

Republic of Estonia Employment Contracts Act

Passed 15 April 1992

(RT¹ 1992, 15/16, 241),

entered into force 1 July 1992,

amended by the following Acts:

08.12.2004 entered into force 01.01.2005 - RT I 2004, 86, 584;
22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256;
18.12.2003 entered into force 01.01.2004 - RT I 2003, 90, 601;
17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591;
22.01.2003 entered into force 02.03.2003 - RT I 2003, 13, 69;
18.12.2002 entered into force 23.01.2003 - RT I 2003, 4, 22;
18.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 663;
11.12.2002 entered into force 01.03.2003 - RT I 2002, 110, 656;
19.06.2002 entered into force 01.10.2000 - RT I 2002, 62, 377;
19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375;
31.05.2001 entered into force 30.06.2001 - RT I 2001, 53, 311;
04.04.2001 entered into force 01.01.2002 - RT I 2001, 42, 233;
24.01.2001 entered into force 01.01.2002 - RT I 2001, 17, 78;
06.12.2000 entered into force 07.01.2001 - RT I 2000, 102, 669;
14.06.2000 entered into force 01.10.2000 - RT I 2000, 57, 370;
14.06.2000 entered into force 10.07.2000 - RT I 2000, 51, 327;
08.03.2000 entered into force 07.04.2000 - RT I 2000, 25, 144;
16.06.99 entered into force 26.07.99 - RT I 1999, 60, 616;
27.01.99 entered into force 28.02.99 - RT I 1999, 16, 276;
09.12.98 entered into force 01.01.99 - RT I 1998, 111, 1829;
18.12.96 entered into force 01.02.97 - RT I 1997, 5, 32;
20.12.95 entered into force 01.09.96 - RT I 1996, 3, 57;
26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953;
12.06.96 entered into force 11.07.96 - RT I 1996, 45, 850;
28.05.96 entered into force 08.06.96 - RT I 1996, 40, 773;
25.01.95 entered into force 01.01.96 - RT I 1995, 16, 228;

19.01.95 entered into force 20.02.95 - RT I 1995, 14, 170

05.05.93 entered into force 01.09.93 - RT I 1993, 26, 441;

09.02.93 entered into force 12.03.93 - RT I 1993, 10, 150.

In the text of this Act, the word “court” has been replaced by the words “labour dispute resolution body” in the appropriate case form

(20.12.95 entered into force 01.09.96 - RT I 1996, 3, 57)

Chapter 1

General Provisions

§ 1. Employment Contract

An employment contract is an agreement between an employee and an employer under which the employee undertakes to do work for the employer in subordination to the management and supervision of the employer, and the employer undertakes to remunerate the employee for such work and to provide the working conditions prescribed in the agreement between the parties, a collective agreement, law or administrative legislation.

§ 2. Employee

(1) A natural person who has attained eighteen years of age and has active legal capacity or restricted active legal capacity may be an employee. A higher age limit may be established by law for certain categories of employees.

(1¹) A minor may be an employee only on the conditions specified in § 2¹.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

(2) (Repealed - 22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 2¹. Restrictions on employment of minors

(1) An employer shall not to employ a minor under 15 years of age or a minor subject to the obligation to attend school, or require such minor to work, unless otherwise provided by law.

(2) Minors of 13-14 years of age and minors of 15-16 years of age subject to the obligation to attend school are permitted to perform work where the nature of the tasks is simple and does

not require great physical or psychological effort (hereinafter light work). The list of light work shall be established by a regulation of the Government of the Republic.

(3) An employer shall not to employ a minor or require a minor to work if the work:

- 1) is beyond the minor's physical or psychological capacity;
- 2) is likely to harm the moral development of the minor;
- 3) involves the risk of accidents which it may be assumed cannot be recognized or avoided by a minor owing to his or her lack of experience or training;
- 4) is likely to harm the minor's social development or to jeopardize his or her education;
- 5) involves health hazards to the minor arising from the nature of the work or from the working environment. The list of such work and hazards shall be established by a regulation of the Government of the Republic.

(4) In order to enter into an employment contract with a minor, the written consent of the legal representative of the minor is required.

(5) In order to enter into an employment contract with a minor of 13-14 years of age, the employer is required to request the written consent of the labour inspector of the seat (residence) of the employer. In the request, the employer shall set out the data specified in clauses 26 (1) 1)-7), as well as data concerning the age of the minor and his or her obligation to attend school.

(6) If the labour inspector ascertains that the work is not prohibited to be performed by a minor and that the working conditions of the minor are in accordance with the requirements specified in this Act or in another legal act, the labour inspector shall issue the consent provided for in subsection (5) of this section to the employer.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 3. Employer

The following may be an employer:

- 1) legal persons;
- 2) a structural unit of a legal person if it has been granted the rights of an employer;
- 3) a natural person with active legal capacity. In the cases prescribed by law, an employer must be older than eighteen years of age.

§ 4. Validity of employment contracts entered into previously

An employment contract that is entered into before a higher age limit for an employee or employer enters into force (subsection (2) 1) and clause 3 3)) remains in force when such age limit enters into force, unless otherwise prescribed by law.

§ 5. Scope of application of Employment Contracts Act

The Employment Contracts Act extends to all employees and employers who enter into employment contracts. Enterprises enter into employment contracts with their members, shareholders or stockholders who work in the enterprises.

§ 6. Transfer of conditions of employment contract in event of change of employer

(1) The rights and obligations arising from an employment contract transfer to the new employer in the following cases:

- 1) in the case of merger, division or transformation of employers which are legal persons;
- 2) if the functions of a body administered by an administrative agency are fully or partially transferred to another person, if after the transfer the same or similar activities are continued;
- 3) in case a business entity operating in commerce or for other purposes, or an organisationally independent part thereof, is transferred from one person to another on any legal basis, if after the transfer the same or similar activities are continued.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 6¹. Prohibition on termination of employment contract in event of change of employer

Former and new employers are prohibited to terminate an employment contract in the event of a change of employer. This does not affect the right of an employer to terminate an employment contract on another basis.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 6². Liability of former and new employers for obligations arising from employment contracts

(1) A former employer shall be liable for obligations arising from the employment contracts which are in force at and fall due by the time of change of employer, unless the employer is declared insolvent for the purposes of § 19 of the Unemployment Insurance Act.

(2) A former employer shall be solidarily liable with the new employer for the obligations arising from the employment contracts in force at the time of the change of employer which were created prior to the change of employer and fall due during one year as of the change of employer.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 6³. Informing and consulting in event of change of employer

(1) The former and the new employer shall submit, in writing, all relevant information to the representatives of the employees or in their absence to the employees, in good time, but not later than one month prior to the transfer of the employment contracts in the cases specified in § 6, setting out the following:

- 1) the proposed date of the transfer of employment contracts;
- 2) the reasons for the change of employer;
- 3) the legal, economic and social implications of the change of employer for the employees;
- 4) any measures envisaged in relation to the employees.

(2) Where the former or new employer envisages measures in relation to his employees in connection with the transfer of employment contracts, the employer shall consult the representatives of the employees on such measures with a view to reaching an agreement.

(3) During the consultations, the representatives of the employees have the right to meet with the representatives of the employer and the members of the directing bodies of the employer and submit, within the period of at least fifteen days as of the receipt of the information specified in subsection (1) of this section, their written proposals with regard to the proposed measures in relation to the employees, unless a longer period is agreed upon. Employers are required to give reasons for refusal to consider such proposals.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 7. Circumstances to which Employment Contracts Act does not extend

The Employment Contracts Act does not extend to:

- 1) service as a member of the Riigikogu², the President of the Republic or an official appointed to office by the President of the Republic or the Riigikogu;

- 2) state officials and local government officials whose service relationships are regulated by the Public Service Act;
- 3) active service in the armed forces;
- 4) work as a member of a farm family for family enterprise in a family farm enterprise or family enterprise;
- 5) household work by parents, spouses or children for one another and care by such persons for one another;
- 6) work by family members in a shared household and care for family members;
- 7) work on the basis of a contract of service. Contracts of service are regulated by a specific Act.
- 8) work in a religious organisation as a person conducting religious services if the fundamental document of such organisation does not require entry into an employment contract with such person;
- 9) performance of a transaction on the basis of an authorisation if the person performing such transaction receives income from the transaction and bears proprietary risk for the success of the transaction;
- 10) relationships of directors of bodies of legal persons or Estonian branches of foreign companies, and members of administrative boards of state enterprises with legal persons, Estonian branches of foreign companies or state enterprises.
(28.05.96 entered into force 08.06.96 - RT I 1996, 40, 773)
- 11) activities based on contracts for services or other civil law contracts.
- 12) work performed during imprisonment. The Employment Contracts Act extends to persons who do community work in lieu of imprisonment, subject to the exceptions prescribed by other Acts.
- 13) other activities directly prescribed by law and persons directly referred to by law.
(25.01.95 entered into force 01.01.96 - RT I 1995, 16, 228)

§ 8. Dispute over nature of contract

In the case of a dispute over the nature of a contract, the parties are deemed to have entered into an employment contract unless the alleged employer proves otherwise or unless it is evident that the parties entered into a different kind of contract.

§ 9. Concealed transaction

If the parties enter into an employment contract in order to conceal another transaction, the provisions pertaining to the transaction which the parties actually intended apply.

§ 10. Prohibition on discrimination against employees

- (1) Employers shall not, upon employment and entry into employment contracts, discriminate against persons applying for employment on any of the grounds specified in subsection (3) of this section.
- (2) Employers shall not discriminate against employees on any of the ground specified in subsection (3) of this section upon remuneration, promotion in employment or office, giving instructions, termination of employment contracts, access to retraining or in-service training or otherwise in employment relations.
- (3) Discrimination prohibited on the basis of subsections (1) and (2) of this section shall be taken to occur where a person applying for employment or an employee is discriminated against on grounds of sex, racial origin, age, ethnic origin, level of language proficiency, disability, sexual orientation, duty to serve in defence forces, marital or family status, family-related duties, social status, representation the interests of employees or membership in workers' associations, political opinions or membership in a political party or religious or other beliefs.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 10¹. Exceptions to prohibition on discrimination pursuant to law

For the purposes of this Act, the following shall not be deemed to be discrimination:

- 1) grant of preferences on grounds of pregnancy, confinement, giving care to minors or adult children incapacitated for work and parents who are incapacitated for work;
- 2) grant of preferences on grounds of membership in association representing the interests of employees or representing the interests of employees;
- 3) grant of preferences to disabled workers, including creation of working environment taking account of the special needs of disabled workers;
- 4) taking account of the sex, level of language proficiency, age or disability upon employment of a person, or upon giving instructions or enabling access to retraining or in-

service training, if this is an essential and determinative professional requirement arising from the nature of the professional activity or related conditions;

5) allowing a suitable working and rest time regime which satisfies the religious requirements of an employee.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 10². Prohibition on direct and indirect discrimination

(1) It is prohibited to discriminate against employees or persons applying for employment either directly or indirectly.

(2) Direct discrimination shall be taken to occur where one person applying for employment or an employee is treated less favourably than another person applying for employment or another employee is, has been or would be treated in a comparable situation, on any of the grounds specified in subsection 10 (3).

(3) Indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put employees or persons applying for employment at a particular disadvantage compared with other employees or persons applying for employment on any of the grounds specified in subsection 10 (3), unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

(4) For the purposes of this Act, harassment shall be deemed to be a form of direct discrimination on any of the grounds specified in subsection 10 (3). Harassment shall be taken to occur where unwanted conduct or act, either verbal, non-verbal or physical, takes place against a person in a relationship of subordination or dependency with the purpose or effect of violating the dignity of the person and of creating a disturbing, intimidating, hostile, degrading, humiliating or offensive environment, and the person rejects such conduct or tolerates it for a reason that it affects his or her access to office or employment or in order to maintain the employment relationship, have access to training, receive remuneration or have access to other advantages or benefits.

