supervisory board with the right to vote participating in the meeting of the supervisory board vote in favour. In order for decisions provided for in clauses 12 (1) 2), 3) 8) and 10) of this Act to be adopted, the consent of at least two-thirds of the members of the supervisory board participating in the meeting of the supervisory board and the presence of the chairman of the supervisory board is necessary. In order for the decisions prescribed in clauses 12 (1) 2) and 3) of this Act to be adopted, the consent of the chairman of the board is necessary.

(6) If the votes of the members of the supervisory board are divided equally, the vote of the chairman of the supervisory board, or in the absence of the chairman, of the deputy chairman of the supervisory board shall decide the vote, unless otherwise provided by this Act.

(7) A decision of the supervisory board shall contain the name of the decision, the title and number of the decision and the date on which the decision is made. A decision which amends or repeals a decision of the supervisory board shall also contain the title, date and number of the decision which is amended or repealed.

(8) A decision of the supervisory board shall be signed by the chairman of the supervisory board. A decision made in the absence of the chairman of the supervisory board shall be signed by the deputy chairman of the supervisory board.

(9) Decisions of the supervisory board shall be made available on the Internet homepage of the health insurance fund.

§ 18. Adoption of decision without calling meeting

(1) In order to adopt a decision without calling a meeting, the chairman of the supervisory board or, in the absence of the chairman, the deputy chairman of the supervisory board shall send a draft decision to the members of the supervisory board and determine a term for written reply which shall not be shorter than seven days or longer than twenty one days. The sender shall annex an explanation concerning the draft decision to the draft and provide reasons as to why the adoption of the decision is justified without calling a meeting.

(2) A decision is deemed to be adopted if at least two-thirds of the members of the supervisory board vote in favour unless otherwise prescribed in this Act. The members of the supervisory board who do not send a written reply within the determined term shall be deemed to have voted against the draft decision.

(3) The chairman or the deputy chairman of the supervisory board shall inform the members of the supervisory board of an adopted decision and communicate its content and the voting results at the first meeting of the supervisory board following the term for written reply determined by the chairman or the deputy chairman.

(4) The draft decisions, explanations and reasons specified in subsection (1) of this section and the written replies specified in subsection (2) of this section shall be preserved pursuant to the procedure provided for in this Act and the statutes of the health insurance fund.

§ 19. Minutes of meeting of supervisory board

- (1) Minutes shall be taken of the meetings of the supervisory board. Information subject to entry in the minutes and other requirements for the minutes of a meeting shall be provided in the statutes of the health insurance fund.
- (2) The minutes shall be signed by the chair and the secretary of the meeting.
- (3) The chair is responsible for ensuring that the decisions adopted at a meeting, the voting results, and the dissenting opinions provided for in this Act are correctly and completely recorded in the minutes.
- (4) The minutes of a meeting shall be made available to all members of the supervisory board at the seat of the health insurance fund as of the fifth day after the meeting was held.
- (5) The minutes together with annexes shall be preserved at the seat of the health insurance fund. The chairman of the supervisory board shall organise the maintenance of the minutes and their annexes, and shall be responsible for their preservation.

§ 20. Dissenting opinion

- (1) A member of the supervisory board who maintains a dissenting opinion with regard to a decision of the supervisory board has the right to record the dissenting opinion in the form of a written or oral statement.
- (2) A dissenting opinion with regard to a decision adopted at a meeting of the supervisory board shall be entered in the minutes, and a dissenting opinion presented in writing shall be annexed to the minutes.
- (3) If a member of the supervisory board finds that the supervisory board has violated the law or the statutes of the health insurance fund by a decision of the supervisory board, he or she shall immediately notify the chairman of the supervisory board or, in the absence of the chairman, the deputy chairman of the supervisory board of the violation.

§ 21. Remuneration of members of supervisory board

Members of the supervisory board who do not belong to the supervisory board by virtue of office or who are not designated by the Riigikogu shall be remunerated for the performance of the duties of the member of the supervisory board in the amount and pursuant to the procedure established by the Government of the Republic.

§ 22. Liability of member of supervisory board

- (1) Members of the supervisory board shall be solidarily liable for any damage wrongfully caused to the health insurance fund by violation of the requirements of Acts or the statutes of the health insurance fund, or by failure to perform their duties.

