

## **Translation from Finnish**

**Legally binding only in Finnish and Swedish**

**Ministry of the Interior, Finland**

## **Act on the Administration of the Border Guard**

(577/2005; amendments up to 1349/2019 included)

By decision of Parliament, the following is enacted:

### **Chapter 1**

#### **General provisions**

#### **Section 1**

##### **Scope of application**

This Act applies to the organisation of administration, training and research and to employment relationships at the Border Guard, unless otherwise provided. The provisions laid down in this Act and elsewhere in the law apply to military command matters at the Border Guard.

#### **Section 2 (1229/2013)**

##### **Border troops**

In this Act, border troops means officials of the Border Guard and persons assigned to serve at the Border Guard under the Conscription Act (1438/2007) or performing voluntary military service, who may be incorporated into the Defence Forces when national defence is intensified.

### **Chapter 2**

#### **Administration and personnel of the Border Guard and special rights and obligations concerning officials**

#### **Section 3**

##### **Border Guard, Chief of the Border Guard and administrative units**

The Border Guard is a central government agency acting under the management and supervision of the Ministry of the Interior. The Border Guard is led by the Chief of the Border Guard at the

Ministry of the Interior. The administrative units subordinate to the Chief comprise the Border Guard Headquarters, Border Guard Districts, Coast Guard Districts, Border and Coast Guard Academy and the Air Patrol Squadron (*administrative units*). (1229/2013)

The Border Guard Headquarters is led by the Deputy Chief of the Border Guard and the administrative units by the chief of the unit in question. The other administrative units are subordinate to the Border Guard Headquarters. When the Chief of the Border Guard is prevented, he or she is deputised for by the Deputy Chief of the Border Guard and, when the latter is prevented, by the general or admiral serving as the Chief of the Border and Coast Guard Division or the Personnel Division of the Border Guard Headquarters. (477/2010)

Provisions on the administrative units of the Border Guard, the territorial borders of Border Guard Districts and Coast Guard Districts, the right of the Chief of the Border Guard to order on the composition of the administrative units in more detail, and the chain of command within the Border Guard, are laid down by government decree.

## **Section 4**

### **Border guard authorities**

The Chief of the Border Guard and the Border Guard Headquarters are national border guard authorities.

Border Guard Districts and Coast Guard Districts and their Commanders are regional border guard authorities. The Border and Coast Guard Academy and the Air Patrol Squadron are border guard authorities excluded from the regional classification. Border Guard units other than those specified above are local border guard authorities.

The Chief of the Border Guard has the right to decide on a matter that is by law for the decision of another border guard authority.

## **Section 5 (1229/2013)**

### **Duties of the Ministry of the Interior within the Border Guard**

The Chief of the Border Guard informs the Minister of the Interior of matters related to the Border Guard and participates in the handling of these matters at the Ministry of the Interior.

The Minister of the Interior decides on matters involving the closure and scaling down of regional and local units and functions of the Border Guard where such matters are of social or economic significance. Unless otherwise provided, the Chief of the Border Guard has the right, upon presentation, to decide other administrative matters concerning the Border Guard and its mandate that are, under the law, decided by the Ministry of the Interior. (1229/2013)

The Border Guard Headquarters is also the Border Guard Department of the Ministry of the Interior. The Deputy Chief of the Border Guard is also the Director General for the Ministry of the Interior's Border Guard Department.

## **Section 6**

### **Internal organisation and military command matters at the Border Guard**

The Border Guard's internal organisation is on a military basis. Officials serving in military posts present military command matters to be decided by the Chief of the Border Guard or another superior officer and confirm the decisions made by the superior officer.

## **Section 7**

### **Decision-making by the President of the Republic in military command matters of the Border Guard**

Decisions on major changes in the defence capabilities of border troops and on other far-reaching or fundamental military command matters concerning military defence duties of the Border Guard are made by the President of the Republic. The President also decides as a military command matter the promotions of those serving at the Border Guard to the military ranks of officer, special officer and warrant officer. The President may take the decision on a military command matter that is allotted for the decision of the Chief of the Border Guard or another superior officer.

The President of the Republic decides military command matters of the Border Guard on presentation of the Minister of the Interior without a government session. The decisions are confirmed by the Minister of the Interior. When these matters are presented, the Prime Minister and the Chief of the Border Guard have the right to be present and express their views. (1229/2013)

By the initiative of the President of the Republic or on presentation of the Minister of the Interior, the President may refer military command matters to be decided by the President in a government session. In this case, the President decides the matter on presentation of the Minister of the Interior without a proposal by the Government. When military command matters are presented to the President in the Government, the Chief of the Border Guard has the right to be present and express his or her view. (1229/2013)

By derogation from subsections 2 and 3, the procedure laid down in section 32, subsections 2 and 3 of the Act on the Defence Forces (551/2007) applies to command matters at the Border Guard relating to the use of armed force with weaponry acquired for military purposes that is more powerful than an official's personal sidearms. When the matter is presented, the Minister of the Interior and the Chief of the Border Guard have the right to be present and express their views. (12/2019)

## **Section 8**

### **Decision-making by the Chief of the Border Guard in military command matters of the Border Guard**

Decisions on military command matters other than those decided by the President are made by the Chief of the Border Guard, unless they are ordered to be decided or are, under the law, decided by another superior officer.

Superior officers may take the decision on military command matters that are allotted for the decision of subordinates. Provisions on the division of powers between the Chief of the Border Guard and superior officers under him or her in military command matters and on the order of business for military command matters at the Border Guard are laid down by presidential decree.

The Chief of the Border Guard shall inform the President and the Minister of the Interior of significant military command matters falling within the responsibility of superior officers.

## **Section 9**

### **Public posts at the Border Guard**

Public posts at the Border Guard include the military posts of officer, special officer, warrant officer, coast guard and border guard. There may also be other public posts and personnel in fixed-term public-service employment relationships at the Border Guard.