(5) An instruction given to a person to discriminate against another person shall be deemed to be discrimination.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 10³. Rights of employees and persons applying for employment who have been subject to discrimination

(1) An employee or a person applying for employment against whom the employer discriminated on any of the grounds specified in subsection 10 (3) has the right to demand from the employer compensation for the proprietary and non-proprietary damage caused by the discrimination.

(2) A person with whom the employer refused to enter into an employment contract on any of the grounds specified in subsection 10 (3) shall not have the right to demand entry into an employment contract.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 11. Benefits for persons raising children

The benefits prescribed in subsections 51 (2) and 63 (2), § 67, subsection 79 (2) and § 92 for women raising disabled children or children under three years of age also extend to:

- 1) persons raising motherless children who are disabled or under three years of age;
- 2) guardians of children who are under three years of age;
- 3) guardians or curators of disabled children.

§ 12. Minors

Minors enjoy equal rights with adults in employment relationships and disputes, and they have benefits prescribed by law, administrative legislation and collective agreements.

§ 13. Citizens of foreign states and stateless persons

(1) Citizens of foreign states and stateless persons who reside in Estonia permanently have rights pertaining to employment equal to those of Estonian citizens unless otherwise prescribed by law.

(2) Specific conditions pertaining to employment of citizens of foreign states and stateless persons who are residing in Estonia temporarily or for a specified period of time shall be prescribed by law.

§ 13¹. Part-time workers

(1) Part-time workers shall not be treated in a less favourable manner in an employment relationship than comparable full-time workers unless different treatment is justified on objective grounds arising from the law or collective agreement. Comparable full-time worker means an employee working for the same employer, who is engaged in the same or a similar work, due regard being given to other considerations which may include qualification and skills of the employee. Where there is no comparable full-time worker employed at the same employer, the comparison shall be made by reference to the applicable collective agreement. Where there is no collective agreement, a worker engaged in the same or similar work in the same region shall be deemed to be a comparable full-time worker.

(2) An employer shall notify the representatives of the employees and a full-time worker in good time of the opportunity for part-time work and a part-time worker of the opportunity to work for full-time, considering the qualification and skills of the worker.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 13². Fixed-term workers

(1) Fixed-term workers shall not be treated in a less favourable manner in an employment relationship than comparable permanent workers unless different treatment is justified on objective grounds arising from the law or collective agreement. Comparable permanent worker means an employee working for the same employer, who is engaged in the same or a similar work, due regard being given to other considerations which may include qualification and skills of the employee. Where there is no comparable permanent worker employed at the same employer, the comparison shall be made by reference to the applicable collective agreement. Where there is no collective agreement, a worker engaged in the same or similar work in the same region shall be deemed to be a comparable permanent worker.

(2) An employer shall notify the representatives of the employees and a fixed-term worker of vacant jobs in good time during the validity of the fixed-term employment contract, considering the qualification and skills of the worker.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 14. Extension of employees' rights

(1) The rights granted to employees by law or administrative legislation may be extended by collective agreements or employment contracts, or by unilateral decisions of employers.

(2) The rights granted to employees by collective agreements may be extended by employment contracts or unilateral decisions of employers.

§ 15. Invalidity of employment contract terms which are unfavourable to employees

Employment contract terms which are less favourable to employees than those prescribed by law, administrative legislation or a collective agreement are invalid. The law, administrative legislation or collective agreement applies instead of the invalid employment contract terms unless the parties agree on new terms.

§ 16. Invalidity of unilateral decisions of employers which are unfavourable to employees

Terms established by unilateral decisions of employers which are less favourable to employees than those prescribed by law, administrative legislation, collective agreements or employment contracts are invalid. The law, administrative legislation, collective agreement or employment contract applies instead of the invalid terms.

§ 17. Application of provisions which are more favourable to employees

In the event of a conflict between provisions, the provision which is more favourable to employees applies.

§ 18. Unilateral actions

The unilateral amendment, suspension, termination or cancellation of an employment contract is permitted only under the conditions and pursuant to the procedures provided by law, a collective agreement or the employment contract.

§ 19. Continuous length of employment with same employer

Continuous length of employment with the same employer is calculated in accordance with the rules established by the employer, in a collective agreement or the employment contract. In each case, time worked without breaks, time during which the employment contract is suspended and

time of compelled absence from work is included in the length of employment with the same employer.

§ 20. Employment record book

- (1) An employment record book is a fundamental document proving employment under an employment contract.
- (2) Employers are required to maintain employment record books for all employees who are employed in a principal job.
- (3) The following is entered in an employment record book:
 - 1) the given name and surname of the employee;
 - 2) the date of birth of the employee;
 - 3) the duration of employment under the employment contract, including special entries concerning the duration of employment or conditions which grant the employee the right to pension benefits or calculation of pensionable age under favoured conditions;
 - 4) a suspension of the employment contract pursuant to clauses 55 1), 2) and 7) for more than three months.
- (4) At the request of an employee, the following is entered in his or her employment record book:
 - 1) a statement of the basis for termination or declaration of invalidity of the employment contract with reference to the section, subsection and clause of this Act;
 - 2) information relating to the work performed and the offices held;
 - 3) the duration of employment in a second job if the employee presents a document to the employer in the principal job proving employment in the second job;
 - 4) the duration of employment at the workplace of another employer pursuant to §§ 67 and 68 if the employee presents a document to the employer in the principal job proving such employment.
- (5) Information which is not referred to in subsections (3) and (4) of this section is not entered in an employment record book.
- (6) The Ministry of Social Affairs shall establish the format, procedure for completion and issue of duplicates, and the price of employment record books.

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953)

§ 21. Registration of employees and preservation of documents

(1) Employers shall maintain records on all employees in personnel files. The procedure for maintaining records and the list of information to be entered in personnel files shall be established by the Minister of Social Affairs.

(2) The employment contract, the personnel file, and the employment record book if it is left with the employer shall be preserved for fifty years as of the termination of the employment contract. If the activities of the employer are terminated, the employer shall transfer the specified documents to an archival agency. Upon the transfer of the enterprise or organisationally independent part thereof, the employer shall transfer the documents to the legal successor of the employer.

(06.12.2000 entered into force 07.01.2001 - RT I 2000, 102, 669)

§ 22. Provision of certificates and assessments to employees

At the request of an employee, the employer is required to provide the employee with:

1) a certificate of paid wages, personal income tax deductions and insurance payments made for the benefit of the employee, at the end of each calendar year and upon the termination of the employment contract. The format of the certificate shall be established by the Tax and Customs Board;

(26.06.96 entered into force 26.07.96 - RT I 1996, 49, 953; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591)

2) a certificate showing in what capacity and for what length the employee has worked for the employer. At the request of the employee, a statement of the basis for termination or declaration of invalidity of the employment contract with reference to the section, subsection and clause of this Act shall be entered in the certificate;

3) references.

§ 23. Time limits for decisions of labour inspectors

Labour inspectors shall render decisions prescribed in this Act within two weeks after the date on which they are consulted.

§ 24. Establishment of special rules

Rules which differ from those contained in this Act may be established by law for certain categories of employees and certain categories of employers.

§ 25. International agreements

If an Act, administrative legislation, collective agreement, employment contract or unilateral decision of an employer is contrary to an international agreement binding on Estonia which expressly and unambiguously prescribes application of the agreement notwithstanding the passage of national law or administrative legislation, the international agreement applies.

Chapter 2

Entry into Employment Contract

§ 26. Mandatory provisions and information in employment contracts

(1) The following provisions and information shall be set out in an employment contract:

- 1) the identities of the parties (name, personal identification code or registration number, residence or seat);
- 2) the date of entry into the employment contract and the time of commencement of work by the employee;
- 3) in case of a fixed-term employment contract, the duration of the validity of and the basis for entry into the contract;
- 4) the official title or professional title or qualification requirements, and job description;
- 5) the place or region where the work is to be performed;
- 6) wage conditions;
- 7) standard for working time;
- 8) the length of the employee's annual holiday or additional holiday, and the bases for grant of additional holiday;
- 9) the terms for advance notice concerning termination of employment contract or the bases for determining such terms;
- 10) a reference whether or not a collective agreement applies to the employment contract.

(2) The conditions specified in clause (1) 9) of this section may be given in the form of a reference to a corresponding legal act or the collective agreement.

(3) Where an employee is required to work in a foreign state for a period longer than one month, the employment contract must include, in addition to the information specified in subsection (1) of this section, at least the following conditions and information:

- 1) the duration of the employment in a foreign state;
- 2) the currency to be used for the payment of remuneration;
- 3) the additional remuneration, benefits and fringe benefits attendant on the employment abroad;
- 4)

(4) Agreements on other issues may be included as provisions in employment contracts.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 27. Term of employment contract

(1) An employment contract is entered into for:

- 1) an unspecified term;
- 2) a fixed term, whether the term of a contract is fixed by a specific date or by completion of the work, but for not longer than five years.

(2) An employment contract may be entered into for a fixed term:

- 1) for completion of a specific task;
- 2) for replacement of an employee who is temporarily absent;
- 3) for a temporary increase in work volume;
- 4) for performance of seasonal work;
- 5) if the employment contract prescribes special benefits (training at the expense of the employer, waiver by the employer of termination of the employment contract due to a lay-off of the employee etc.);

6) in the cases prescribed by law or by regulations of the Government of the Republic.

(3) If the term of an employment contract is not specified, the employment contract is deemed to have been entered into for an unspecified term.

(4) If an employment contract specified in clauses (2) 1) or 3) of this section entered into for a fixed term is entered into for the performance of the same work for more than two consecutive

terms, each following employment contract entered into for a fixed term for the performance of the same work shall be deemed to be an employment contract entered into for an unspecified term. Entry into an employment contract is deemed to be for a consecutive term if the period between the termination of one employment contract and the entry into a new employment contract shall not exceed two months. This subsection does not apply to employees appointed to a post specified in the law or a regulation of the Government of the Republic by way of public competition for a fixed term.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 28. Format of employment contract

(1) An employment contract is entered into in duplicate original copies of which one copy is retained by the employee and the other with the employer. An oral employment contract may be entered into only for employment for a term of less than two weeks.

(2) Permitting an employee to commence work is equivalent to entering into an employment contract, regardless of whether the employment contract has been formalised. In such case, the employment contract is formalised in writing with the terms which actually applied. If the actual terms were less favourable to the employee than those prescribed by law, administrative legislation or collective agreement, then the appropriate law, administrative legislation or collective agreement applies.

(3) Employers bear administrative liability for failure to formalise or for unsatisfactory formalisation of employment contracts.

§ 29. Entry into employment contract in person

All employees, including minors, enter into employment contracts with employers or the authorised representatives of employers in person. An employment contract is deemed to have been entered into when the parties have signed the contract or the employee commences work.

§ 30. Documents required for entry into employment contract

(1) In order to enter into an employment contract, an employer requires presentation of the following documents:

1) identification;

- 2) an employment record book;
 - 3) certificate (diploma) regarding the necessary qualifications or education;
 - 4) certificate (health record) regarding health if the employment contract is entered into for work where prior and periodic medical examinations are prescribed, or upon hiring persons who are under twenty-one years of age for work prescribed in special rules. The Government of the Republic shall approve the list of such work and the Ministry of Health shall approve the format of such certificates (health records).
 - 5) the written consent of one parent or guardian and the labour inspector upon hiring a minor between thirteen and fifteen years of age;
 - 6) the written consent of one parent or curator upon hiring a minor who has attained fifteen years of age;
 - 7) a work permit upon hiring an alien or stateless person in the cases prescribed by law;
 - 8) other documents in the cases prescribed by law or regulations of the Government of the Republic.
- (2) Upon hiring, it is prohibited to require documents which are not prescribed by law or regulations of the Government of the Republic.
- (3) On their own initiative, employees have the right to present employers with references, recommendations and other documents which characterise their previous work performance and the existence and application of their professional skills.

§ 31. Registration of employment contract

- (1) If an employer is a natural person, the employer is required to register a written employment contract within one week after the date that an employee commences employment with the labour inspectorate of the employer's place of residence. Failure to register an employment contract does not affect the validity of the contract.
- (2) Employers bear administrative liability for failure to register employment contracts.

