ESTONIA

I. Legal notice - disclaimer

This sheet aims to provide a general overview of the main substantive rules concerning the terms and conditions of employment to be met by legislation transposing Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (OJ L 18 of 21.1.1997). By its very nature, such a sheet can only summarise and does not necessarily contain all the relevant information in this context. In no way can it replace legislative, regulatory or administrative texts, or applicable collective agreements. The information below has been provided by the authorities of the Member States, which have made every effort to ensure its accuracy. Neither the Commission nor the Member States concerned can, however, guarantee that the information provided is always precise, complete, accurate and up to date. Furthermore, publication on the portal of the European Commission does not imply in any way that the latter or its DGs and Services consider the rules presented in this way to be in conformity with Community law.

II. Instrument transposing Directive 96/71/EC

Working Conditions of Employees Posted to Estonia Act (RTI, 31.03.2004, 19, 134)
Official publication: Riigi Teataja (State Gazette) I, 31.03.2004, 19, 134
Internet link: https://www.riigiteataja.ee/akt/13123285
Translation: Working Conditions of Employees Posted to Estonia Act,
Translation available at https://www.riigiteataja.ee/en/eli/530102013107/consolide

III. Information on legislation applicable in accordance with the Directive

Information on legislation applicable to undertakings who, for a limited period of time, post workers to the territory of another Member State can be obtained at the following address:
Mrs Liis Naaber-Kalm
Chief Lawyer of Legal Department
Labour Inspectorate
29 Gonsiori Str,
10147 Tallinn,
ESTONA
phone + 372 6269423
fax +372 6269434
liis.naaber@ti.ee; www.ti.ee

Information can also be obtained from:
Mrs Thea Treier
Head of Working Life Development Department
Ministry of Social Affairs
29 Gonsiori Str
10147 Tallinn
ESTONIA

+ 372 6269821
thea.treier@sm.ee; www.sm.ee;
Confederation of Estonian Trade Unions, www.eakl.ee
The Estonian Employers' Confederation, www.employers.ee

IV. Failure to comply with the prescribed terms and conditions of employment

Cases of failure to comply with the prescribed terms and conditions of employment in Estonia and possible cases of illegal transnational activities can be reported to following address:
Mrs Liis Naaber-Kalm
Chief Lawyer Legal Department
Labour Inspectorate
29 Gonsiori Str,
10147 Tallinn,
ESTONA
phone + 372 6269423
fax +372 6269434
liis.naaber@ti.ee; www.ti.ee

V. Situations constituting a posting [Article 1 of the Directive]

The Working conditions of workers posted in Estonia Act (see
https://www.riigiteataja.ee/akt/13123285
Translation: https://www.riigiteataja.ee/en/eli/530102013107/consolide
regulates in § 2 (1) what constitutes a posting.
This Act applies to the employment of employees who have been posted in Estonia by their employers, in the following cases:
1) work at the employer's expense and subject to the employer's management and supervision, on the basis of a contract signed between the employer and a contracting entity resident in Estonia;
2) work in one of the employer's branches or in a company that belongs to the same group as the employer;
3) where the employer is a legal person or sole proprietor that intermediates temporary labour.
§ 2(2) specifies that the Act does not apply to crew members on cargo ships belonging to merchant navy undertakings.

VI. Posted workers [Article 2 of the Directive]

Directive 96/71/EC applies to workers who, for a limited period of time, carry out their work on the territory of a Member State other than the State in which they normally work.
Under Section 3(1) of the Working Conditions of Employees Posted to Estonia Act, a posted employee is a natural person who usually works in a foreign state on the basis of an employment contract, and whom the employer posts to work in Estonia for a specified period of time for the provision of a service. A contract concluded in a foreign state concerning an employment relationship is considered to be an employment contract for the purposes of this

Act if it complies with the provisions of the Employment Contracts Act (ECA) relating to employment contracts. Under Section 3(2) of the Working Conditions of Employees Posted to Estonia Act, an employer is a legal person or sole proprietor registered or established in a foreign state that is not resident in Estonia and with whom the posted employee has concluded an employment contract.

Employment contracts in Estonia are regulated by the ECA, which is available here:
https://www.riigiteataja.ee/akt/112072014146
Translation: Employment Contracts Act,
https://www.riigiteataja.ee/en/eli/509012015006/consolide

Under Section 1(1) of the ECA, on the basis of an employment contract a natural person (employee) does work for another person (employer) under the management and control of the employer. The employer undertakes to remunerate the employee for this work.

According to the case law of the Court of Justice of the European Communities, the temporary nature of an activity carried out on the territory of a Member State in the context of free provision of services cannot be determined abstractly but should be judged on a case-by case basis, depending on the duration, frequency and periodicity or continuity.
It should be noted that if an occupational activity in Estonia can no longer be considered as being exercised temporarily, taking account of the above-mentioned criteria, but is stable and continuous, *all* the binding rules and regulations in force in Estonia apply.

VII. Work periods and rest periods [Article 3(1)(a) of the Directive]

The rules on work periods and rest times are laid down in Chapter 3, Division 3 of the ECA.
https://www.riigiteataja.ee/akt/112072014146
Translation: Employment Contracts Act,
https://www.riigiteataja.ee/en/eli/509012015006/consolide

Under Section 43 of the ECA, it is presumed that an employee works 40 hours over a period of seven days (full-time work), unless the employer and the employee have agreed on a shorter working time (part-time work). It is presumed that an employee works 8 hours a day unless the parties have agreed otherwise or the employer has provided for longer rest periods in the working time arrangements.