Further provisions on establishing, modifying and terminating public posts at the Border Guard and on placing and transferring them within the Border Guard are issued by government decree. (1229/2013)

## **Section 10**

### **General qualifications for public posts at the Border Guard**

Those appointed to a public post at the Border Guard shall be Finnish citizens and fulfil the general qualifications for public posts provided in sections 6 and 8 of the Act on Public Officials in Central Government (750/1994). They shall also be impeccable and trustworthy.

A person to be appointed to a military post at the Border Guard shall have performed military service, either armed service or women's voluntary military service, in the Finnish Defence Forces or at the Border Guard, and his or her health and physical condition shall be suitable for the post. In addition, a person to be appointed to a military post at the Border Guard shall not have such citizenship of another state or other foreign interests referred to in section 3, subsection 1, paragraph 9a of the Security Clearance Act (726/2014) that may endanger State security, public security, national defence or the international relations of Finland or safety and security of personnel at the Border Guard. (444/2019)

The provisions of subsection 2 on military service do not apply to those who may, under section 12, subsection 1 of the Act on the Autonomy of Åland (1144/1991), instead of performing military service, perform a similar service within the pilotage and lighthouse services or other civilian administration. By derogation from subsection 2, the requirement to perform women's voluntary military service does not apply to those who have the right of domicile referred to in section 6 of the Act on the Autonomy of Åland.

## **Section 11**

### **Special qualifications for public posts at the Border Guard**

Further provisions on the special qualifications required for officials of the Border Guard, such as education, the management skills and experience required for superiors and the service experience required for military posts at the Border Guard, are issued by government decree.

## **Section 12**

### **Appointment to a public post**

The Chief of the Border Guard, the Deputy Chief of the Border Guard, generals and admirals are appointed by the President of the Republic. The President decides the matter in a government session on the basis of a proposal by the Government. Other officers of the Border Guard are appointed by the President on presentation of the Minister of the Interior as provided in section 7, subsection 2. Provisions on appointment to public posts at the Border Guard other than those specified above are laid down by government decree.

Military posts at the Border Guard may be filled without an application procedure.

## **Section 13**

### **Assignment to a position**

The Chief of the Border Guard, the Deputy Chief of the Border Guard, generals and admirals are assigned to their positions by the President of the Republic in a government session on the basis of a proposal by the Government.

Provisions on assignment of officials other than those specified in subsection 1 are laid down by government decree.

## **Section 14 (1349/2019)**

### **Reassignment of a public official to another post or position**

Where it is deemed necessary to fill a vacant post or position which is in line with the detailed composition of the Border Guard, or otherwise to organise the service in an appropriate manner, Border Guard officials are obliged to transfer to another post of at least the same rank at the Border Guard, or to another position within the Border Guard that is commensurate with their education.

If officials must change their place of service because of reassignment, they shall be informed of the decision a minimum of three months before the change.

A judicial review of decisions on reassignment to another post or position that require officials to change their place of service and decisions on reassignment to a position without the official's consent may be requested by way of appeal. Provisions on requesting a judicial review by an administrative court are laid down in the Administrative Judicial Procedure Act (808/2019). However, regardless of an appeal, the decision on reassignment shall be complied with unless the reviewing authority otherwise orders. No judicial review may be requested by way of appeal in respect of any other decisions on reassignment to another post or position or on assigning a public official to a position.

## **Section 15 (1229/2013)**

### **Border guards**

Border guards are officials of the Border Guard who have received border guard training as provided by government decree and who have been assigned to serve as border guards by the chief of an administrative unit.

Border guards have the powers vested in them in the Border Guard Act (578/2005) and in another act.

The provisions of this Act concerning border guards apply to border guards appointed to border control duties under the Act on the Participation of Civilian Personnel in Crisis Management (1287/2004). (260/2015)

## **Section 16**

### **Officials' obligation to report and to take action**

Border Guard officials are obliged to report to their supervisors on important matters that have come to their attention concerning the duties of the Border Guard.

Where necessary even in their free time, border guards are obliged to take immediate action to prevent a serious crime falling within the Border Guard duties or to initiate a search operation or an assistance task.

## **Section 17 (110/2018)**

### **Non-disclosure obligation**

An official who belongs to Border Guard personnel may not disclose information on the identity of a person who has given information confidentially if disclosure of this information would endanger the safety of the person who gave the information or of his or her family and other close persons. The non-disclosure obligation is in force also if disclosure of information on a person's identity would endanger ongoing or future intelligence gathering.

Provisions on the non-disclosure obligation of an official belonging to Border Guard personnel are, in addition to this Act, laid down in the Act on the Openness of Government Activities (621/1999) and elsewhere in the law. Anyone who has a contractual employment relationship with the Border Guard or who, by virtue of a service agreement, has received Border Guard information that is secret is bound by the same non-disclosure obligation.

The non-disclosure obligation remains in force also after the end of the service agreement or the employment relationship with the Border Guard.

## **Section 17a (110/2018)**

### **Provision of information notwithstanding the non-disclosure obligation**

The non-disclosure obligation of an official who belongs to Border Guard personnel and of another person referred to in section 17, subsection 2 does not prevent the provision of information to a public authority or an organisation performing a public service task that, on account of its statutory duty, needs to obtain information on a fact otherwise to be kept secret or about a person's reliability or suitability for a duty. Provisions on the disclosure of information for the purpose of verifying the reliability of a person applying for or operating in security-sensitive duties are separately provided by law.

The non-disclosure obligation laid down in section 17, subsection 2 does not prevent the disclosure of information where, in individual cases, there are serious grounds for preventing an event that would endanger life or health, an offence against liberty, substantial damage to the environment or property or a substantial financial loss, or for ensuring State security.