§ 32. Restrictions on work with relatives and relatives by marriage

- (1) It is prohibited for persons who are close relatives (parents, brothers, sisters, children) or close relatives by marriage (a spouse, spouse's parents, brothers, sisters, children) to work in the

same state or municipal enterprise, agency or other state or municipal organisation in positions which are directly subordinate to or have direct control over the other.

(2) The list of positions which are not subject to the restrictions prescribed in subsection (1) of this section shall be established by law or a regulation of the Government of the Republic.

§ 33. Probationary period

(1) An employment contract may prescribe a probationary period in order to confirm that the employee has the necessary health, abilities, suitable social skills and professional skills to perform the work agreed on in the employment contract.

(2) A probationary period shall not exceed four months.

(3) Time during which an employment contract is suspended pursuant to clauses 55 (1)–(6) is not included in a probationary period.

(4) During a probationary period, an employee has the rights and duties provided by law, administrative legislation, a collective agreement and the employment contract.

(5) A probationary period is not applied:

1) to minors;

2) upon hiring disabled persons for employment (professional) positions which are prescribed for them.

§ 34. Results of probationary period

(1) The results of probationary periods are determined by employers. If an employer is not satisfied with the results of a probationary period, the employer has the right to terminate the employment contract (clause 86 5)). During a probationary period, an employee has the right to terminate his or her employment contract.

(2) If a probationary period has ended and the employee continues to work, the probation is deemed to have been passed and the employer may terminate the employment contract with him or her only on other bases prescribed by law.

§ 35. Work for which employment of women is prohibited

It is prohibited to hire and employ women for heavy work, work which poses a health hazard or underground work. The list of work which is prohibited for women shall be determined by the Government of the Republic.

§ 36. (Repealed - 22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 37. (Repealed - 24.10.2001 entered into force 01.01.2002 - RT I 2001, 17, 78)

§ 38. Employer's liability for not allowing employee to work

If an employer prohibits an employee who has entered into an employment contract from working, the employee may demand by a court proceeding performance of the employment contract and for payment of agreed wages for the period of compelled absence from work, or compensation for refusal to perform the employment contract in the amount of three months' agreed wages.

Chapter 3

Internal Procedures, Duties of Parties and Suspension of Employment Contract

Division 1

Internal Procedures

§ 39. General rules

- (1) Internal procedures determine the rules of conduct of the parties in employment relationships.
- (2) Internal procedures may be the same for all employees of an enterprise, agency or organisation, or may vary for structural units or employees by category.

§ 40. Internal work procedure rules

- (1) For employers with at least five employees, internal procedures are regulated by internal work procedure rules. Employers, except state and local government administrative agencies,

shall approve internal work procedure rules in agreement with the labour inspector of their location (residence).

(25.01.95 entered into force 01.01.96 - RT I 1995, 16, 228)

(2) For employers with less than five employees, internal work procedure rules are not required. Such employers may regulate internal procedure independently, taking into account the particulars of the work and the requirements which are usually applicable to internal procedures.

§ 41. Content of internal work procedure rules

(1) Internal work procedure rules shall, at a minimum, determine the following:

- 1) the beginning and end of working time separately for adults and minors, and the end of working time on days prior to days off and state holidays;
- 2) time provided for rest and meals;
- 3) time and place of payment of wages;
- 4) the procedure for giving instructions pertaining to work;
- 5) general instructions on occupational health and safety and on fire hazards.

(2) In the case of shift work, the beginning and end of working time, time provided for rest and meals, and the time and procedure for alternating shifts may be regulated by shift schedules. Shift schedules shall be approved by employers.

§ 42. Introduction of draft internal work procedure rules

(1) Employers shall provide draft internal work procedure rules to employees and organisations representing employees for examination, proposals and comments at least one week prior to submission of the draft to a labour inspector.

(14.06.2000 entered into force 10.07.2000 - RT I 2000, 51, 327)

(2) Proposals and comments made regarding draft internal work procedure rules are not mandatory for employers, unless they arise from law.

(25.01.95 entered into force 01.01.96 - RT I 1995, 16, 228)

§ 43. Approval of internal work procedure rules

- (1) After the expiry of the period prescribed in subsection 42 (1), an employer shall submit two original copies of the draft internal work procedure rules to the labour inspector of the location (residence) of the employer for approval.
- (2) The labour inspector shall review the submitted draft within two weeks after the date of receipt, and shall render his or her decision within that period.
- (3) Upon approval of the internal work procedure rules, the labour inspector shall promptly send one original copy with a notation of approval to the employer.
- (4) The labour inspector shall not approve draft internal work procedure rules which are contrary to law or administrative legislation and shall promptly notify the employer thereof in writing.

§ 44. Entry into force of internal work procedure rules

Internal work procedure rules enter into force after one week from the calendar day after approval of the internal work procedure rules by a labour inspector unless the internal work procedure rules prescribe a later date of entry into force.

§ 45. Ensuring access to internal work procedure rules

Employers shall ensure that employees have access to internal work procedure rules at all times.

§ 46. Amendment of internal work procedure rules

Sections 39-45 also apply upon the amendment of internal work procedure rules.

§ 47. Internal work procedure rules contrary to law, administrative legislation or collective agreement

Provisions of internal work procedure rules which are contrary to law, administrative legislation or a collective agreement are invalid.

Division 2

Duties of Parties

§ 48. Reciprocal duties of parties

- (1) Employers and employees have reciprocal duties to:
- 1) comply with the terms of employment contracts and collective agreements;
 - 2) comply with internal procedures, occupational health, work safety and fire safety requirements;
- (16.06.99 entered into force 26.07.99 - RT I 1999, 60, 616)
- 3) refrain from activities which endanger the property of the other party and ensure that the property of third parties is not endangered by the work;
 - 4) be respectful towards one another;
 - 5) perform other reciprocal duties pertaining to work which are prescribed by law and administrative legislation.

§ 49. Duties of employers

An employer is required to:

- 1) provide employees with the work agreed on, and give necessary instructions clearly and in a timely manner;
- 2) pay remuneration for work at the time and in the amount prescribed;
- 3) grant holidays as prescribed and pay holiday pay;
- 4) ensure safe working conditions;
- 5) acquaint employees with the internal procedures and with occupational health and safety and fire safety requirements upon hiring and during employment;
- 5¹) organise, at the expense of the employer, vocational training if the employer changes the requirements for professional skills (including proficiency in the official language and foreign languages) necessary for performance of the work;

(14.06.2000 entered into force 10.07.2000 - RT I 2000, 51, 327)

- 6) determine procedures for acceptance of work performed or declaration that it is defective;
- 7) perform other duties which are prescribed by law, administrative legislation, collective agreements and the employment contract.

§ 50. Duties of employees

A worker is required to:

- 1) perform the work agreed on and fulfil, without special instructions, tasks which arise from the character of the work or during the general course of the work;
- 2) comply with work standards and adhere to the prescribed working time;
- 3) comply with legal instructions of the employer in a timely manner and precisely;
- 4) refrain from actions at the workplace of the employer which hinder other employees from performing their duties or endanger the property of other employees or third parties;
- 5) promptly notify the employer of impediments to work or of the threat thereof and, if possible, eliminate such impediments or threat without special instructions;
- 6) maintain the business and production secrets of the employer and not compete with the employer, including not working for a competitor of the latter without the permission of the employer, if such duties are prescribed by the employment contract. The employee has such duties also after termination of the employment contract if the parties entered into such an agreement and the employer paid special remuneration or provided other compensation to the employee for performance of such duties;
- 7) perform other duties which are prescribed by law, administrative legislation, collective agreements and the employment contract.

(05.05.93 entered into force 01.09.93 - RT I 1993, 26, 441)

§ 51. Business trips

- (1) Employers have the right to send employees outside of the location prescribed by the employment contract, in order to perform their duties, for not longer than thirty consecutive calendar days, and employees are required to go on such business trips. By agreement of the parties, business trips may be of longer duration.
- (2) It is prohibited to send pregnant women and minors on business trips. A woman raising a disabled child or child under three years of age may be sent on a business trip with her consent.
- (3) Employers are required to pay a daily allowance, accommodation expenses and travel expenses to employees for the duration of business trips.
- (4) The amount, conditions of and procedure for payment of the compensation referred to in subsection (3) of this section shall be established by the Government of the Republic.

§ 52. Performance of duties and exercise of rights

- (1) Employers perform their duties personally or through persons who have been authorised for this purpose.
- (2) Employees perform their duties personally. Employees performing home work may use the assistance of third parties with the permission of the employer. Employees bear the risk for damage caused to the employer by such third parties.
- (3) The parties exercise their rights personally or through authorised representatives.

§ 53. Duration of duties

The parties have the duties prescribed in §§ 48–50 after the end of working time and during prescribed work breaks, unless performance of a duty at such time is contrary to the nature of the duty.

(05.05.93 entered into force 01.09.93 - RT I 1993, 26, 441)

Division 3

Suspension of Employment Contract

§ 54. Definition of suspension of employment contract

- (1) Suspension of an employment contract means a temporary relief of an employee from the duty to perform work and a temporary relief of an employer from the duty to provide an employee with work. Suspension of an employment contract does not result in termination of the employment contract.
- (2) During the suspension of an employment contract, the wages of the employee continue to be paid or other compensation is paid in the cases and pursuant to the procedure prescribed by law, a collective agreement or the employment contract.

§ 55. Bases for suspension of employment contract

An employment contract is suspended:

- 1) in the cases prescribed by a collective agreement or the employment contract;
- 2) by agreement of the parties, including during the time of holidays without pay granted by agreement of the parties;
- 3) during holidays;

- 4) during the time that the employee is temporarily incapacitated for work;
 - 5) during the time that the employee performs duties imposed upon him or her by a state or local government authority, or represents employees pursuant to the procedure prescribed by law or a collective agreement;
 - 6) during the time of a legal strike if the employee participates in such strike pursuant to the procedure prescribed by law;
 - 7) during the time that the employee performs the conscript service obligation, serves in alternative service or participates in training exercises;
- (22.01.2003 entered into force 02.03.2003 - RT I 2003, 13, 69)
- 8) during the time that the employer illegally requires the employee to perform other work and the employee refuses to perform such work;
 - 9) during the time that the employee is under arrest or in custody;
 - 10) during the time that the employee is suspended from work pursuant to § 56 or § 57 of this Act or clause 3 3) of the Employees Disciplinary Punishments Act;
 - 11) during the time that the employee is suspended from work by a state body or official authorised to do so by law;
 - 12) in other cases when the employee is temporarily released from performance of his or her duties on the bases prescribed by law.
- (05.05.93 entered into force 01.09.93 - RT I 1993, 26, 441)

§ 56. Suspension of intoxicated employee from work

(1) An employer suspends an employee who is intoxicated by alcohol, narcotics or toxic substances from work for that day (shift). The employer is also required to suspend employees with signs of the residual effects of alcohol, narcotic or toxic substances or medicines, and employees who are under the influence of medicines if the job demands particular accuracy, involves control over a major source of danger or working in its immediate vicinity. In the cases specified in this subsection, the employer is also required to prohibit the employee from coming to work. Such prohibition is equal to suspension from work.

(05.05.93 entered into force 01.09.93 - RT I 1993, 26, 441)

(2) An employee is not paid remuneration for the time that he or she is suspended from work on the bases prescribed in subsection (1) of this section.

§ 57. Suspension from work for period of disciplinary procedure

An employer has the right to suspend an employee from work for the period of a disciplinary procedure, and the employee shall continue to receive his or her average wages for that time.

§ 58. Documentation of suspension of employment contract

(1) An employer documents suspension of an employment contract in the employment record book in the cases prescribed in clause 20 (3) 4.

(2) At the request of the employee, an entry is made in the employment contract concerning suspension of the contract, with a statement of the basis for suspension of the employment contract and reference to the section, subsection and clause of this Act, and the time during which the contract is suspended.