- (2) A member of the supervisory board who wrongfully causes damage to a creditor of the health insurance fund by failure to perform his or her duties or unsatisfactory performance of his or her duties shall be solidarily liable with the health insurance fund to the creditor.
- (3) A member of the supervisory board shall be released from liability to the health insurance fund or to the creditor if the member, upon the adoption of a decision, voted against the decision, or he or she did not participate in the adoption of the decision if non-participation was permitted, or if he or she did not participate in the meeting of the supervisory board.
- (4) The limitation period for assertion of a claim against a member of the supervisory board is five years from the occurrence of a violation or from the commencement of the violation.
- (5) In order to insure members of the supervisory board against the proprietary liability arising from this section, the health insurance fund shall conclude a liability insurance contract on the basic conditions and pursuant to the procedure prescribed in the statutes of the health insurance fund. The statutes of the health insurance fund shall prescribe the excess which the members of the supervisory board must pay and the rate thereof required for entry into the liability insurance contract.

Division 2

Management Board

§ 23. Management board

- (1) The management board is the directing body of the health insurance fund.
- (2) The management board consists of three to seven members, one of whom is the chairman of the management board.
- (3) The term of authority of the members of the management board is up to three years. The term of authority of the members of the management board shall be provided in the statutes of the health insurance fund.

§ 24. Appointment and removal of members of management board

- (1) The chairman of the management board shall be appointed by the supervisory board. The supervisory board shall organise a public competition for selection of candidates for chairman of the management board. The procedure for the competition shall be provided in the statutes of the health insurance fund. Other members of the management board shall be appointed by the supervisory board on the proposal of the chairman of the management board.
- (2) The supervisory board shall enter into a contract of service for a specified term with the members of the management board and the contract shall record the rights and duties of a member of the management board and the remuneration of members

of the management board for the performance of their functions. Information on the remuneration of the chairman and members of the management board is public.

(3) The supervisory board may remove a member of the management board before the expiry of his or her term of authority if the member of the management board does not comply with the requirements established by this Act or for other good reasons, above all failure to perform his or her duties to a material extent or inability to direct the health insurance fund. The supervisory board may remove a member of the management board on the proposal of the chairman of the management board within three months as of appointment of the member of the management board without indicating the reason. In the case of appointment of a new chairman of the management board to office, the supervisory board has the right to remove the members of the management board on the proposal of the new chairman of the management board within three months as of appointment of the new chairman of the management board without indicating the reason. The rights and obligations arising from a contract of service entered into with a member of the management board shall terminate pursuant to the contract of service.

(4) If a member of the management board is removed from office or resigns for other reasons, he or she is replaced by a new member of the management board on proposal of the chairman of the management board. In the case of removal, or resignation of the chairman of the management board for other reasons, the supervisory board shall appoint a new chairman of the management board within three months as of the resignation of the chairman of the management board. From the time of the resignation of the chairman of the management board until the appointment of a new chairman of the management board, a member of the management board designated by the supervisory board shall perform the duties of the chairman of the management board.

§ 25. Requirements for members of management board

(1) Natural persons with active legal capacity and higher education whose permanent residence is in Estonia and who have the knowledge, professional qualification and impeccable reputation necessary for directing the health insurance fund may be appointed as members of the management board.

(2) A member of the supervisory board or a bankrupt person shall not be a member of the management board.

(3) A member of the management board is required to immediately inform the chairman of the management board and the chairman of the supervisory board of any conflict of interests which affects or may affect a member of the management board in decision-making.

§ 26. Competence of management board

(1) In directing the health insurance fund, the management board performs the functions assigned to the board by this Act, the statutes of the health insurance fund and decisions of the supervisory board. The management board shall ensure performance of the functions, fulfilment of the obligations and exercise of the rights

of the health insurance fund in so far as, pursuant to this Act or the statutes, this is not the duty of the supervisory board or the chairman of the management board. The management board shall report to the supervisory board.

(2) The management board shall prepare the development plan and the budget of the health insurance fund and submit the development plan and the budget to the supervisory board for approval.

(3) The management board shall prepare materials and draft decisions in issues to be discussed in the supervisory board unless the supervisory board decides otherwise.