## **Section 17b (110/2018)**

### **Right to remain silent**

A person who belongs to Border Guard personnel is not obliged to disclose information concerning the identity of a person who has provided him or her with confidential information during his or her employment relationship or to disclose any secret tactical or technical methods.

Provisions on the obligation to keep secret the information and methods referred to in subsection 1 in certain cases are laid down in section 17, subsection 1 and in section 24, subsection 1, paragraph 5 of the Act on the Openness of Government Activities.

## **Section 17c (110/2018)**

### **Duty to disclose information in judicial proceedings**

A court may order information referred to in section 17, subsection 1 or in section 17b, subsection 1 to be disclosed if the failure to do so would violate the party's right to a proper defence or otherwise to see that his or her rights are properly secured in judicial proceedings. A further precondition for the order is that the prosecutor is prosecuting for an offence for which the most severe punishment by law is a minimum imprisonment of six years, or for an attempt of or complicity in such an offence. Even in this case, disclosure of the identity of persons who provided information confidentially cannot be ordered if this would manifestly pose a serious threat to their safety or that of their family or other close persons.

## **Section 17d (110/2018)**

### **Duty to disclose information during investigation of an offence**

Notwithstanding his or her non-disclosure obligation and right to remain silent, a person who belongs to Border Guard personnel is obliged to disclose information referred to in section 17, subsection 1 and section 17b, subsection 1 where this is necessary to assess the preconditions for starting a criminal investigation when there are reasonable grounds to believe that the person who gave information confidentially has committed an offence by doing so.

A person belonging to Border Guard personnel is also obliged to disclose information referred to in subsection 1 in order to provide clarification in a matter where criminal investigation has been

started if there are reasonable grounds to suspect that the person who gave information confidentially has committed an offence by doing so.

If a person belonging to Border Guard personnel refuses to disclose information referred to in subsection 1 or 2, a court may, at the request of a public official with the power of arrest, order that the information be given to the requesting party if there is no lawful basis for the refusal. A court may also, at the request of the injured party, order that a person belonging to Border Guard personnel provide information on the identity of the person who supplied information confidentially to the Border Guard if disclosure is necessary to secure the right of the injured party to bring a charge as referred to in chapter 1, section 14 of the Criminal Procedure Act (689/1997). When considering a matter referred to in this subsection, the provisions of chapter 7, section 9 of the Criminal Investigation Act (805/2011) on questioning of a witness in court shall be complied with.

When considering the issuing of an order referred to in subsection 3, the court shall take into account whether the duty to disclose information could pose a danger to State security or to someone's life or health, or endanger ongoing intelligence gathering, and how justifiable the disclosure would be in view of the nature of the suspected offence and the right of the injured party to properly secure his or her rights in judicial proceedings.

A matter concerning the duty to disclose information is handled in the district court at which it can conveniently be considered. The party presenting the request concerning disclosure of information and the person refusing to disclose information shall be present when the matter is being considered. In its consideration of the matter, the district court has a quorum also with only the chairperson present.

## **Section 18 (641/2019)**

### **Reference to provisions on disclosure of data**

Provisions on disclosure of data contained in a filing system of the Border Guard with the aid of a technical interface or as a set of data and abroad are laid down in the Act on the Processing of Personal Data by the Border Guard (639/2019).

## **Section 19**

### **Outside employment**

Border guards may not accept or engage in any outside employment referred to in section 18, subsection 4 of the Act on Public Officials in Central Government, unless this is permitted by the competent authority upon application.

Border guards may not perform duties involving rights or obligations that may conflict with duties laid down for the Border Guard.

## **Section 20**

### **Border guards' code of conduct**

When performing duties or in private life, border guards' conduct shall not be such as to jeopardise trust in the proper performance of the duties of the Border Guard.

When assessing the appropriateness of border guards' conduct, their position and duties at the Border Guard shall be taken into account.

## **Section 20a (221/2007)**

### **Temporary suspension of border guards**

Border guards who act against or neglect their official duties may, as a disciplinary punishment, be suspended for a minimum of one month and a maximum of six months, unless a warning is deemed sufficient. Salary payment is suspended for the duration of the suspension.

Suspension is decided by the appointing authority. Where the appointing authority is the President of the Republic or the Government, suspension is decided by the Ministry of the Interior. The authority deciding suspension shall institute the suspension no later than three months from the date on which the authority was informed of a fact which may result in suspension. (1229/2013)

Before a decision on the suspension of a border guard is made, the border guard shall be provided with an opportunity to be heard in the matter. Where the border guard so requests, and the suspension must not be brought into effect immediately owing to the nature of the matter, the authority shall also reserve the chief shop steward or shop steward the right to be heard. Before making the decision, the authority shall inform the border guard of the right to request that the chief shop steward or shop steward be heard.

Provisions on requesting a review of a decision on temporary suspension of a border guard are laid down in the Act on Public Officials in Central Government.

## **Section 21**

### **Reporting for duty**

Officials of the Border Guard shall ensure that competent administrative units have their up-to-date contact information in case of special situations falling within the mandate of the Border Guard.

Where serious special situations falling within the Border Guard's mandate so demand, border guards shall report for duty without delay, unless on annual leave or leave of absence. Where it is deemed necessary owing to serious special situations falling within the Border Guard's mandate, Border Guard officials are obliged, when specifically ordered, to report for duty even on annual leave. Where it is deemed necessary for special reasons related to the activities of the Border Guard, Border Guard officials are obliged, when ordered, to be on standby alert and report for duty unless on annual leave.

The orders referred to above are issued by duty commanding officers of administrative units, field commanders or heads of competent units. (1151/2010)

## **Section 22**

### **Professional skills and physical fitness**

Officials of the Border Guard serving in military posts and border guards shall maintain the professional skills and physical fitness required for their tasks. Provisions on the level of fitness required for different tasks and on the organisation of fitness tests may be issued by government decree.