Chapter 4

Amendment of Employment Contract

§ 59. Definition of amendment of employment contract

(1) Amendment of an employment contract is the making of amendments to the terms determined in the employment contract, including the exclusion of certain terms from the contract or the addition of supplementary terms into the contract.

(2) Transfer of an employee to another position means changes in the nature or level of complexity of work determined in the employment contract.

(3) Transfer of an employee to another workplace in the same district is not transfer to another position unless otherwise agreed in the employment contract.

(4) Transfer of an employee to another position outside of the locality determined in the employment contract is transfer of the employee to another locality.

(5) Amendment of an employment contract is only permitted by agreement of the parties, except in the cases prescribed in §§ 61–66, where the employee or the employer has the right to claim unilateral amendment of the employment contract.

§ 60. Transfer to other position by agreement of parties

(1) Upon transfer to another position at the request of an employee, the payment and amount of compensation is decided by agreement of the parties.

(2) Upon permanent transfer of an employee to another position at the request of an employer, the employer is required to continue to pay the employee at least his or her average wages in the former position, during the first month of work in the new position.

§ 61. Permanent transfer to other position at request of employee

(1) If, by decision of a doctor, continuation in former position by an employee is not advisable for reasons of health and the employer has other work which the health of the employee allows him or her to perform, the employee has the right to claim transfer to such position.

(2) If an employer is at fault for a change in the health of an employee which prohibits continuation in his or her former position, the employee has the right to claim transfer to another position and vocational training necessary at the expense of the employer. The employer shall continue to pay the employee his or her average wages in the former position during the vocational training and employment in the other position.

(3) If it is not possible for an employer to transfer an employee to a position which is suitable to his or her state of health, the employment contract is terminated pursuant to clause 86 4).

§ 62. Temporary easement of working conditions or temporary transfer to other position at request of employee

(1) An employee has the right to request from the employer temporary easement of working conditions or temporary transfer to a position suitable to the employee's state of health based on a certificate for sick leave prepared by a doctor.

(2) The difference in wages resulting from temporary easement of working conditions or temporary transfer to a position suitable to the state of health shall be compensated to the employee pursuant to the procedure provided for in the Health Insurance Act (RT I 2002, 62, 377; 2003, 20, 116; 88, 591), except in the cases prescribed in subsection (3) of this section.

(19.06.2002 entered into force 01.10.2000 - RT I 2002, 62, 377)

(3) The employee shall be released from work for the period prescribed in the certificate for sick leave if the labour inspector of the seat (residence) of the employer establishes that it is not possible for the employer to ease the working conditions temporarily or transfer the employee temporarily to a position suitable to his or her state of health. A compulsory medical insurance benefit shall be paid to the employee for the period of release from work pursuant to the procedure prescribed in the Health Insurance Act.

(09.12.98 entered into force 01.01.99 - RT I 1998, 111, 1829; 19.06.2002 entered into force 01.10.2000 - RT I 2002, 62, 377)

§ 63. Temporary easement of working conditions or temporary transfer to another position of pregnant women

(1) Pregnant women have the right to request temporary easement of working conditions or temporary transfer to another position based on a certificate for sick leave prepared by a doctor. The difference in wages shall be compensated to the employee pursuant to the procedure prescribed in the Health Insurance Act.

(19.06.2002 entered into force 01.10.2000 - RT I 2002, 62, 377)

(2) If the labour inspector of the seat (residence) of the employer establishes that it is not possible for the employer to ease the working conditions of the pregnant woman or transfer her to an easier job, she shall be released from work for the period prescribed in the certificate for sick leave and paid a compulsory medical insurance benefit pursuant to the procedure prescribed in the Health Insurance Act.

(09.12.98 entered into force 01.01.99 - RT I 1998, 111, 1829; 19.06.2002 entered into force 01.10.2000 - RT I 2002, 62, 377)

§ 63¹. Change in standard for working time at request of employee

(1) An employer shall, where possible, consider the request of a full-time employee to work part-time.

(2) An employer shall, where possible, consider the request of a part-time employee to work full-time or to increase the number of the employee's working hours.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 64. Amendment of terms of employment contract due to reorganisation of production or work
(09.02.93 entered into force 12.03.93 - RT I 1993, 10, 150)

(1) Employers have the right to amend the bases for remuneration of employees and work regimes upon reorganisation of production or work if they notify the employees thereof in writing at least one month in advance.

(09.02.93 entered into force 12.03.93 - RT I 1993, 10, 150)

(2) Employees have the right to demand termination of their employment contracts if they do not consent to amendment thereof (§ 82).

§ 65. Temporary transfer to other position in event of production emergency

(1) A production emergency is the need, arising from extraordinary circumstances, to temporarily transfer an employee to another position.

(2) Employers have the right to temporarily transfer employees to other positions:

1) for the prevention of a natural disaster or industrial accident or the expeditious elimination of the consequences thereof;

2) for the prevention of an accident, work stoppage, or destruction of or damage to the property of the employer;

3) for the replacement of an employee who is temporarily absent in the cases prescribed in clauses 1) and 2) of this section;

4) in other extraordinary cases.

(3) Transfer to another position in the cases specified in subsection (2) of this section is permitted to any position in the same locality for not longer than one month unless the employee is advised not to accept such position for reasons of health and unless such position results in greater proprietary liability for the employee.

(4) In the other position, the employee is paid remuneration according to the position, but not less than his or her average wages in the former position.

§ 66. Temporary transfer to other position in case of work stoppage

(1) Work stoppage is the stopping of work due to a lack of necessary organisational or technical conditions, *force majeure* or other circumstances.

(2) During a work stoppage an employer has the right to transfer an employee to any position in the same locality unless the employee is advised not to accept such position for reasons of health and unless such position results in greater proprietary liability for the employee.

(3) An employee who is not at fault for a work stoppage is paid remuneration according to the other position but not less than his or her average wages in the former position, provided that he or she fulfils the production quota. If the production quota is not fulfilled through no fault of the employee, he or she is paid remuneration according to the position, but not less than at the rate of hourly wages in the former position.

(4) An employee who is at fault for a work stoppage is paid remuneration according to the position.

§ 67. Temporary transfer of employee to other enterprise, agency or other organisation by decision of state or local government authority

(1) On the basis of a decision of a state authority, an employer has the right to temporarily transfer an employee to a position at another enterprise, agency or other organisation in the same or another locality for the prevention of a natural disaster, expeditious elimination of the consequences thereof or prevention of the spread of disease, but for not more than one month.

(2) In the cases specified in subsection (1) of this section, an employer has the right to transfer an employee to another enterprise, agency or other organisation for the same period, on the basis of a decision of a local government authority, within the boundaries of the territory administered by the local government authority which made the decision.

(3) In the cases specified in subsections (1) and (2) of this section, transfer is permitted to any position unless an employee is advised not to accept such position for reasons of health and unless such position results in greater proprietary liability for the employee.

(4) In the cases specified in subsections (1) and (2) of this section, it is not permitted to transfer a pregnant woman, a woman who is raising a disabled child or a child under sixteen years of age, or a minor to another locality.

(5) An employee transferred pursuant to subsections (1) and (2) of this section is paid remuneration according to the position, but not less than his or her average wages in the former position.

§ 68. Application of part-time working time or grant of holidays with partial pay upon temporary decrease in work volume or orders

(1) Upon a temporary decrease in work volume or orders, an employer has the right, with the consent of the labour inspector of his or her location (residence), to establish part-time working time for an employee for up to three months per year or to send the employee on a holiday with partial pay for the same period with the agreement of the employee. Upon applying for the consent of the labour inspector, the employer shall present a justification regarding the possibilities for continuation of work and the opinion of the organisation or person representing the employees.

(2) An employer is required to give an employee at least two weeks' advance notice in writing of the application of part-time working time or sending him or her on a holiday with partial pay. The employee has the right to demand termination of the employment contract pursuant to § 82 if he or she does not consent to such changes in work organisation.

(3) The duration of part-time working time applied pursuant to this section shall not be less than 60 per cent of the standard working time prescribed in the employment contract, and the holiday pay payable during holidays with partial pay shall not be less than 60 per cent of the minimum wage.

(4) It is prohibited for an employer to notify an employee in advance of his or her lay-off during the time when part-time working time is applied for him or her, or when he or she has been sent on a holiday with partial pay.

(5) It is prohibited for an employer to apply part-time working time for an employee or to send an employee on a holiday with partial pay at a time when he or she has been notified in advance of the termination of the employment contract pursuant to clause 86 3) of this Act.

(6) If an employer applies part-time working time or sends an employee on a holiday with partial pay without the consent of the employee or the labour inspector, the employer is required to pay compensation to the employee in the amount of unpaid wages.

(09.02.93 entered into force 12.03.93 - RT I 1993, 10, 150)

§ 69. Liability for illegal amendment of working conditions and failure to comply with legal instructions of employer

(1) If an employer illegally transfers an employee to another position or amends other terms of the employment contract, the employee has the right to demand reinstatement in his or her former position, restoration of other working conditions agreed on and payment of wages which were not received until the elimination of such violations.

(2) If, due to his or her own fault, an employee fails to comply with legal instructions of the employer regarding transfer to another position, he or she is required to compensate the employer for damage caused thereby, but for not more than the amount of his or her one month's average wages.

§ 70. Formalisation of amendments to terms of employment contract

Amendments to terms of an employment contract are formalised in writing in the employment contract. The employer or his or her representative and the employee shall sign the amendments.

Chapter 5

Termination of Employment Contract

Division 1

General Provisions

§ 71. Bases for termination of employment contract

An employment contract terminates:

- 1) by agreement of the parties (§ 76);
- 2) upon expiry of the term (§ 77);
- 3) on the initiative of the employee (§§ 79, 80, 82 and 85);
- 4) on the initiative of the employer (§ 86);
- 5) at the request of third parties (§ 110);
- 6) in circumstances which are independent of the parties (§§ 111–116).

§ 72. Advance notice of termination of employment contract

- (1) Employers and employees are required to give each other advance notice in writing of the termination of an employment contract (§§ 77, 79, 80, 82, 85 and 87). A request to terminate an employment contract shall be expressed unconditionally.
- (2) Written notice of termination of an employment contract may be waived with the consent of the other party.

§ 73. Formalisation of termination of employment contract

- (1) An employer makes an entry regarding the termination of an employment contract in the employment contract, with a statement of the basis for termination of the contract and reference to the section, subsection and clause of this Act, the date of termination of the employment contract, payment of compensation to the employee or employer and return of that which was acquired under the contract.
- (2) The date of termination of an employment contract is the last date on which the employee is at work unless this Act prescribes otherwise.
- (3) If an employee has left work prior to the termination of the employment contract without authorisation, the employer terminates the employment contract with the employee as of the date following the date on which the employee left without authorisation.

§ 74. Making entry in employment record book and payment of final settlement

- (1) An employer makes an entry in the employment record book of an employee regarding the termination of the employment contract, indicating the date of termination of the employment contract. At the request of the employee, the employer enters a statement of the basis for termination of the employment contract and reference to the section, subsection and clause of this Act in the employee's employment record book.
- (2) An employer is required to return an employee's employment record book to the employee and to pay the final settlement on the date of termination of the employment contract. If the employee does not accept the employment record book or final settlement on the date of termination of the employment contract, the employer is required to return the employment record book to the employee on the date the employee makes such request and to pay the final settlement within five calendar days after the date following the making of the request.

§ 75. Registration of termination of employment contract

An employer who is a natural person shall register termination of an employment contract with the labour inspector of his or her residence within one week after the date following the date of termination of the employment contract.

Division 2

Termination of Employment Contract by Agreement of Parties and upon Expiry of Term

§ 76. Termination of employment contract by agreement of parties

By agreement of the parties, an employment contract may be terminated at any time if one party presents a corresponding written request and the other party gives written consent to termination of the contract.