(4) The management board has power of decision in all issues pertaining to the health insurance fund, except:

1) the issues the deciding of which falls within the exclusive competence of the supervisory board;

2) the issues which have been decided by the supervisory board;

3) the issues provided by this Act or the statutes of the health insurance fund which fall within the competence of the chairman of the management board.

§ 27. Chairman of management board and substitution for chairman

(1) The chairman of the management board is the director of the health insurance fund. The chairman of the management board directs the work of the health insurance fund and chairs the meetings of the management board.

(2) The chairman of the management board is substituted by a member of the management board. The procedure for substitution for the chairman of the management board shall be provided in the statutes of the health insurance fund.

§ 28. Competence of chairman of management board

The chairman of the management board shall:

1) determine the area of work and responsibility of each member of the management board;

2) organise the accounting of the health insurance fund;

3) enter into, amend, suspend and terminate the employment contracts of the employees of the health insurance fund;

4) approve the remuneration of the employees of the health insurance fund on the basis of the operation and maintenance costs of the health insurance fund prescribed in the budget approved by the supervisory board;

5) participate in the meetings of the supervisory board with the right to speak;

- 6) designate the recording secretary for meetings of the management board;
- 7) decide other issues which fall within the competence of the chairman of the management board pursuant to this Act, the statutes of the health insurance fund or decisions of the supervisory board.

§ 29. Meetings of management board

- (1) Meetings of the management board shall be held when necessary but not less frequently than once a month.
- (2) A meeting of the management board shall be called by the chairman of the management board or the person substituting for the chairman. A meeting of the management board shall be called if this is requested by a member of the management board, the auditor of the health insurance fund, the chairman of the supervisory board or, in the absence of the chairman, the deputy chairman of the supervisory board.
- (3) The place of a meeting of the management board is the seat of the health insurance fund unless the person who calls the meeting determines a different place for the meeting in the Republic of Estonia.
- (4) A meeting of the management board has a quorum if more than one-half of the membership of the management board participates in the meeting, including the chairman of the management board or the person substituting for the chairman.
- (5) Members of the management board shall participate in a meeting of the management board in person.
- (6) Each member of the management board has one vote. Members of the management board do not have the right to abstain from voting or to remain undecided, except in the cases provided for in subsection (7) of this section.
- (7) A member of the management board shall not participate in the voting in the cases provided by law where the member is prohibited from participating in the adoption of a decision.
- (8) Minutes shall be taken of the meetings of the management board according to the requirements provided in the statutes of the health insurance fund for the taking of minutes of the meetings of the management board.

§ 30. Decisions of management board

- (1) A decision of the management board is adopted if at least two-thirds of the members of the management board with the right to vote participating in the meeting of the management board vote in favour.
- (2) A decision of the management board shall contain the name of the decision, the title and number of the decision and the date on which the decision is made. A decision which amends or repeals a decision of the management board shall also contain the title, date and number of the decision which is amended or repealed.

(3) A decision of the management board shall be signed by the chairman of the management board. A decision made in the absence of the chairman of the management board shall be signed by the member of the management board substituting for the chairman of the management board.

(4) If a member of the management board finds that the management board or the chairman of the management board has violated Acts or the statutes of the health insurance fund by a decision, the member shall immediately notify the chairman of the management board or, in the absence of the chairman, the person substituting for the chairman of the violation. If the violation is not eliminated at the first meeting of the management board following the notification at the latest, the member who submitted the notice shall inform the chairman of the supervisory board or in the absence of the chairman, the deputy chairman of the supervisory board thereof.

§ 31. Representing health insurance fund

(1) The chairman of the management board has the right to individually represent the health insurance fund in all legal acts and transactions. The chairman of the management board has the right to delegate authority for performance of legal acts. The right of representation of the members of the management board, and the right to delegate authority shall be provided in the statutes of the health insurance fund.

(2) The right of the members of the management board to represent the health insurance fund may be restricted by a decision of the supervisory board. A restriction on the right of representation established by a decision of the supervisory board does not apply with regard to third persons.

§ 32. Liability of members of management board

(1) Members of the management board shall be solidarily liable for any damage wrongfully caused to the health insurance fund by violation of the requirements of Acts or the statutes of the health insurance fund, or by failure to perform their duties.

(2) A member of the management board who wrongfully causes damage to a creditor of the health insurance fund by failure to perform his or her duties or by unsatisfactory performance of his or her duties shall be solidarily liable with the health insurance fund to the creditor.