## **Section 23 (1229/2013)**

### **Uniform**

Those holding a military post at the Border Guard are obliged to wear the uniform of the Border Guard when on duty, unless otherwise ordered owing to the nature of their duties or another reason. Persons other than those holding a military post at the Border Guard may not use an outfit

or items of clothing that are deceptively similar to the Border Guard uniform or articles of the uniform, so as to give an impression that the persons are officials holding a military post at the Border Guard.

Those assigned to the position of a border guard who are obliged to wear a uniform shall have on their uniform border guard emblems showing their status as specified by decree of the Ministry of the Interior. Emblems showing the status of border guards may not be used by persons other than border guards, unless the Chief of the Border Guard grants permission to do so in theatre performances or other similar occasions.

The uniform and border guard emblems may also be used during travel connected with an official duty and when representing the Border Guard.

The Chief of the Border Guard may allow officials other than those serving in military posts to use the uniform or, for a special reason, give them temporary permission to use an outfit or items of clothing referred to in subsection 1 that are similar to the uniform or articles of the uniform.

## **Section 24**

### **Badge**

Border guards have a badge specified by decree of the Ministry of the Interior.

Provisions on the obligation to carry a badge and present it on request are laid down in section 8a of the Border Guard Act. (750/2014)

## **Chapter 3**

### **Training, instruction and research at the Border Guard**

#### **Section 25 (1229/2013)**

##### **Training and instruction provided by the Border and Coast Guard Academy**

Statutory training required for public posts at the Border Guard, and continuing and specialised training for Border Guard personnel and other persons, may be provided by the Border and Coast Guard Academy. The Border and Coast Guard Academy is responsible for research conducted at the Border Guard in the Border Guard's field of activity.

The Border and Coast Guard Academy may organise instruction related to the degree programme of an officer, further studies or continuing education referred to in the Act on the National Defence University (1121/2008) in the field of activity of the Border Guard as separately agreed with the National Defence University.

Training necessary for the aviation of the Border Guard may be organised in the Air Patrol Squadron in cooperation with the Border and Coast Guard Academy and other educational institutions.

Training at the Border and Coast Guard Academy is in the public domain unless otherwise provided in the Act on the Openness of Government Activities (621/1999). In addition, the Border and Coast Guard Academy may restrict access to observe training sessions in order to ensure safety and security of personnel, due to limited teaching facilities or for other corresponding justifiable reasons. (618/2017)

### **Section 25a (1229/2013)**

#### **General organisation of training and research activities at the Border Guard**

On the proposal of the Border Guard Headquarters, the performance targets and policies related to training and research at the Border Guard, and the rules of procedure of the Border and Coast Guard Academy, are confirmed by the Chief of the Border Guard.

Provisions on the following matters may be laid down in the rules of procedure of the Border and Coast Guard Academy:

- 1) duration and scope of training and instruction;
- 2) organisation of training and instruction;
- 3) student admission procedures;
- 4) criteria for grading;
- 5) order to be kept in a military organisation;

6) free time, leaves and absences of students;

7) use of the premises and property of the Border and Coast Guard Academy; and

8) obligations related to maintaining preparedness.

The basic course for border guards lasts for up to twelve months.

The curricula of the Border and Coast Guard Academy are decided by the Academy.

### **Section 25b (1229/2013)**

#### **Students of the Border and Coast Guard Academy**

Border and Coast Guard Academy students means those studying the basic course for border guards or attending other training at the Border and Coast Guard Academy.

### **Section 25c (1229/2013)**

#### **Languages of instruction and qualifications**

The language of instruction and qualifications at the Border and Coast Guard Academy is Finnish or Swedish.

In the student admission procedure and examinations, students have the right to use either Finnish or Swedish. Final projects are drawn up either in Finnish or Swedish.

The Border and Coast Guard Academy may also decide to use other languages in instruction and studies.

### **Section 25d (110/2018)**

#### **Non-disclosure obligation of students and their right to remain silent**

The provisions of sections 17 and 17a–17d also apply to the non-disclosure obligation and right to remain silent of a Border and Coast Guard Academy student.

## **Section 25e (618/2017)**

### **Wearing of uniform by students**

Students undergoing training for a military post at the Border Guard shall wear a Border Guard uniform under section 23 when attending the training.

## **Section 25f (618/2017)**

### **Students' rule of conduct**

The provisions of section 20 of this Act and an ordinance issued as a military command under section 57 of the Conscription Act apply to the rule of conduct set for students undergoing training for a military post at the Border Guard.

## **Section 26 (1229/2013)**

### **Admission to the basic course for border guards**

Border guard basic course students are selected by the Border and Coast Guard Academy. Persons who have passed the entrance examination may be admitted to the basic course if they

1) are Finnish nationals;

2) have successfully obtained the diploma referred to in the Act on the Organisation of the Matriculation Examination (672/2005), the general upper secondary school curriculum or at least upper secondary vocational education;

3) in view of their state of health, are suitable for the proper performance of the duties of the Border Guard; (951/2017)

3a) are impeccable as required for the duties at the Border Guard and also otherwise reliable, have no such citizenship of another state or other foreign ties referred to in section 3, subsection 1, paragraph 9a of the Security Clearance Act that may endanger State security, public security, national defence or international relations of Finland or safety and security of personnel at the Border Guard or other such private interests that endanger the proper and independent performance of the duties; (444/2019)

4) have performed armed military service or women's voluntary military service in the Finnish Defence Forces or at the Border Guard; and

5) have been granted a right to drive at least Category B vehicles.

The requirement specified in subsection 1, paragraph 4 does not apply to those who have the right of domicile referred to in the Act on the Autonomy of Åland.

Applicants for the basic course for border guards shall provide the Border and Coast Guard Academy, as specified by the Academy, with the information on their state of health that is necessary to evaluate them for admission to the course.

The requirements referred to in subsection 1, paragraph 3 are decided by the Border Guard Headquarters.