§ 77. Termination of employment contract upon expiry of term

(1) An employer may terminate an employment contract due to expiry of its term if the employer gives notice of termination of the employment contract in writing:

- 1) at least two weeks prior to the expiry of the term, if the term of the contract exceeds one year;
- 2) at least five calendar days prior to expiry of the term, if the term of the contract does not exceed one year.

(2) The periods prescribed in subsection (1) of the section are not applied upon termination of an employment contract with an employee who was hired for replacement of an absent employee.

(3) An employer who does not comply with the terms for advance notice prescribed in subsection (1) of this section is required to pay compensation in the amount of the average daily wages to the employee for each working day short of the period for advance notice.

(4) An employee may terminate his or her employment contract due to expiry of its term if the employee gives notice of termination of the employment contract at least five calendar days prior to expiry of the term of the contract. If the employee does not warn the employer of termination of the employment contract and is absent from work on the next working day following the last date of the term of the contract, the employer shall return the employment

record book to the employee and pay the final settlement not later than within five calendar days after the date which followed the date on which the employee presented a request therefor.

§ 78. Transformation of employment contract entered into for a fixed term into employment contract entered into for unspecified term

If neither party demands termination of an employment contract entered into for a fixed term pursuant to the procedure prescribed in § 77, or if a new employment contract is not entered into and the employment relationship continues after expiry of the term of the contract, then the employment contract for a fixed term becomes an employment contract entered into for an unspecified term.

Division 3

Termination of Employment Contract on Initiative of Employee

§ 79. Termination of employment contract entered into for unspecified term on initiative of employee

(1) An employee shall give an employer at least one month's advance notice of termination of his or her employment contract entered into for an unspecified term. During a probationary period, an employee has the right to terminate his or her employment contract if the employee gives notice to the employer thereof three calendar days in advance.

(2) If the reason for termination of an employment contract entered into for an unspecified term is an illness, disability, need to care for a family member who is ill or disabled, or commencement of studies, which hinders continuation of work, the employee shall notify the employer of the termination of the employment contract at least five calendar days in advance. A woman raising a child under three years of age may terminate her employment contract by the same procedure.

§ 80. Termination of employment contract entered into for a fixed term on initiative of employee

(1) An employee shall notify an employer of premature termination of an employment contract entered into for a fixed term (clauses 27 (2) 1–4) and 6)) at least:

1) two weeks in advance if the term of the contract exceeds one year;

- 2) five calendar days in advance if the term of the contract does not exceed one year;
- 3) five calendar days in advance if the reason for termination of the employment contract is an illness, disability, need to care for a family member who is ill or disabled, or commencement of studies, which hinders continuation of work. A woman raising a child under three years of age may terminate her employment contract by the same procedure.

(2) If the reason for premature termination of an employment contract entered into for a fixed term with special benefits (clause 27 (2) 5)) is an illness, disability or need to care for a family member who is disabled, which hinders continuation of work, the employee shall notify the employer of the termination of the contract at least five calendar days in advance. Such employment contract is not terminated on the initiative of an employee for other reasons.

§ 81. Proof of reason for termination of employment contract

For termination of an employment contract on the bases prescribed in subsection 79 (2), clause 80 (1) 3) and subsection 80 (2), an employee shall present written proof of the reason for termination of the contract to the employer.

§ 82. Termination of employment contract due to violation of contractual terms by employer or changes in production or work organisation

(1) An employee shall notify the employer of the termination of his or her employment contract entered into for an unspecified or a fixed term at least five calendar days in advance if the reason for termination of the contract is failure to comply or unsatisfactory compliance with the terms of the contract by the employer, material deterioration of the working conditions due to the change of employer specified in § 6, or changes in production or work organisation. In such cases (§§ 64 and 68) an employment contract shall be terminated as of the date of the implementation of such changes.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

(2) Upon termination of an employment contract entered into for an unspecified term pursuant to subsection (1) of this section, the employer shall pay to the employee compensation in the amount of his or her two months' average wages. Upon termination of an employment contract entered into for a fixed term on the same basis, the employer shall pay to the employee

compensation in the amount of his or her average wages until expiry of the term of the contract, but for not more than two months.

§ 83. Consequences of expiry of term for advance notice

- (1) Upon expiry of a term for advance notice, an employee may cease employment and the employer is required to return the employment record book and pay the final settlement to him or her, except in the cases prescribed in subsection 80 (2).
- (2) In the cases prescribed in subsection 80 (2), an employee may cease employment after formalisation of the termination of the employment contract. In the case of a dispute between the parties over the reason for leaving, the issue is resolved by a labour dispute resolution body.
- (3) Upon continuation of an employment relationship after expiry of the term for advance notice, the parties shall not unilaterally terminate the employment contract on the basis of a previously presented application.

§ 84. Consequences of termination of employment contract prior to expiry of term for advance notice

- (1) An employer who releases an employee without his or her written consent prior to expiry of the term for advance notice is required to pay compensation to the employee in the amount of the employee's average daily wages for each working day short of the term for advance notice.
- (2) An employer has the right to demand compensation from an employee who has left without authorisation prior to the expiry of the term for advance notice in the amount of the employee's average daily wages for each working day short of the term for advance notice.

§ 85. Termination of employment contract upon employee assuming elected office

- (1) If an employee assumes an office which is filled by election or appointment, the employment contract is terminated at the request of the employee not later than the date directly preceding the date of assumption of such office.
- (2) If an employee is elected as a member of the Riigikogu or the European Parliament, the employment contract is terminated at the request of the employee as of the date of commencement of his or her authority.

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

Division 4

Termination of Employment Contract on Initiative of Employer

§ 86. Bases for termination of employment contract on initiative of employer

An employer may terminate an employment contract entered into for an unspecified or fixed term prior to expiry of the term of the contract:

- 1) upon liquidation of the enterprise, agency or other organisation;
- 2) upon the declaration of bankruptcy of the employer;
(18.12.96 entered into force 01.02.97 - RT I 1997, 5, 32)
- 3) upon lay-off of employees;
- 4) upon unsuitability of an employee for his or her office or the work to be performed due to professional skills or for reasons of health;
- 5) due to unsatisfactory results of a probationary period;
- 6) upon breach of duties an employee;
- 7) upon loss of trust in an employee;
- 8) due to an indecent act by an employee;
- 9) due to the long-term incapacity for work of an employee;
- 10) due to the age of an employee;
- 11) upon hiring an employee for whom the position is a principal job;
- 12) due to an act of corruption of an employee.
(27.01.99 entered into force 28.02.99 - RT I 1999, 16, 276)

§ 87. Advance notice to employee of termination of employment contract, and justification of termination thereof

(14.06.2000 entered into force 10.07.2000 - RT I 2000, 51, 327)

- (1) An employer is required to notify an employee of termination of the employment contract in writing:
 - 1) not less than two months in advance upon liquidation of the enterprise, agency or other organisation;
 - 2) (Repealed - 18.12.96 entered into force 01.02.97 - RT I 1997, 5, 32)

3) upon lay-off of employees: not less than two months in advance if the employee has been continuously employed by the employer for less than five years;

not less than three months in advance if the employee has been continuously employed by the employer for five to ten years;

not less than four months in advance if the employee has been continuously employed by the employer for more than ten years;

4) not less than one month in advance upon unsuitability of the employee for his or her office or the work to be performed;

5) not less than two weeks in advance in the case of long-term incapacity for work;

6) due to age, two months in advance if the employee has been continuously employed by the employer for less than ten years; three months in advance if the employee has been continuously employed by the employer for more than ten years.

(1¹) In a written notice concerning termination of an employment contract, the employer is required to justify the need to terminate the employment contract.

(14.06.2000 entered into force 10.07.2000 - RT I 2000, 51, 327)

(2) Upon failure to adhere to the terms prescribed in subsections (1) and (5) of this section, an employer is required to pay compensation to the employee in the amount of the employee's average daily wages for each working day short of advance notice of termination of the employment contract. Payment of such compensation does not release the employer of the duty to pay the employee the compensation prescribed in subsection 90 (1).

(08.03.2000 entered into force 07.04.2000 - RT I 2000, 25, 144)

(3) Upon termination of an employment contract on the bases specified in subsection (1) of this section, an employer is required to give advance notice thereof in writing to the organisation or person representing the employee within the term specified in the same subsection (except clause 87 (1) 6)) and to present the reason for termination of the contract and communicate the measures taken to provide work for the employee.

(4) Upon the declaration of bankruptcy of an employer, it is permitted to terminate employment contracts without advance notice to the employees.

(18.12.96 entered into force 01.02.97 - RT I 1997, 5, 32)

(5) An employer who terminates an employment contract with a representative of employees is required to give advance notice to the representative in writing one month earlier than the terms prescribed in clauses (1) 3) and 4) of this section.

(08.03.2000 entered into force 07.04.2000 - RT I 2000, 25, 144)

§ 88. Notice to employment office of termination of employment contract

Upon termination of employment contracts due to the liquidation of an enterprise, agency or organisation, or the lay-off of employees, the employer is required to submit information regarding the released employees to the employment office of the residence of the employees not later than on the day after the employer notifies the employees of the termination of their employment contracts. If employment contracts are terminated with employees upon the declaration of bankruptcy of the employer, the employer shall submit information regarding the employees to the employment office on the date following termination of the employment contracts.

(14.06.2000 entered into force 01.10.2000 - RT I 2000, 57, 370)

§ 89. (Repealed - 18.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 663)

§ 89¹. Collective termination of employment contracts

The collective termination of employment contracts is deemed to be termination of employment contracts at the initiative of the employer whereby the employment contracts are terminated due to termination of a legal person, termination of work of an employer who is a natural person, declaration of bankruptcy of the employer or a lay-off of employees within thirty days, if:

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

- 1) an employer who employs up to 19 employees terminates the employment contracts of at least 5 employees or releases at least 5 employees from service;
- 2) an employer who employs 20 to 99 employees terminates the employment contracts of at least 10 employees or releases at least 10 employees from service;
- 3) an employer who employs 100 to 299 employees terminates the employment contracts of at least 10 per cent of the employees or releases at least 10 per cent of the employees from service;

4) an employer who employs at least 300 employees terminates the employment contracts of at least 30 employees or releases at least 30 employees from service.

(18.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 663)

§ 89². Informing and consulting representatives of employees in event of collective termination of employment contracts

(1) Prior to collective termination of employment contracts, the employer shall consult with the representatives of the employees with the aim to reach an agreement in the following issues: the possibility of avoiding the termination of employment contracts or reducing the number of terminations, the measures to alleviate the consequences of the terminations and ways to support the released employees in their search for work, re-training or in-service training.

(2) The employer shall supply, in a timely manner, the representatives of the employees, or in the absence thereof, the relevant employees with all necessary information concerning the intended collective termination of employment contracts. The employer is required to communicate, in writing, the following information:

- 1) the reasons for collective termination of employment contracts;
- 2) the employees whose employment contracts the employer intends to terminate (names, number and selection criteria);
- 3) the number of employees in the enterprise;
- 4) the period of time during which the intended termination of employment contracts will take place;
- 5) bases for the calculation and payment of benefits to employees.

(3) During the consultations, the representatives of the employees have the right to meet with the representatives of the employer and submit, within the period of at least fifteen days after the receipt of the notice specified in subsection (2), their written proposals and opinions with regard to the termination of employment contracts, unless a longer period is agreed upon. The employer is required to provide the reasons for disagreement with the proposals.

(18.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 663)

§ 89³. Termination of employment contracts in event of collective termination of employment contracts

(1) For intended collective termination of employment contracts, the employer shall apply for the approval of the labour inspectorate of the employer's seat or residence by submitting an application which shall set out the following information:

- 1) the reasons for collective termination of employment contracts;
- 2) the employees whose employment contracts the employer intends to terminate (names and number);
- 3) the number of employees in the enterprise;
- 4) the period of time during which the intended termination of employment contracts will take place;
- 5) the results of consultations with the representatives of employees.

(2) A copy of the application specified in subsection (1) of this section shall be sent to the representatives of the employees who have the right to submit relevant comments to the labour inspectorate.