(3) A member of the management board shall be released from liability to the health insurance fund or to the creditor if the member, upon the adoption of a decision which was the basis of the corresponding act, voted against the decision, or if non-participation was permitted and he or she did not participate in the adoption of the decision, or if he or she did not participate in the meeting of the management board.

(4) The limitation period for assertion of a claim against a member of the management board is seven years from the occurrence of a violation or from the commencement of the violation.

(5) In order to insure members of the management board against the proprietary liability of arising from this section, the health insurance fund shall conclude a

liability insurance contract on the basic conditions and pursuant to the procedure prescribed in the statutes of the health insurance fund. The statutes of the health insurance fund shall prescribe the excess which the members of the management board must pay and the rate thereof required for entry into the liability insurance contract.

Division 3

Structural Units

§ 33. Structural units and employment contracts

- (1) The main structural units of the health insurance fund and their seats and competence shall be provided in the statutes of the health insurance fund.
- (2) The employment contracts of the heads of the structural units of the health insurance fund shall be concluded for a specified term of up to five years.

Chapter 3

Assets and Budget of Health Insurance Fund

§ 34. Ownership

The health insurance fund shall possess, use and dispose of its assets pursuant to the procedure provided for in this Act and the statutes of the health insurance fund.

§ 35. Assets of health insurance fund

The assets of the health insurance fund are formed of:

- 1) the funds prescribed for health insurance in the state budget, and also of the revenue from the social tax prescribed for health insurance benefits in the state budget which is higher than prescribed in the state budget;
- 2) income received from transactions and other legal acts performed pursuant to law and the statutes of the health insurance fund;
- 3) donations;
- 4) sums collected from other persons;
- 5) interest and similar financial income;
- 6) other income.

§ 36. Budget

- (1) The budget of the health insurance fund shall set out the balance of the revenue and expenditure of the health insurance fund for one financial year.

(2) The management board shall prepare the draft budget on the basis of the Republic of Estonia Health Insurance Act, the state budget and the requirements approved by the supervisory board, and shall submit the budget to the supervisory board for approval within fourteen days after publication of the annual State Budget Act in the *Riigi Teataja*. The specific procedure for preparation of the draft budget shall be provided in the statutes of the health insurance fund.

(3) The supervisory board shall pass the budget of the health insurance fund within thirty days after publication of the annual State Budget Act in the *Riigi Teataja*.

(4) If the supervisory board does not pass the budget of the health insurance fund by the term specified in this Act, the right and obligation to pass the budget is transferred to the Government of the Republic.

(5) If the budget of the health insurance fund is not passed by the beginning of the budgetary year, the expenditure of each month of the new budgetary year may be up to one-twelfth of the expenditure of the preceding budgetary year until the time that the budget is passed. If the revenue base prescribed in the draft budget is lower than in the preceding budgetary year, the expenditure of each month of the new budgetary year may be up to one-twelfth of the sum of the expenditure prescribed in the draft budget, less the amounts necessary for the formation of the cash reserves and legal reserve, until the time that the budget is passed.

(6) The management board shall prepare a plan for the distribution of budget expenditure for each month separately and submit the plan to the supervisory board for approval within two weeks after the passing of the budget of the health insurance fund.

(7) The expenditure of the health insurance fund is divided into health insurance expenditure and expenditure relating to the maintenance of the health insurance fund. The statutes of the health insurance fund provides the specific distribution of the budget revenue and expenditure.

(8) During a financial year, the supervisory board may pass a supplementary budget of the health insurance fund in order to correspondingly increase or decrease the revenue and expenditure of the health insurance fund in a balanced manner.

(9) The budget of the health insurance fund shall be published in the *Riigi Teataja Lisa*³ and shall be made available at the web site of the health insurance fund.

§ 37. Cash reserves

(1) The budgetary cash reserves of the health insurance fund mean the reserves formed of the budget funds of the health insurance fund used by the management board for financing the expenditure of the health insurance fund in the case of temporary cash squeeze.

(2) The amount of cash reserves shall be at least 5 per cent of the budget.