The Border and Coast Guard Academy requests security clearance under the Security Clearance Act for border guard basic course applicants. (444/1994)

### **Section 26a (618/2017)**

#### **Participation in other training**

Officials of the Border Guard may be ordered to participate in training arranged at the Border and Coast Guard Academy. Border Guard officials conduct their studies at the Border and Coast Guard Academy as an official duty. The right to participate in training is decided on by the Border and Coast Guard Academy.

### **Section 26b (12/2019)**

#### **Other tasks of students**

Where it is deemed necessary for dealing with serious special situations falling within the Border Guard's mandate, the Border Guard Headquarters may assign border guard basic course students who have received sufficient training also to perform tasks other than exercises related to the training.

Provisions on the powers of a border guard basic course student in the tasks referred to in subsection 1 are laid down in section 34g of the Border Guard Act.

### **Section 26c (1229/2013)**

#### **Social benefits for students**

For the duration of their studies, border guard basic course students are offered, free of charge, accommodation, meals, clothing, healthcare, including general practitioner services, and study and exercise materials.

To reimburse for costs incurred by border guard basic course students, they may be paid a per diem allowance of a minimum of 46 per cent of the prevailing full per diem allowance payable to public officials.

Border guard basic course students are entitled to travel between the place of studies and their home or place of residence in Finland at the expense of the State at least twice in each full calendar month of study. Travel costs are reimbursed for costs incurred in using the cheapest public transportation. International travel costs are reimbursed only if the student has a permanent residence abroad. Travel costs for secondments in Finland and overseas are reimbursed in a similar way.

Healthcare costs of border guard basic course students are only reimbursed if the need for treatment arises during a contact teaching or practical training period and the student is not eligible for reimbursement on any other grounds.

### **Section 27 (618/2017)**

#### **Service commitment**

Participation in training of at least two months at the Border and Coast Guard Academy by students selected on the basis of an entrance examination requires that, at the start of their studies, the students provide a written commitment that they will serve at the Border Guard for up to a minimum of two years after the end date of the studies (*service commitment*).

A person undergoing training for or belonging to the flying staff of the Border Guard's aircraft shall, upon request, provide a service commitment up to 14 years. Provisions on a service

commitment related to the degree programme of an officer are laid down in section 29 of the Act on the National Defence University.

If border guard basic course students or persons undergoing training for the flying staff discontinue their studies, refuse to accept posts at the Border Guard or if their studies are discontinued for reasons attributable to themselves other than an illness or lack of aptitude for flying, they shall compensate the State for the amount which is determined on the basis of the type of qualification or the content of training and which amounts to up to half of the training costs of their studies incurred by the State. The decision on the collection of the compensation is made by the Border and Coast Guard Academy.

The provisions of subsection 3 also apply to a situation where a Border Guard official during his or her service commitment period resigns, accepts a post referred to in section 65 of the Act on Public Officials in Central Government Act, is dismissed for reasons attributable to himself or herself other than an illness or his or her public-service employment relationship is terminated. The decision on the collection of the compensation is made by an administrative unit.

The compensation is directly enforceable. Provisions on the collection of the compensation are laid down in the Act on the Enforcement of Taxes and Public Payments (706/2007).

Further provisions on the determination of the compensation referred to in subsections 3 and 4 are issued by decree of the Ministry of the Interior.

## **Section 27a (1229/2013)**

### **Substance testing**

Before admission to the basic course for border guards, applicants are obliged to take a substance test carried out by a licensed healthcare professional and a member of laboratory staff. Where there are reasonable grounds to believe that border guard basic course students attend the training or related practical training tasks while intoxicated, they are also obliged, when ordered by the Border and Coast Guard Academy, to take a substance test during the basic course and practical training.

Information obtained from substance tests constitutes personal health data. Licensed healthcare professionals may disclose written conclusions about substance tests to the Border and Coast Guard Academy.

## **27b (1229/2013)**

### **Duration of studies and postponing and discontinuing studies**

Studies shall be completed within the maximum period specified in the curriculum.

The Border and Coast Guard Academy may, on application by students, postpone the right to study or discontinue studies for a maximum period of two years.

On its own initiative, the Border and Coast Guard Academy may discontinue a student's studies for a maximum period of one year at a time if the student:

- 1) has been diagnosed with a long-term illness;
- 2) is unable to successfully complete the studies in accordance with the curriculum;
- 3) is suspected of an offence in a criminal investigation and, on the basis of the seriousness and type of the suspected offence, unfit to hold a public post at the Border Guard or participate in instruction or training at the Border and Coast Guard Academy, and the suspicion is based on strong probable cause; or
- 4) there are other serious reasons to do so that are similar to those specified in paragraphs 1–3.

The period during which studies are discontinued is not counted into the maximum duration of studies.

## **Section 28 (1229/2013)**

### **Forfeiture of the right to study**

The Border and Coast Guard Academy may revoke a student's right to participate in training and instruction if the student:

- 1) does not fulfil the requirements for admission to the training;
- 2) when applying for the training, provided false or misleading information or concealed matters which would have prevented the student from being admitted to the Academy;
- 3) is sentenced to a punishment for an offence which demonstrates that the student is unfit to hold a public post at the Border Guard, and the judgment is final;
- 4) acts in a manner which may endanger trust in the proper performance of the duties of the Border Guard, unless a written warning is deemed to be a sufficient sanction;
- 5) in view of his or her state of health, is no longer suitable for the proper performance of the duties of the Border Guard, and the change in the student's state of health is assessed to be a permanent or long-term condition;
- 6) refuses to take substance tests referred to in section 27a or undergo checks or examinations referred to in 28b, subsection 1, or provides a sample showing substance abuse;
- 7) does not continue his or her studies after the end of the period referred to in section 27b;
- 8) neglects repeatedly or in a fundamental manner participation in instruction, unless a written warning is deemed to be a sufficient sanction;
- 9) violates repeatedly or in a fundamental manner the rules of procedure of the Border and Coast Guard Academy or the ordinance referred to in section 25f, unless a written warning is deemed to be a sufficient sanction; or
- 10) has not completed the studies within the maximum period defined in section 25a, subsection 3 or in the curriculum and, for a special reason, is not granted additional time by the Border and Coast Guard Academy to finish the studies; (618/2017)
- 11) gives written notice of discontinuing the studies. (618/2017)