(3) If the activity of an employer who is a legal person is terminated on the basis of a court judgment, the employer shall notify the labour inspectorate of the intended collective termination of employment contracts at the request of the latter.

(4) The labour inspectorate shall approve the collective termination of employment contracts if the employer has complied with the requirements provided for collective termination of employment contracts by this Act. In the event of refusal to grant approval, the labour inspectorate shall justify such decision in writing.

(5) Upon collective termination of employment contracts, the employer shall commence the termination of employment contracts of the employees not earlier than thirty days after obtaining the approval of the labour inspectorate.

(6) The representative of employees has the right to extend the term provided in subsection (5) by up to thirty days if the problems related to the termination of employment contracts cannot be solved in time.

(18.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 663)

§ 90. Payment of compensation to employee

(1) Employers are required to pay the following compensation to employees upon termination of their employment contracts:

1) due to the liquidation of the enterprise, agency or other organisation (clause 86 1)), lay-off of employees (clause 86 3)) or age (clause 86 10)):

(18.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 663)

a) compensation in the amount of two months' average wages to employees who have been continuously employed by the employer for up to five years;

b) compensation in the amount of three months' average wages to employees who have been continuously employed by the employer for five to ten years;

c) compensation in the amount of four months' average wages to employees who have been continuously employed by the employer for more than ten years;

2) due to the unsuitability of the employees (clause 86 4)), compensation in the amount of one month's average wages of employees.

(18.12.96 entered into force 01.02.97 - RT I 1997, 5, 32)

(2) Upon termination of employment contracts due to declaration of bankruptcy or abatement of bankruptcy proceedings against the employer pursuant to clause 15 (1) 2) of the Estonian Bankruptcy Act (RT 1992, 31, 403; RT I 1997, 18, 302; 1998, 2, 46; 36/37, 552; 1999, 10, 155; 2000, 13, 93; 54, 353; 2001, 56, 336; 82, 488; 93, 565; 2002, 44, 284), the Estonian Unemployment Insurance Fund shall pay compensation to the employees in the amount specified in subsection (1) but not in excess of the amount prescribed in the Unemployment Insurance Act.

(18.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 663)

(3) Compensation is not paid to employees upon termination of their employment contracts on other bases prescribed in § 86.

§ 91. Prohibition against termination of employment contract on initiative of employer

(1) Termination of an employment contract is prohibited on the initiative of an employer:

1) during the temporary incapacity for work of the employee (except clause 86 9));

2) while the employee is on a holiday (including parental leave and holidays without pay) and during periods when part-time working time has been established for the employee or he or she has been sent on a holiday with partial pay pursuant to the procedure prescribed in subsection 68 (1).

3) during a legal strike if the employee participates in such strike pursuant to the procedure prescribed by law;

4) at a time when the employee is performing duties imposed on him or her by a state or local government authority, or is representing employees pursuant to the procedure provided by law or a collective agreement.

(09.02.93 entered into force 12.03.93 - RT I 1993, 10, 150)

(2) Subsection (1) of this section is not applied upon termination of employment contract due to liquidation of an undertaking, agency or other organisation, or upon declaration of bankruptcy of the employer.

(18.12.96 entered into force 01.02.97 - RT I 1997, 5, 32)

§ 92. Termination of employment contract with pregnant woman or person raising child under three years of age

(04.04.2001 entered into force 01.01.2002 - RT I 2001, 42, 233)

(1) It is prohibited for an employer to terminate an employment contract with a pregnant woman or a person raising a child under three years of age, except on the bases prescribed in clauses 86 1)–2), 5)–8) and 11).

(04.04.2001 entered into force 01.01.2002 - RT I 2001, 42, 233)

(2) Termination of employment contracts with the employees specified in subsection (1) of this section on the bases prescribed in clauses 86 1)–2) and 5)–8) is only permitted with the consent of the labour inspector of the location (residence) of the employer.

§ 93. Termination of employment contract with minor

An employer has the right to terminate an employment contract with a minor on the grounds prescribed in § 86, except for clause 86 5). Termination of an employment contract on the grounds prescribed in clauses 86 3)–4) is permitted only with the consent of the labour inspector of the seat (residence) of the employer.

§ 94. Termination of employment contracts with representatives of employees

(1) Termination of an employment contract on the initiative of an employer with an employee who is elected to an organisation which represents employees at the workplace of the employer, or with a person who represents employees is permitted during the term of authority of the employee and for within one year after termination of the authorisation only with the consent

of the labour inspector of the location (residence) of the employer, except on the bases prescribed in clauses 86 1), 9) and 11).

(08.03.2000 entered into force 07.04.2000 - RT I 2000, 25, 144)

(2) A labour inspector shall justify to an employer in writing the reasons for granting or refusing to grant consent to the termination of an employment contract with a representative of employees. Before making the corresponding decision, the labour inspector shall submit a written request to an organisation representing employees in order to obtain an opinion concerning the termination of the employment contract with the representative of employees, if such representative has been elected by the organisation representing employees. The organisation representing employees shall provide a written opinion within one week as of the date of the request.

(08.03.2000 entered into force 07.04.2000 - RT I 2000, 25, 144)

(3) It is prohibited to terminate an employment contract with a representative of employees as a result of his or her lawful activities in representing the interests of the employees.

(08.03.2000 entered into force 07.04.2000 - RT I 2000, 25, 144)

(4) A complaint against the unlawful activities of a labour inspector may be submitted to an administrative court.

(08.03.2000 entered into force 07.04.2000 - RT I 2000, 25, 144)

§ 95. (Repealed - 24.10.2001 entered into force 01.01.2002 - RT I 2001, 17, 78)

§ 96. Return of that which was acquired by way of special benefits upon termination of employment contract

Upon termination of an employment contract entered into for a fixed term (clause 27 (2) 5)) on the bases prescribed in clauses 86 4)–8) and § 112, and upon termination of such contract on the basis prescribed in § 113 by the fault of the employee, the employer has the right to demand return of special benefits acquired on the basis of the employment contract (grants paid and other educational expenses borne by the employer, remuneration which was continued during studies, etc.).

§ 97. Termination of employment contract upon liquidation of enterprise, agency or other organisation or declaration of bankruptcy of employer

(18.12.96 entered into force 01.02.97 - RT I 1997, 5, 32)

(1) An employer has the right to terminate employment contracts with employees on the bases prescribed in clause 86 1) if the activity of the enterprise, agency or other organisation is completely terminated and no new enterprise, agency or other organisation is formed on the basis thereof.

(2) Upon the declaration of bankruptcy of an employer, the trustee in bankruptcy has the right to terminate employment contracts with the employees on the basis prescribed in clause 86 2) after the bankruptcy order is issued.

(18.12.96 entered into force 01.02.97 - RT I 1997, 5, 32)

§ 98. Termination of employment contract upon lay-off of employees

(1) An employer has the right to terminate employment contracts on the basis prescribed in clause 86 3) upon a decrease in work volume, reorganisation of production or work, reinstatement of an employee in a previous position and in other cases which require termination of the work. The refusal by an employee to have the standard for working time increased or decreased is not deemed to be a circumstance which requires termination of the work.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

(2) Prior to termination of an employment contract due to a lay-off, the employer is required to offer another position to the employee if possible.

(3) An employer is required to re-employ an employee who has been released due to a lay-off within six months if the employee so desires, if the employer has vacant positions.

§ 99. Preferential right to remain at work upon lay-off

(1) Upon the termination of employment contracts due to lay-offs, the representatives of employees have a preferential right to remain at work, followed by the employees who work for such employer as their principal job.

(08.03.2000 entered into force 07.04.2000 - RT I 2000, 25, 144)

(2) Of the persons who are employed in a principal job, preference is given to those who have better performance results.

(3) In the case of equal performance results, preference is given to employees who have contracted an occupational disease or received a work injury by the fault of the employer; who have worked for the employer longer; who have dependants; or who are developing their professional skills and expertise in an educational institution which provides special education.

§ 100. Termination of employment contracts upon reorganisation of enterprise, agency or organisation, including liquidation of structural unit

(1) Upon the reorganisation of an enterprise, agency or other organisation, the employer has the right to terminate employment contracts on the basis prescribed in clause 86 3) if the reorganisation results in a lay-off of employees.

(2) Upon the liquidation of a structural unit of an enterprise, agency or organisation which has no employment authority, the employer has the right to terminate the employment contracts of the employees who work there, on the basis prescribed in clause 86 3), if it is not possible to offer them a position in another structural unit or if they refuse an offered position.

§ 101. Termination of employment contract upon unsuitability of employee for his or her office or work to be performed due to professional skills or for reasons of health

(1) An employer has the right to terminate an employment contract on the basis prescribed in clause 86 4) if the employee cannot manage to perform his or her duties due to insufficient professional skills or for reasons of health. An employer may terminate an employment contract on the same basis if:

- 1) the employee lacks a document which is a mandatory precondition for such work;
- 2) the employee is unsuitable for his or her position or office due to insufficient language or communication skills;
- 3) the employee fails to develop his or her professional knowledge (including proficiency in the official language and foreign languages) if this is necessary for the performance of his or her work and if the employer has provided the employee with the opportunity therefor pursuant to the agreed procedure.

(14.06.2000 entered into force 10.07.2000 - RT I 2000, 51, 327)

(2) The deterioration of the health of an employee may be the reason for the termination of his or her employment contract if it is of a continuous nature and hinders or precludes continuation in his or her current position.

(3) An employer evaluates the conformity of the professional skills of the employee to the office to be held or the position to be filled. The conformity of the health of the employee is determined by the decision of a doctor.

(4) An employer may terminate an employment contract on the basis prescribed in clause 86 4) if it is not possible to offer another position to the employee or if the employee refuses an offered position.

§ 102. Termination of employment contract due to unsatisfactory results of probationary period

(1) An employer has the right to terminate an employment contract on the basis prescribed in clause 86 5) if the results of the probationary period prove unsatisfactory. The results of the probationary period are evaluated by the employer.

(2) An employer may terminate an employment contract during a probationary period (including on the last day of the probationary period).

§ 103. Termination of employment contract upon breach of duties or commitment of act of corruption by employee

(27.01.99 entered into force 28.02.99 - RT I 1999, 16, 276)

(1) An employer has the right to terminate an employment contract on the basis prescribed in clause 86 6) if a wrongful act impeded the work and the employee is subject to a disciplinary punishment which has not expired.

(2) An employer may terminate an employment contract for the first severe breach of duties by an employee.

(3) An employer has the right to terminate an employment contract with each employee who commits an act of corruption on the basis prescribed in clause 86 12) of this Act.

(27.01.99 entered into force 28.02.99 - RT I 1999, 16, 276)

§ 104. Termination of employment contract upon loss of trust in employee

(1) An employer has the right to terminate an employment contract on the basis prescribed in clause 86 7) with any employee in whom the employer loses trust.

(2) An employment contract may be terminated if an employee has:

1) caused a deficit in, damage to, or destruction, loss or theft of the property of the employer, or if he or she has stolen the property of a co-worker at the workplace;

2) endangered the preservation of the property of the employer;

3) caused distrust of the employer by consumers, clients or business partners.

4) (Repealed - 27.01.99 entered into force 28.02.99 - RT I 1999, 16, 276)

5) (Repealed - 27.01.99 entered into force 28.02.99 - RT I 1999, 16, 276)

6) (Repealed - 27.01.99 entered into force 28.02.99 - RT I 1999, 16, 276)

7) (Repealed - 27.01.99 entered into force 28.02.99 - RT I 1999, 16, 276)

§ 105. Termination of employment contract for indecent act

(1) Employers have the right to terminate employment contracts on the basis prescribed in clause 86 8) with employees who are teachers, instructors of minors or others whose duties are to teach or educate youth, and support staff of local government administrative agencies.

05.05.93 entered into force 01.09.93 - RT I 1993, 26, 441; 25.01.95 entered into force 01.01.96 - RT I 1995, 16, 228)

(2) Acts which are in contrary to generally recognised moral standards or which discredit an employee or employer are indecent. An indecent act also constitutes the basis for termination of an employment contract if it is committed outside of the performance of duties.