- (3) The supervisory board shall provide its prior consent to the financing of expenditure if the amount of the cash reserves falls below 5 per cent due to such financing.
- (4) The supervisory board shall appoint a trustee for the cash reserves pursuant to the procedure provided for in the statutes of the health insurance fund. The statutes of the health insurance fund provide the functions of the trustee for the cash reserves and establishes the conditions for the activities of the trustee. No public procurement shall be organised for the selection of the trustee for the cash reserves.

§ 38. Legal reserve

- (1) The legal reserve of the health insurance fund means the reserve formed of the budget funds of the health insurance fund for the reduction of the risk which macro-economic changes may cause to the health insurance system.
- (2) The legal reserve shall amount to 8 per cent of the budget. Each year, at least one-fiftieth of the total budget of the health insurance fund and revenue from the social tax revenue prescribed for the payment of health insurance benefits which is higher than prescribed in the state budget shall be transferred to the legal reserve, until the amount of the legal reserve provided by this Act is reached or restored.
- (3) The legal reserve may only be used as an exception by an order of the Government of the Republic on the proposal of the Minister of Social Affairs. Prior to submitting a proposal to the Government of the Republic, the Minister of Social Affairs shall hear the opinion of the supervisory board of the health insurance fund.

§ 39. Administration of legal reserve

- (1) The administration of the legal reserve means the storage and investment of the funds allocated to the legal reserve.
- (2) The Minister of Finance organises and is responsible for the administration of the legal reserve.
- (3) The objective of the administration of the legal reserve is to ensure the preservation, liquidity and productivity of the legal reserve funds.
- (4) The Minister of Finance has the right to organise the investment of the legal reserve funds either directly or, on the proposal of the Minister of Financial Affairs, through a representative (external portfolio manager) designated by a decision of the supervisory board of the health insurance fund. No public procurement shall be organised for the selection of the external portfolio manager.

- (5) The following may be selected as external portfolio manager:
- 1) the Bank of Estonia;
 - 2) a company registered in Estonia who has been issued an activity licence for acting as a management company, credit institution or securities broker;

3) a foreign company who holds an activity licence for investment business issued by a member state of the Organisation for Economic Co-operation and Development.

(6) The Government of the Republic shall establish restrictions on currency, credit and liquidity risks and if necessary, other investment risks upon investment of the funds of the legal reserve. The Minister of Finance may establish additional restrictions on the investment of the funds of legal reserve with the authorisation of the Government of the Republic.

§ 40. Performance of transactions using budget of following year

(1) In order to achieve the objectives of the health insurance fund, the management board has the right to perform transactions using the appropriations of the following year to the extent of up to 25 per cent of the value of the corresponding appropriations prescribed for the given budgetary year.

(2) Performance of transactions by using the appropriations of the following year to the extent of more than 25 per cent of the value of the corresponding appropriations prescribed for the given budgetary year shall be decided by the supervisory board of the health insurance fund.

Chapter 4

Accounting, Reporting and Audit

§ 41. Accounting

(1) The health insurance fund shall organise accounting pursuant to the Accounting Act (RT I 1994, 48, 790; 1995, 26-28, 355; 92, 1604; 1996, 40, 773; 42, 811; 49, 953; 1998, 59, 941; 1999, 55, 584; 101, 903), the Establishment of Personal Liability for Accounting and Correctness of Accounting Information Act (RT I 1993, 43, 620; 1996, 6, 101), other legislation and the statutes of the health insurance fund.

(2) In accounting, the health insurance fund shall use the balance sheet and income statement forms approved by the Minister of Finance.

§ 42. Financial year

The financial year of the health insurance fund begins on 1 January and ends on 31 December.

§ 43. Reporting

(1) The supervisory board shall present an annual report on the economic activities of the health insurance fund to the Government of the Republic through the Minister of Social Affairs. The term for submission, procedure for preparation and format of the report shall be determined by the Minister of Finance. The supervisory board shall immediately give notice to the Government of the Republic of any material deterioration of the economic condition of the health insurance fund or any other material circumstances related to the activities of the health insurance fund.

(2) The management board shall present an overview of the activities and economic situation of the health insurance fund to the supervisory board at least once every three months and shall immediately give notice of any material deterioration of the economic condition of the health insurance fund or any other material circumstances related to the activities of the health insurance fund.

(3) After the end of the financial year, the management board shall prepare the annual report and activity report pursuant to the procedure provided by law.