Where forfeiture of the right to study is deemed unreasonable, taking overall account of the matters which led to the student's actions and of the circumstances, the Director of the Border and

Coast Guard Academy may issue the border guard basic course student or the student employed by the Border Guard with a written warning. Instead of a written warning, a verbal reprimand may be given where it is deemed to be a sufficient sanction. The warning and reprimand referred to in this subsection are not issued for conduct for which a sanction is imposed under the provisions on military discipline or section 24 of the Act on Public Officials in Central Government.

### **Section 28a (1349/2019)**

#### **Procedure for discontinuing studies, issuing a warning or reprimand and forfeiture of the right to study**

Before deciding on discontinuing studies as referred to in section 27b or issuing a written warning or a reprimand as referred to in section 28, or on forfeiture of the right to study, the Border and Coast Guard Academy shall identify the act or negligence leading to such action, hear the student and obtain other necessary information.

Where a decision on discontinuing studies or on forfeiture of the right to study is revoked, or is annulled in a request for extraordinary judicial review, the Border and Coast Guard Academy will later decide, in connection with the student's pursuit of similar studies, on the credit transfer for studies completed up to that time.

### **Section 28b (1229/2013)**

#### **Information related to discontinuing studies and forfeiture of the right to study**

Where there are reasonable grounds to believe that border guard basic course students, in view of their state of health, are no longer suitable for the proper performance of the duties of the Border Guard, they may be ordered to undergo checks and examinations carried out by licensed healthcare professionals in order to establish their state of health. Costs incurred in taking checks and examinations ordered by the Border and Coast Guard Academy are borne by the Academy.

Notwithstanding secrecy provisions, the Border and Coast Guard Academy has the right to obtain, for the purpose of assessing the right to study, from physicians entitled to practise the profession independently a written statement showing that students have undergone a check or examination to establish their state of health and an assessment made on the basis of the check or examination of their ability to function and their suitability, in view of their state of health, for the proper performance of the duties of the Border Guard.

Notwithstanding secrecy provisions, the Border and Coast Guard Academy has the right to obtain from criminal investigation authorities, prosecutors and courts information on criminal matters concerning students that is required to decide on discontinuing studies or on forfeiture of the right to study.

### **Section 28c (641/2019)**

#### **Processing of data belonging to special categories of personal data**

Personal data pertaining to the health status of a student or a person seeking admission and relating to his or her criminal convictions and offences may be processed only by those who prepare or make decisions on student selection, discontinuance of studies or forfeiture of the right to study or who issue statements on the said matters.

The Border and Coast Guard Academy shall keep the data referred to in subsection 1 separate from other personal data collected by it.

The data referred to in subsection 1 shall immediately be erased from the filing system when there are no longer grounds required by statutory duties for their storage, however, at the latest within three years after their entry in the filing system.

### **Section 29 (1349/2019)**

#### **Requests for a review**

Those dissatisfied with decisions concerning admission to training based on an entrance examination, and with decisions concerning a service commitment, orders to take a substance test, social benefits of border guard basic course students and postponing studies may request an administrative review from the Border Guard Headquarters. Provisions on requesting an administrative review are laid down in the Administrative Procedure Act (434/2003). Provisions on requesting a judicial review by an administrative court are laid down in the Administrative Judicial Procedure Act (808/2019).

An administrative review of decisions of the Border and Coast Guard Academy concerning the assessment of completed studies, or credit transfer for previous studies or studies completed elsewhere, may be requested from the Border Guard Headquarters within 30 days from the date

on which the student was able to have access to the results of the assessment and to the information on the application of assessment criteria. No judicial review may be requested by way of appeal in respect of a decision concerning a request for an administrative review.

The provisions of the Administrative Judicial Procedure Act apply to requests for a judicial review by an administrative court of any other decision, unless otherwise provided elsewhere by law. Decisions on forfeiture of the right to study or on postponing studies may be enforced immediately, unless the reviewing authority otherwise orders.

## **Section 30**

### **Military service and voluntary military service at the Border Guard**

Conscripts and those taken into military service referred to in the Act on Women's Voluntary Military Service (194/1995) may be ordered to be trained at the Border Guard. The provisions on service in the Defence Forces apply to service at the Border Guard, as appropriate. Conscripts and women taken into voluntary military service may be deployed to support the activities of the Border Guard, where necessary.

## **Chapter 4**

### **Miscellaneous provisions**

## **Section 31**

### **Application of provisions on military offences**

Provisions on the application of provisions on military offences to those serving in military posts at the Border Guard and to border guard basic course students are laid down in chapter 45, section 27 of the Criminal Code. Provisions on the right of border guards holding a military post to use force are laid down in section 35 of the Border Guard Act and those on the right of soldiers and superior officers to use force in section 23 of the Act on the Defence Forces (551/2007). (1229/2013)

During wartime, the provisions of chapter 45 of the Criminal Code also apply to those serving in duties similar to those referred to in section 28, subsection 2 of that chapter. However, provisions on the right of border guards to use force are laid down in section 35 of the Border Guard Act.