§ 106. Termination of employment contract due to wrongful act of employee

Upon terminating an employment contract on the bases prescribed in clauses 86 6)–8), an employer is required to adhere to the procedure prescribed by law for imposing disciplinary punishments. An employer is not required to notify an employee in advance of the termination of his or her employment contract due to a wrongful act of the employee or to pay compensation.

§ 107. Termination of employment contract due to long-term incapacity for work

(1) An employer has the right to terminate an employment contract on the basis prescribed in clause 86 9) during time that an employee is incapacitated for work:

1) if the employee has been absent from work due to incapacity for work for more than four consecutive months; if, due to contraction of tuberculosis the employee has been absent from work for more than eight consecutive months;

2) if the employee has been absent from work due to incapacity for work for more than five months during a calendar year; if, due to contraction of tuberculosis, the employee has been absent from work for more than eight months during a calendar year.

(12.06.96 entered into force 11.07.96 - RT I 1996, 45, 850)

(2) An employer shall maintain the job of an employee who is temporarily incapacitated for work due to a work injury until his or her recovery or determination of his or her disability.

(3) The date of termination of an employment contract during an employee's incapacity for work is the date that such entry is made in the employment contract.

§ 108. Termination of employment contract due to age of employee

An employer has the right to terminate the employment contract of an employee on the basis prescribed in clause 86 10) if the employee has attained sixty-five years of age and he or she has the right to receive full old-age pension.

§ 109. (Repealed - 24.10.2001 entered into force 01.01.2002 - RT I 2001, 17, 78)

Division 5

Termination of Employment Contracts at Request of Third Parties

§ 110. Termination of employment contracts with minors at request of third parties

(1) A legal representative of a minor or the labour inspector of the residence or seat of an employer may require the termination of an employment contract entered into with the minor, if the requirements specified in § 2¹ have not been observed in employment.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

(2) On the basis prescribed in subsection (1) of this section, an employer terminates an employment contract on the date following the date of submission of the corresponding written demand.

(3) Upon termination of the employment contract of a minor, the employer is required to pay compensation to the minor in the amount of his or her average one month's wages.

Division 6

Termination of Employment Contract in Circumstances Independent of Parties

§ 111. (Repealed - 11.12.2002 entered into force 01.03.2003 - RT I 2002, 110, 656)

§ 112. Termination of employment contract upon entry into force of conviction by court

(1) An employment contract is terminated upon the entry into force of a conviction by a court which imposes a criminal punishment on an employee which makes it impossible for him or her to continue his or her current employment.

(2) If an employee is taken into custody, his or her employment contract is terminated after the entry into force of a conviction by a court as of the date on which the employee is taken into custody.

§ 113. Termination of employment contract upon violation of rules for hiring

(1) An employment contract is terminated due to violation of the rules for hiring if the contract was entered into in violation of §§ 32, 35 or 36.

(24.10.2001 entered into force 01.01.2002 - RT I 2001, 17, 78)

(2) If an employment contract is entered into in violation of the rules for hiring by the fault of the employer, the employer is required to offer other work to the employee.

(3) Upon termination of an employment contract entered into in violation of the rules for hiring by the fault of an employer, the employer is required to pay compensation to the employee in the amount of his or her average three months' wages.

(4) If an employment contract is entered into in violation of the rules for hiring as a result of knowingly incorrect information provided by the employee, the employee is required to pay compensation to the employer in the amount of the employee's one month's average wages.

§ 114. Termination of employment contract with close relative or relative by marriage

(1) An employment contract is terminated with one of the employees who are closely related or are related by marriage (§ 32) who work in the same state or municipal enterprise, agency or other organisation in positions which are directly subordinate to or have direct control over the other, unless such work is allowed by an Act or regulation of the Government of the Republic.

(2) Upon termination of an employment contract on the basis prescribed in subsection (1) of this section, the employer shall offer the employee another position if possible.

§ 115. Termination of employment contract due to death of employee

Upon the death of an employee, the employer terminates his or her employment contract as of the date of death.

§ 116. Termination of employment contract due to death of employer

The death of an employer does not terminate the validity of an employment contract, except if the employee was hired for the provision of personal services to the employer. In such case, the successors of the employer or the labour inspector of the location (residence) of the employer terminate the employment contract. The employment contract is terminated as of the date of death of the employer.

Division 7

Liability of Parties upon Illegal Termination of Employment Contract

§ 117. Liability of employer upon illegal termination of employment contract

(1) Upon illegal termination of an employment contract by an employer, the employee has the right to demand reinstatement in his or her position, amendment of the statement of the basis for termination of the employment contract and payment of his or her average wages for the time of compelled absence from work.

(2) If an employee waives reinstatement in his or her position, the employer is required to pay compensation to the employee in the amount of his or her six months' average wages.

(3) If a representative of employees waives reinstatement in his or her position, the employer is required to pay compensation to the representative in the amount of his or her six months' average wages.

(08.03.2000 entered into force 07.04.2000 - RT I 2000, 25, 144)

§ 118. Liability of employee for ceasing employment without authorisation

(1) If an employee ceases employment without authorisation and does not give notice of termination of the employment contract (§§ 79 and 80), the employer has the right to demand compensation from the employee in the amount of his or her one month's average wages.

(2) If an employee who has entered into an employment contract for a fixed term with special benefits (clause 27 (2) 5)) ceases employment without authorisation, the employer has the right to demand compensation from the employee in the amount of the employee's three months' average wages in addition to the return of that which was received under the employment contract (§ 96).

§ 119. Liability for withholding employment record book and final settlement

(1) Upon withholding an employment record book, an employer is required to pay the employee his or her average wages for each day of delay in delivery of the employment record book until the employment record book has been delivered.

(2) Upon withholding a final settlement, an employer is required to pay the employee his or her average wages for each day of delay in payment of the final settlement, but not more than one month's average wages of the employee.

Chapter 6

Cancellation and Declaration of Invalidity of Employment Contract

Division 1

Cancellation of Employment Contract

§ 120. Bases for cancellation of employment contract

An employment contract may be terminated prior to commencement of employment by agreement of the parties, or on the initiative of the employee or the employer.

§ 121. Cancellation of employment contract by agreement of parties

- (1) By agreement of the parties, an employment contract may be cancelled for any reason.
- (2) The return of that which was received from an employer under an employment contract is decided by agreement of the parties.

§ 122. Cancellation of employment contract on initiative of employee

- (1) An employee may cancel his or her employment contract if commencement of employment is hindered:
 - 1) due to his or her temporary incapacity for work;
 - 2) due to unexpected family or personal reasons;
 - 3) due to his or her conscription or entry into active service in the armed forces or alternative service.
- (2) Upon cancellation of an employment contract the employee shall return to the employer all that was received under the employment contract.

§ 123. Cancellation of employment contract on initiative of employer

- (1) An employer may cancel an employment contract if:
 - 1) the employee does not commence employment at the agreed time;
 - 2) the employer (clause 3 3)) is conscripted or enters into active service in the armed forces or alternative service;
 - 3) the employer (clause 3 3)) is taken into custody;
 - 4) a conviction of a court has entered into force regarding the employer (clause 3 3)), by which a criminal punishment was imposed on the employer which makes it impossible for the employer to act as an employer.
- (2) An employment contract is not cancelled pursuant to subsection (1) of this section if the parties enter into a new agreement regarding commencement of unemployment.
- (3) Upon cancellation of an employment contract pursuant to clause (1) 1) of this section, the employee shall return to the employer all that was received under the contract. In addition, an employee who, without good reason, fails to notify the employer that he or she will not commence employment at the agreed time shall pay compensation to the employer in the amount of the employee's two week's agreed wages.

(4) Upon cancellation of an employment contract pursuant to clause (1) 2) of this section, the return of that which was received from the employer under the contract is decided by agreement of the parties. The payment of compensation to employees shall be regulated by a specific Act.

(5) Upon cancellation of an employment contract on the bases prescribed in clauses (1) 3) and 4) of this section, the employer shall pay compensation to the employee in the amount of his or her one month's agreed wages.

§ 124. Formalisation of cancellation of employment contract

An employer shall make an entry in a contract regarding the cancellation of the employment contract with a statement of the basis for cancellation of the employment contract and reference to the section, subsection and clause of this Act, the date of cancellation of the employment contract, the payment of compensation to the employee or employer and return of that which was received under the contract.

Division 2

Declaration of Invalidity of Employment Contract

§ 125. Bases for declaration of invalidity of employment contract

(1) A labour dispute resolution body shall declare an employment contract invalid:

- 1) if both parties were minors or persons divested of active legal capacity as a consequence of an unsound mind or mental disability, on the basis of an action by the guardian (curator) of either party;
- 2) which was entered into in the capacity of employer by a person divested of active legal capacity as a consequence of an unsound mind or mental disability, on the basis of an action by the guardian of such person;
- 3) which was entered into in the capacity of employer by a minor, on the basis of an action by one parent or the guardian (curator) of such minor;
- 4) which was entered into in the capacity of employee by a minor of thirteen to eighteen years of age without the consent of one parent, a guardian, curator or the labour inspector, or by

a minor under thirteen years of age, on the basis of an action by one parent, the guardian or curator of such minor or the labour inspector;

5) which was entered into in the capacity of employee by a person of unsound mind or a person divested of active legal capacity as a consequence of a mental disability, on the basis of an action by the guardian of such person or the labour inspector;

6) which was entered into in the capacity of employee by a minor of fifteen to eighteen years of age, on the basis of an action by a legal representative of such minor or by a labour inspector if the requirements of § 2¹ were not observed upon the commencement of the employment of the minor;

(08.12.2004 entered into force 01.01.2005 - RT I 2004, 86, 584)

7) which was entered into by a person who, at the time of entry into the contract, was in such a condition that he or she could not understand the meaning of or direct his or her actions, on the basis of an action by such person;

8) which was entered into with the employee under the influence of fraud, violence, a threat, or a malicious agreement with the representative of the employer, on the basis of an action by the victim;

9) which was entered into under the influence of an error of essential importance, on the basis of an action by the party which acted under the influence of such error;

10) which was entered into in the capacity of employer by a person declared to have limited active legal capacity as a consequence of abuse of alcoholic beverages, narcotic drugs or toxic substances, on the basis of an action by the curator of such person;

11) which was entered into in violation of a higher age limit established for employees or employers (§ 2 and clause 3 3)), on the basis of an action by either party.

(2) An employment contract which was entered into in the capacity of employer by a structural unit of a legal person which does not have employment authority, or by a representative of an employer who lacks the right to enter into employment contracts, remains valid if the employer agrees to the creation or continuation of such employment relationship. If the employer does not agree to the creation or continuation of such employment relationship, the employer shall declare the employment contract invalid.

§ 126. Suspension of employment contract during hearing of action

An employment contract is suspended (§ 54) from the date an action referred to in subsection 125 (1) is filed until the date of entry into force of the court order.

§ 127. Moment of declaration of invalidity of employment contract

An employment contract is declared invalid as of the moment of entry into the contract.

§ 128. Cessation of circumstances causing invalidity of employment contract

If circumstances causing the invalidity of an employment contract (clauses 125 (1) 1)–6), 9) and 11)) cease to exist and an action referred to in § 125 is dismissed, a contract is valid from the moment of entry into the contract.

§ 129. Consequences of invalidity of employment contract if parties were minors or persons divested of active legal capacity

Upon the declaration of invalidity of an employment contract on the ground that both parties were minors or persons divested of active legal capacity as a consequence of an unsound mind or mental disability (clause 125 (1) 1)), the employee shall return to the employer all that was received under the contract, except remuneration for which the guardian of the employer considers necessary, which shall not be less than the minimum wage rate established by the Government of the Republic for performance of such work. Damage caused to each other by the parties is compensated for by their guardians pursuant to the rules of labour law, unless the guardians prove that the employment contract was entered into without fault on their part.