(4) The management board shall submit the reports specified in subsections (1) and (3) of this section to the supervisory board for approval within four months after the end of the financial year. Prior to submitting the annual report prescribed in subsection (3) of this section to the supervisory board for approval, the management board shall submit the annual accounts to the auditor for audit.

§ 44. Availability of reports

The audited annual report and activity report of the health insurance fund shall be published in the *Riigi Teataja Lissa* and made available at the web site of the health insurance fund.

§ 45. Audit

The health insurance fund is audited by the State Audit Office and the auditor.

§ 46. Auditor

(1) The auditor shall be appointed by the supervisory board. The auditor may be appointed to conduct a single audit or appointed for a specified term.

(2) A member of the supervisory board, management board or an employee of the health insurance fund shall not be the auditor of the health insurance fund.

Chapter 5

Dissolution

§ 47. Dissolution of health insurance fund

(1) The health insurance fund is dissolved by an Act.

(2) Upon the dissolution of the health insurance fund, the remaining assets are transferred to the state unless otherwise prescribed in the Act concerning the dissolution of the health insurance fund.

Chapter 6

Implementing Provisions

§ 48. Dissolution of Central Health Insurance Fund and health insurance funds and transfer of assets thereof to Estonian Health Insurance Fund

- (1) The Minister of Social Affairs shall repeal the Statutes of the Central Health Insurance Fund approved by Regulation No. 67 of the Minister of Social Affairs of 23 December 1994 as of the date of entry into force of this Act and prescribe the transfer of the assets of the Central Health Insurance Fund to the Estonian Health Insurance Fund. The Central Health Insurance Fund is deemed to be dissolved and its assets to be transferred into the ownership of the Estonian Health Insurance Fund as of entry into force of this Act.
- (2) The Minister of Social Affairs shall repeal the Statutes of Health Insurance Fund approved by Government of the Republic Regulation No. 17 of 25 February 1994 as of entry into force of this Act and prescribe the transfer of the assets of the health insurance funds to the Estonian Health Insurance Fund. The health insurance funds are deemed to be dissolved and their assets to be transferred into the ownership of the Estonian Health Insurance Fund as of entry into force of this Act.
- (3) The Government of the Republic shall repeal the Statutes of the Estonian Health Insurance Council approved by Government of the Republic Regulation No. 143 of 22 April 1994 as of entry into force of this Act. The activities of the Estonian Health Insurance Council and of the health insurance councils operating at regional health insurance funds is deemed to be terminated as of entry into force of this Act.
- (4) Movable property in the possession or use of the Central Health Insurance Fund and the health insurance funds necessary for the activities of the Estonian Health Insurance Fund shall be transferred to the Estonian Health Insurance Fund by the administrator of such state assets within three months as of entry into force of this Act. Immovable property in the possession or use of the Central Health Insurance Fund and of the health insurance funds shall be transferred to the Estonian Health Insurance Fund pursuant to the procedure prescribed in the State Assets Act (RT I 1995, 22, 327; 1996, 36, 738; 40, 773; 48, 942; 81, 1446; 1997, 45, 724; 1998, 30, 409; 1999, 10, 155; 16, 271; 2000, 39, 239; 49, 306; 51, 319). For the purposes of this Act, buildings, their physical shares and structures are also deemed to be immovable property until the time that the plots of land under the buildings and structures and the land necessary for servicing of the buildings and structures are entered in the land register.
- (5) Employment contracts entered into between the Central Health Insurance Fund or health insurance funds and their employees shall remain in force and be transferred to the Estonian Health Insurance Fund as of entry into force of this Act.
- (6) The director of the Central Health Insurance Fund is deemed to be appointed as chairman of the management board of the Estonian Health Insurance Fund as of entry into force of this Act until expiry of his or her employment contract as the director of the Central Health Insurance Fund on 1 August 2002. The authority of the members of the management board of the Estonian Health Insurance Fund who are appointed to office by the supervisory board of the Estonian Health Insurance Fund on the proposal

of the chairman of the management board of the Estonian Health Insurance Fund appointed to office pursuant to the provisions of this section shall continue until three months have passed from the termination of the authority of the chairman of the management board of the Estonian Health Insurance Fund prescribed in this section.