The provisions of sections 1–35, 45–85, 94–104, 124 and 126, or those issued under section 130, of the Act on Military Discipline and Combating Crime in the Defence Forces (255/2014) apply to criminal investigation by the Border Guard of offences to be tried as military court cases, and to the military discipline procedure at the Border Guard. The provisions on the duties and powers of disciplinary superiors of the Defence Command and the Defence Forces laid down in these sections apply to the Headquarters and disciplinary superiors of the Border Guard. (266/2014)

Further provisions on the procedure to be followed in criminal investigation of offences to be tried as military court cases and on the disciplinary superiors of the Border Guard referred to in section 10, giving the statement referred to in section 33 and the enforcement of warnings in military discipline matters considered by the Border Guard referred to in section 75 of the Act on Military Discipline and Combating Crime in the Defence Forces are issued by government decree. (266/2014)

### **Section 31a (641/2019)**

#### **Review of the military discipline decisions**

The Border Guard Headquarters shall review the military discipline decisions of the administrative units at least once every year.

### **Section 32**

#### **Disclosure of information on medical restrictions contained in patient records of those serving in or applying for military posts**

Notwithstanding the provisions of the Act on the Status and Rights of Patients (785/1992) and the Health Care Professionals Act (559/1994) on the secrecy of information contained in patient documents, if a doctor finds in an examination to assess fitness for military service, or in an employment-related or other medical examination, that those serving in or applying for military posts at the Border Guard have medical restrictions affecting their military fitness class, service safety or performance of official duties, the doctor shall immediately give a statement on conclusions to be made from the examination to the head of the administrative unit in which the official whom the statement concerns serves or will be employed. Statements on heads of administrative units are given to the Chief of the Border Guard. Statements on the Chief of the Border Guard are given to the Minister of the Interior.

Doctors shall inform those whose state of health their statement concerns that they have given a statement.

In all other respects, the provisions of the Act on the Protection of Privacy in Working Life (759/2004) shall be observed in the processing, storage and secrecy of health information.

### **Section 33**

#### **Terms of employment for international assignments**

The provisions of the Act on Allowances Payable to Officials in Finnish Missions Abroad (596/2006) apply to allowances granted as compensation for special local conditions and other financial benefits payable to officials in an employment relationship with the Border Guard who have been assigned to the position of border control specialist or to a similar international expert position. (1151/2010)

Further provisions on the comparability of officials in an employment relationship with the Border Guard to officials assigned to Finnish missions abroad, on the allowances referred to in the Act specified in subsection 1 and on the determination of a military pension during international expert assignments are issued by decree of the Ministry of the Interior.

### **Section 34**

#### **Emblem**

Provisions on the Border Guard emblem are laid down by presidential decree.

Permission to use the emblem is given by the Chief of the Border Guard. Any unauthorised use of the emblem is prohibited.

### **Section 35 (618/2017)**

#### **Retirement age**

The retirement age in military posts at the Border Guard is according to the year of birth:

1) for the Chief of the Border Guard:

- a) 63 years for a person born in or before 1954;
- b) 63 years and 3 months for a person born in 1955;
- c) 63 years and 6 months for a person born in 1956;
- d) 63 years and 9 months for a person born in 1957;
- e) 64 years for a person born in 1958;
- f) 64 years and 3 months for a person born in 1959;
- g) 64 years and 6 months for a person born in 1960;
- h) 64 years and 9 months for a person born in 1961;
- i) 65 years for a person born in 1962–1964;

2) for the Deputy Chief of the Border Guard, generals, admirals, colonels and captains (N):

- a) 60 years for a person born in or before 1957;
- b) 60 years and 3 months for a person born in 1958;
- c) 60 years and 6 months for a person born in 1959;
- d) 60 years and 9 months for a person born in 1960;
- e) 61 years for a person born in 1961;
- f) 61 years and 3 months for a person born in 1962;
- g) 61 years and 6 months for a person born in 1963;

h) 61 years and 9 months for a person born in 1964;

i) 62 years for a person born in 1965–1967;

3) for officers other than those specified in paragraph 1 or 2, and for special officers, warrant officers, border guards and coast guards:

a) 55 years for a person born in or before 1962;

b) 55 years and 3 months for a person born in 1963;

c) 55 years and 6 months for a person born in 1964;

d) 55 years and 9 months for a person born in 1965;

e) 56 years for a person born in 1966;

f) 56 years and 3 months for a person born in 1967;

g) 56 years and 6 months for a person born in 1968;

h) 56 years and 9 months for a person born in 1969;

i) 57 years for a person born in 1970–1972.

By derogation from subsection 1, the retirement age of special officers, junior officers, field officers and warrant officers serving in positions requiring pilot training is:

a) 50 years for a person born in or before 1967; however, 55 years in the posts of generals and colonels in positions requiring pilot training;

b) 50 years and 3 months for a person born in 1968; however, 55 years and 3 months in the posts of generals and colonels in positions requiring pilot training;

- c) 50 years and 6 months for a person born in 1969; however, 55 years and 6 months in the posts of generals or colonels in positions requiring pilot training;
- d) 50 years and 9 months for a person born in 1970; however, 55 years and 9 months in the posts of generals or colonels in positions requiring pilot training;
- e) 51 years for a person born in 1971; however, 56 years in the posts of generals or colonels in positions requiring pilot training;
- f) 51 years and 3 months for a person born in 1972; however, 56 years and 3 months in the posts of generals and colonels in positions requiring pilot training;
- g) 51 years and 6 months for a person born in 1973; however, 56 years and 6 months in the posts of generals and colonels in positions requiring pilot training;
- h) 51 years and 9 months for a person born in 1974; however, 56 years and 9 months in the posts of generals and colonels in positions requiring pilot training;
- i) 52 years for a person born in 1975–1977; however, 57 years in the posts of generals and colonels in positions requiring pilot training.