§ 130. Consequences of invalidity of employment contract if employer was divested of active legal capacity

(1) Upon the declaration of invalidity of an employment contract on the ground that the employer was divested of active legal capacity as a consequence of an unsound mind or mental disability at the time of entering into the contract (clause 125 (1) 2)), the employee shall return to the employer all that was received under the contract, except remuneration for work which the guardian of the employer considers necessary, which shall not be less than the minimum wage rate established by the Government of the Republic for performance of such work.

(2) An employee who was aware of the incapacity of the employer shall compensate the employer for damage caused to the employer pursuant to the rules of civil law. Damage caused by the employer to such an employee is not compensated for.

(3) An employee who was not aware of the incapacity of the employer shall compensate the employer for damage caused to the employer pursuant to the rules of labour law. Damage caused by the employer to such an employee is compensated for pursuant to the rules of labour law by the guardian of the employer unless the guardian proves that the employment contract was entered into without fault on his or her part.

§ 131. Consequences of invalidity of employment contract if employer was minor

Upon the declaration of invalidity of an employment contract on the ground that the employer was a minor at the time of entering into the contract (clause 125 (1) 3)), subsections 130 (1) and (2) apply.

§ 132. Consequences of invalidity of employment contract if employee was minor

Upon the declaration of invalidity of an employment contract on the ground that the employee was a minor of thirteen to eighteen years of age at the time of entering into the contract and entered into the contract without the consent of one parent, his or her guardian, curator or the labour inspector, or was a minor under thirteen years of age (clause 125 (1) 4)), the employee has all rights arising from the employment contract. A contract which has been declared invalid does not impose obligations on a minor employee.

§ 133. Consequences of invalidity of employment contract if employee was person divested of legal capacity

Upon the declaration of invalidity of an employment contract on the ground that the employment contract was entered into in the capacity of employee by a person divested of active legal capacity as a consequence of an unsound mind or mental disability (clause 125 (1) 5)), the employee has all rights arising from the employment contract. Damage caused by an employee divested of active legal capacity to an employer is compensated for pursuant to the rules of labour law by the guardian of such employee unless the guardian proves that the employment contract was entered into without fault on his or her part.

§ 134. Consequences of invalidity of employment contract in case of failure to comply with restrictions on employment of minors

Upon the declaration of invalidity of an employment contract on the grounds of failure to comply with restrictions on employment of minors in the commencement of the employment of a minor of fifteen to eighteen years of age specified in § 2¹ (clause 125 (1) 6)), the minor shall return to the employer all that was received under the contract.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 135. Consequences of invalidity of employment contract if party to contract was not capable of understanding meaning of own actions

(1) Upon the declaration of invalidity of an employment contract on the ground that the employee was, at the time of entry into the contract, in such a condition that he or she could not understand the meaning of or direct his or her actions (clause 125 (1) 7)), such employee has all rights arising from the employment contract. In addition, if the employer was aware of the employee's condition, the employer shall pay compensation to the employee in the amount of his or her three months' average wages if the employee has commenced employment or in the amount of his or her three months' agreed wages if the employee has not yet commenced employment.

(2) Upon the declaration of invalidity of an employment contract on the ground that the employer was, at the time of entry into the contract, in such a condition that he or she could not understand the meaning of or direct his or her actions (clause 125 (1) 7)), an employee whose employer was in such condition has the right to receive the remuneration for work which the employer considers necessary, but which shall not be less than the minimum wage rate established by the Government of the Republic for performance of such work. Subsection 130 (2) applies in respect of an employee who was aware of such condition of the employer. An employee who was not aware of such condition of the employer shall compensate the employer pursuant to the rules of labour law for damage caused to the employer.

(3) An employee or employer who causes damage while in such a condition that he or she cannot understand the meaning of or direct his or her actions does not compensate for the

damage which he or she caused, except if he or she induced such condition by the use of alcoholic beverages, narcotic drugs, toxic substances or by other means.

§ 136. Consequences of invalidity of employment contract if contract was entered into with employee under influence of fraud, violence, threat, or malicious agreement with representative of employer

Upon the declaration of invalidity of an employment contract on the ground that the contract was entered into with the employee under the influence of misrepresentation, violence, threat, or a malicious agreement with a representative of the employer (clause 125 (1) 8)):

- 1) clause 135 (1) 1) applies to the employee who was the victim. Such employee shall not compensate for the damage caused to the employer;
- 2) Clause 130 (1) 2) applies in respect of an employer who was a victim.

§ 137. Consequences of invalidity of employment contract if contract was entered into under error

Upon the declaration of invalidity of an employment contract on the ground that the contract was entered into under an error of essential importance (clause 125 (1) 9)), clause 136 1) applies if the error was caused by the fault of the employer, and subsections 130 (1) and (2) apply if the error was caused by the fault of the employee. If neither party was at fault for the error, the parties have all rights arising from the employment contract upon the declaration of invalidity of the contract.

§ 138. Consequences of invalidity of employment contract if employer had limited active legal capacity

Upon the declaration of invalidity of an employment contract on the ground that the employer was declared to have limited active legal capacity as a consequence of abuse of alcoholic beverages, narcotic drugs or toxic substances at the time of entry into the contract (clause 125 (1) 10)), subsections 130 (1) and (2) apply if the employee was aware of the limited active legal capacity of the employer.

§ 139. Consequences of invalidity of employment contract if higher age limit was violated upon entry into contract

Upon the declaration of invalidity of an employment contract on the ground that higher age limits established for employees or employers were violated upon entry into the contract (clause 125 (1) 11)), clause 136 (1) applies.

§ 140. Consequences of invalidity of employment contract if contract was entered into by person without rights of employer

Upon the declaration of invalidity of an employment contract on the ground that the contract was entered into by a structural unit of a legal person which does not have employment authority, or by a representative of the employer who lacked the right to enter into employment contracts (subsection 125 (2)), clause 136 (1) applies.

§ 141. Formalisation of declaration of invalidity of employment contract

An employer makes an entry regarding the declaration of invalidity of an employment contract in the contract with a statement of the basis for declaration of invalidity of the employment contract and reference to the section, subsection and clause of this Act, the date of declaration of invalidity of the employment contract, payment of compensation to the employee and return of that which was received under the contract. If the employment contract is declared to be invalid after commencement of employment, the declaration of invalidity of the employment contract is formalised pursuant to the procedure prescribed for the formalisation of termination of employment contracts.

Chapter 7

Dispute resolution

§ 142. Jurisdiction over disputes

(1) A labour dispute resolution body has jurisdiction over disputes which arise between employees and employers in the application of this Act.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

(2) In addition to the provisions of subsection (1) of this section, discrimination disputes shall be resolved pursuant to the procedure specified in the Legal Chancellor Act.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

§ 143. Period for recourse to dispute resolution body

(1) The parties have recourse to a labour dispute resolution body for resolution of disputes which arise in the application of this Act within four months after the date following the date on which they became aware or should have become aware of the violation of their rights.

(2) The parties have recourse to a labour dispute resolution body to dispute the justification for termination of an employment contract within one month, calculated from the date which followed the date that they became aware or should have become aware of the violation of their rights.

(20.12.95 entered into force 01.09.96 - RT I 1996, 3, 57)

§ 144. Assessment of wrongful acts of employee by labour dispute resolution body

(1) In the case of a dispute over the termination of an employment contract on the bases prescribed in clauses 86 6)–8), a labour dispute resolution body has the right to assess the circumstances of the wrongful act of the employee and the purposefulness of termination of the employment contract, and to reinstate the employee in employment.

(2) Upon reinstatement of an employee in employment in the circumstances referred to in subsection (1) of this section (minor importance of the wrongful act, etc.), the employee does not have the right to compensation.

§ 144¹. Shared burden of proof in discrimination disputes

(1) Where an employee or a person applying for employment finds that the employer has discriminated against him or her on the basis of an attribute specified in subsection 10 (3), the employee or person applying for employment shall submit to a labour dispute resolution body or to the Legal Chancellor an application containing the facts in proof of the discrimination. If on the basis of the application submitted by an employee or a person applying for employment it may be presumed that direct or indirect discrimination has occurred, the employer shall be required, at the request of the labour dispute resolution body or the Legal Chancellor, to explain

the reasons for his or her conduct or decision. The refusal by an employer to give explanations shall be deemed to be equal to acknowledgement of discrimination.

(2) Shared burden of proof does not apply in criminal procedure.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

Chapter 8

(31.05.2001 entered into force 30.06.2001 - RT I 2001, 53, 311)

State Supervision

(31.05.2001 entered into force 30.06.2001 - RT I 2001, 53, 311)

§ 145. Exercise of state supervision

(1) State supervision over compliance with the requirements of this Act and legislation established on the basis thereof shall be exercised by the Labour Inspectorate. The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117; 78, 527) apply to the proceedings conducted in the course of state supervision, taking account of the specifications provided for in this Act.

(2) In the event of violation of the requirements of this Act or legislation established on the basis thereof, a labour inspector and the head of a regional office of the Labour Inspectorate have the right to issue a precept which sets out:

- 1) the time and place of the issue of the precept;
- 2) the given name, surname and position of the person who prepares the precept and the name and address of the agency;
- 3) the given name and surname of the natural person or the name of the legal person to whom the precept is issued;
- 4) the circumstances which are the basis for the issue of the precept and a reference to the legal basis therefor;
- 5) the conclusion of the precept in which the obligations of the obligated subject arising from the precept and the terms for the performance thereof are set out;
- 6) a reference to the possibility of administrative coercive measures being applied upon failure to perform the obligations set out in the precept;
- 7) the procedure and term for contesting the precept;

- 8) the signature of the person who prepares the precept.
- (3) A precept shall be prepared in two original copies of which one shall remain with the person who prepares the precept and the other shall be given to the obligated subject. If it is necessary to inform a third party of the precept, a copy of the precept certified by the person who prepared the precept shall be delivered to the third party by post or by electronic means.
- (4) A precept is mandatory for an employer, and a supervisory official specified in subsection (2) has the right to inspect compliance with the precept within the specified term.
- (5) Upon failure to perform an obligation specified in subsection (2) of this section, a labour inspector and the head of a regional office of the Labour Inspectorate may impose a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580).
- (6) The upper limit for penalty payments specified in subsection (5) of this section is 10 000 kroons.
- (19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 146. Decision of labour inspector and head of regional office of Labour Inspectorate

- (1) A labour inspector and the head of a regional office of the Labour Inspectorate shall make a decision by which the consent or permission prescribed in this Act is granted or refused and shall inform the employer of the decision within one week as of the submission of a written application. The provisions of the Administrative Procedure Act apply to the proceedings for making a decision, taking account of the specifications provided for in this Act.
- (2) A decision specified in subsection (1) of this section shall set out:
- 1) the date and place of making the decision;
 - 2) the given name, surname and position of the person who prepares the decision and the name of the agency;
 - 3) the reason and legal basis for making the decision;
 - 4) the procedure and term for contesting the decision;
 - 5) the signature of the person who prepares the decision.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 146¹. Challenge proceedings regarding precept and decision

- (1) Challenges against precepts or decisions shall be filed, reviewed and adjudicated pursuant to the procedure provided for in the Administrative Procedure Act, taking account of the specifications prescribed in this Act.
- (2) If an employer does not agree with a precept issued or a decision made by a labour inspector, the employer has the right to file a challenge with the head of the regional office of the Labour Inspectorate within ten calendar days as of the administrative act being made public. If a precept is issued or a decision is made by the head of a regional office of the Labour Inspectorate, the employer has the right to file a challenge with the Director General of the Labour Inspectorate within ten calendar days as of the date on which the administrative act is made public.
- (3) The filing of a challenge shall not release the person from the duty to comply with the precept or decision. Heads of regional offices of the Labour Inspectorate or the Director General of the Labour Inspectorate have the right, on the application of a person filing a challenge or at their own discretion, to suspend the enforcement of a precept or decision until a decision is made on the challenge.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

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

² Riigikogu = the parliament of Estonia