§ 49. Amendment of Republic of Estonia Health Insurance Act

The Republic of Estonia Health Insurance Act (RT 1991, 23, 272; RT I 1999, 7, 113; 29, 397) is amended as follows:

- 1) in the entire text of the Act the words “compulsory health insurance benefit” are substituted by the words “benefit for temporary incapacity for work” in the appropriate case form;
- 2) subsection 2 (1) is amended and worded as follows:

«(1) All persons for whom a payer of social tax specified in §§ 4 or 6 of the Social Tax Act (RT I 1998, 40, 611; 61, 982; 113/114, 1875 and 1876; 1999, 29, 397; 71, 685; 82, 749; 87, 789, 88, 806; 97, 857; 101, 903) (hereinafter payer of social tax) has paid or has a duty to pay social tax, and also all persons equal to insured persons prescribed in this Act shall be deemed to be insured with compulsory health insurance (hereinafter insured person).»;

- 3) subsection 2 (4) is repealed;
- 4) subsection 3 (1) is amended and worded as follows:

« § 3. Health insurance system

Compulsory health insurance is organised by the Estonian Health Insurance Fund (hereinafter health insurance fund) who is a legal person in public law, pursuant to the procedure prescribed in this Act and the Estonian Health Insurance Fund Act.»;

- 5) subsections 3 (2)-(4) are repealed;
- 6) section 3¹ is added to the Act worded as follows:

«§ 3¹. Health insurance benefit

Health insurance benefit is a monetary compensation payable to an insured person or a non-monetary compensation payable for an insured person under the conditions and pursuant to the procedure provided for in this Act.»;

- 7) section 3² is added to the Act worded as follows:

«§ 3². Types of health insurance benefits

- (1) The monetary health insurance benefit is the benefit for temporary incapacity for work.

(2) The non-monetary health insurance benefits are:

- 1) health or other service provided for health promotion, disease prevention or treatment;
- 2) medicinal products distributed at a discount, to the extent covered by the health insurance fund.»;
- 8) subsection 10 (1) is amended and worded as follows:

«(1) The benefit specified in § 6 of this Act shall be granted and paid to an insured person by the health insurance fund.»;

- 9) subsection 12 (2) is amended and worded as follows:

(2) The prices for the services specified in subsection (1) of this section and the procedure for payment for the services shall be established by the Government of the Republic on the proposal of the Minister of Social Affairs in accordance with the provisions of clause 12 (1) 2) of the Estonian Health Insurance Fund Act.»;

- 10) subsections 13 (1), (8)-(12), (14) and (15) are repealed.

§ 50. Repeal of provision of Health Care Administration Act

Clause 14 14) of the Health Care Administration Act (RT I 1994, 10, 133; 1995, 57, 978; 1997, 86, 1462; 1999, 18, 305; 23, 351; 97, 860) is repealed.

§ 51. Amendment of Public Procurement Act

Subsection (3¹) is added to § 4 of the Public Procurement Act (RT I 1995, 54, 883; 1997, 9, 79; 1998, 38, 561; 1999, 16, 271; 92, 824; 97, 859) worded as follows:

«(3¹) The procedure provided by this Act is not implemented upon the purchase of health services, health promotion services or disease prevention services by the Estonian Health Insurance Fund or for finding a trustee for the cash reserves or an external portfolio manager for the reserve capital of the health insurance fund.»

§ 52. Amendment of *Riigi Teataja* Act

The following amendment shall be made to the *Riigi Teataja* Act (RT I 1999, 10, 155; 57, 594; 2000, 25, 145):

- 1) section 2 is amended by adding clause 16¹) worded as follows:

16¹) the budget, activity report and audited annual report of the Estonian Health Insurance Fund;»;

- 2) clause 9 (4) 3) is amended and worded as follows:

«3) in division three – overviews of the Legal Chancellor on the conformity of legislation of general application of the legislative and executive powers and of local governments with the Constitution and Acts, overviews of the Auditor General concerning the use and preservation of state assets, annual reports of the Bank of Estonia, and the budget, activity report and audited annual report of the Estonian Health Insurance Fund;».

§ 53. Entry into force of Act

- (1) This Act enters into force on 1 January 2001.
- (2) Subsections 48 (1)-(4) of this Act enter into force on 1 October 2000.

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

² Riigikogu = the parliament of Estonia

³ *Riigi Teataja Lisa* = *Appendix to the State Gazette*