The retirement age of the Chief of the Border Guard born in or after 1965, the Deputy Chief, generals, admirals, colonels and captains (N) of the Border Guard born in or after 1968, an official serving in another military post born in or after 1973, an official serving in the post of general or colonel requiring pilot training born in or after 1973 and another official serving in a position requiring pilot training born in or after 1978 is confirmed by decree of the Ministry of the Interior. The retirement age is confirmed by decree of the Ministry of the Interior for the year in which the official serving in the post of the Chief of the Border Guard reaches the age of 62 years, an official serving in the post of the Deputy Chief, general, admiral, colonel and captain (N) of the Border Guard reaches the age of 59 years, an official serving in another military post and an official serving in the post of general or colonel requiring pilot training reaches the age of 54 years and another official serving in a position requiring pilot training reaches that age of 49 years. The retirement age is adjusted as of the retirement age of 57–65 years of an official serving in a military post, the retirement of 57 years of an official serving in the post of general or colonel in a position requiring pilot training and the retirement age of 52 years of another official serving in a

position requiring pilot training with as many months as the lowest old-age retirement age is adjusted in accordance with section 102, subsection 4 of the Public Sector Pensions Act (81/2016).

Provisions on the retirement age for officials other than those serving in a military post are laid down in the Act on Public Officials in Central Government.

Notwithstanding the provisions of this section, unless otherwise provided in subsection 6:

1) for officials serving in the post of coast guard on or before 31 December 1992 who, by the end of 1994, had pensionable service of

- a) a minimum of 16 years, the retirement age is 53;
- b) a minimum of 13 years, the retirement age is 53 years and 4 months;
- c) a minimum of 10 years, the retirement age is 53 years and 8 months;
- d) a minimum of 7 years, the retirement age is 54;
- e) a minimum of 3 years, the retirement age is 54 years and 4 months;

2) for officials serving in the post of border guard on or before 31 December 1992 who, by the end of 1994, had pensionable service of

- a) a minimum of 16 years, the retirement age is 50;
- b) a minimum of 13 years, the retirement age is 51;
- c) a minimum of 10 years, the retirement age is 52;
- d) a minimum of 7 years, the retirement age is 53;
- e) a minimum of 3 years, the retirement age is 54;

3) for officials serving in posts other than military posts on or before 31 December 1992 who, by the end of 1994, had pensionable service of

- a) a minimum of 16 years, the retirement age is 60;
- b) a minimum of 13 years, the retirement age is 61;
- c) a minimum of 10 years, the retirement age is 62;
- d) a minimum of 7 years, the retirement age is 63;
- e) a minimum of 3 years, the retirement age is 64.

The retirement age laid down in subsection 5 increases annually from the beginning of 2018 so that if it is reached:

- 1) in 2018, the retirement age is increased by three months;
- 2) in 2019, the retirement age is increased by six months;
- 3) in 2020, the retirement age is increased by nine months;
- 4) in 2021, the retirement age is increased by one year;
- 5) in 2022, the retirement age is increased by one year and three months;
- 6) in 2023, the retirement age is increased by one year and six months;
- 7) in 2024, the retirement age is increased by one year and nine months;
- 8) in or after 2025, the retirement age is increased by two years.

The positions requiring pilot training referred to in subsection 2 comprise chief of flight operations, head of training at the Air Patrol Squadron, chief flight instructor, chief ground instructor, flight

instructor, head of flight operations, deputy head of flight operations, head of flight safety, flight operations officer, test pilot, chief of airplane group, chief of helicopter group, flight officer, pilot officer, pilot in command, co-pilot and pilot.

### **Section 35a (618/2017)**

#### **Right to continue in service after retirement age**

The Chief of the Border Guard may, on serious grounds and with the consent of the official, decide that an official other than one appointed by the President of the Republic may continue in the same post after the retirement age for a fixed term, however, at most until the end of the month during which an official born in or before 1957 reaches the age of 68 years, an official born in 1958–1961 reaches the age of 69 years and an official born after that reaches the age of 70 years. An official in a military post may, under the preconditions stated above, continue at most until the end of the month during which he or she reaches the retirement age determined in accordance with section 35.

Decisions on the right of officials to continue in the post or fixed-term public-service employment relationship shall be made before the officials have reached retirement age. The public-service employment relationship ends without notice when the fixed term referred to in subsection 1 has expired.

### **Section 36 (1229/2013)**

#### **Further provisions**

Further provisions are issued by presidential decree on:

- 1) military and service ranks, and the grounds for promoting to a military rank and granting a service rank;
- 2) the cross of merit and medal of merit of the Border Guard.

Further provisions on the following matters other than those concerning military command are issued by government decree:

1) if necessary, in individual cases, temporary changes in the chain of military command required for the effective operation of the Border Guard;

2) the right to organise free medical care for officials of the Border Guard;

3) if necessary, the objectives of the training and instruction provided by the Border and Coast Guard Academy and the Air Patrol Squadron, and the grading of assessment; (1229/2013)

4) if necessary, the handling of matters concerning permissions and provision of information laid down in this Act, and the procedure followed when applying for permissions and providing information;

5) the knowledge of languages required at the Border Guard as required by the Act on the Knowledge of Languages Required of Personnel in Public Bodies (424/2003).

Further provisions are issued by decree of the Ministry of the Interior on:

1) the design of the Border Guard uniform and other articles of clothing, and the badges used with them;

2) if necessary, the provision of free board and healthcare for border guard basic course students, the amount and payment process of the per diem allowance, and the reimbursement of travel costs and related procedures.

(1229/2013)

Further regulations specifying the combination, shape and colour of the Border Guard uniform and other articles of clothing, their procurement and use, and the special emblems and insignia used on the uniform and other articles of clothing may be issued by the Chief of the Border Guard.

(1229/2013)

## **Chapter 5**

### **Transitional provisions and entry into force**

#### **Section 37**

## **Entry into force**

This Act enters into force on 1 September 2005.

## **Section 38**

### **Transitional provision on outside employment**

Border guards who are engaged in outside employment referred to in section 19 at the time of entry into force of this Act shall provide the necessary information or apply for the necessary permissions or discontinue outside employment in breach of this Act within a year from the entry into force of this Act.