Section 43(4) of the ECA lays down the maximum permitted working hours for minors, depending on their age and whether they are obliged to attend school. Minors are obliged to attend school until they finish basic schooling or until they reach 17 years of age.
Shorter full-time working time for educational workers is provided for under a Government Regulation, meaning they work 35 hours over a period of seven days, or 7 hours a day. The Regulation lists the jobs in which employees have shorter working times.
Government of the Republic Regulation No 125 of 22 August 2013 ‘Working times of educational workers’ is available in Estonian at the following address: https://www.riigiteataja.ee/akt/127082013003

In addition to the ECA, other Acts provide for exceptions as regards working time. For example, the working times of ships crews are laid down in the Seafarers Employment Act,

the working times of drivers in the Traffic Act, the working times of rescue workers in the Rescue Service Act and the working times of crews of civil aircraft in the Aviation Act. Collective agreements and general employment contracts also lay down special rules applicable to working times.

Overtime work means working in addition to the agreed working time. The employer and the employee must agree all overtime work separately each time. An employer may require an employee to work overtime under exceptional circumstances, if overtime work is necessary due to unforeseen circumstances which do not normally arise in the employment relationship. These must be exceptional circumstances, primarily if the work cannot be carried out at a later time because delay would carry a real threat of damage.
If overtime work could have an adverse effect on the employee's health, the employer may not require them to work overtime. Minors, pregnant women and employees who have the right to pregnancy and maternity leave may not be required to work overtime.

Section 46 of the ECA establishes an overall limit on working time, combined with overtime hours, of an average of 48 hours in a seven-day period calculated over a period of four months. By way of exception, the calculation period for working time may be extended by a collective agreement to up to 12 months in the case of health care professionals, welfare workers, agricultural workers and tourism workers. Over this extended calculation period, more intensive seasonal work must be balanced with other periods of shorter working hours.

An employer and employee may agree on longer working times provided this does not exceed on average 52 hours per seven-day period over a calculation period of four months. The agreement may not be unreasonably detrimental to the employee. The employee has the right to cancel the agreement at any time without giving reasons therefor, notifying cancellation two weeks in advance.
The employer is obliged to keep separate accounts of employees working additional overtime. The labour inspector has the right to prohibit or restrict overtime work.

Under Section 51 of the ECA an employee must have at least 11 hours of consecutive rest time in one 24-hour period. Consequently, a shift may, in general, not exceed 13 hours. The restriction on daily rest times may be waived for healthcare professionals and welfare workers provided that a shift lasting over 13 hours does not harm their health (Section 51(4) ECA).
Under Section 51(3) of the ECA, exceptions to the restriction on daily rest times may be made by collective agreement in the cases specified in Article 17(3) of Directive 2003/88/EC and provided that working does not harm the worker's health or safety. If an employee works more than 13 hours over a period of 24 hours in accordance with the exception provided for in Section 51 of the ECA, he or she must be given additional time off, immediately after working, equal to the number of hours by which the 13 working hours were exceeded (Section 51(5) ECA).

Under Section 52 of the ECA, an employee must have at least 48 hours of consecutive rest time over a period of seven days. When calculating summarised working time, the weekly rest time must be 36 hours in any seven-day period. The usual weekly rest days are Saturday and Sunday.

Under Section 53 of the ECA, an employer must shorten the working day preceding New Year's Day (1 January), the anniversary of the Republic of Estonia (24 February), Victory Day (23 June) and Christmas Eve (24 December) by three hours.

VIII. Paid annual holidays [Article 3 (1)(b) of the Directive]

Annual holiday is regulated by Chapter 3, Division 4 of the ECA, which is available here:
https://www.riigiteataja.ee/akt/112072014146
Translation: Employment Contracts Act,
https://www.riigiteataja.ee/en/eli/509012015006/consolide

An employee must have at least 28 calendar days of annual holiday. The employee and the employer may agree on a longer paid annual holiday, and a longer holiday may also result from a collective agreement. Annual leave does not include national and public holidays.

Holidays are listed in the Public Holidays and Days of National Importance Act, see (in Estonian) https://www.riigiteataja.ee/akt/109032011007
Public Holidays and Days of National Importance Act,
https://www.riigiteataja.ee/en/eli/ee/513112013017/consolide/current

The annual holiday of an employee who is a minor or an employee receiving pension for incapacity for work is 35 calendar days (Sections 56 and 57 ECA). Section 58 of the ECA provides for longer annual holiday for educational staff and research staff of up to 56 calendar days. Government of the Republic Regulation No 112 of 25 June 2009 'List of educational and research staff positions which have 56 calendar days of annual holiday, and the duration of the holiday, by position, see www.riigiteataja.ee/akt/1280820130005

The period used to calculate holiday is the calendar year during which the holiday should be used. On the year in which an employee starts working, the employee accrues the right to holiday pro rata to the time worked after six months work. Annual holiday may be broken down only by agreement of the parties, whereby one part of the holiday must last at least 14 calendar days.

The annual holiday entitlement expires within one year as of the end of the calendar year for which the holiday is calculated. The expiry is suspended for the period during which an employee is on pregnancy and maternity leave, adoptive parent leave or childcare leave, and also during the period in which an employee is performing military or alternative service.

The employer must set the holiday schedule for each calendar year by no later than the end of March (Section 69(1) ECA). The holiday schedule is binding on the parties. The employer must take into account that the group of employees listed in Section 69(7) of the ECA have the right to demand annual holiday at a time suitable for them:

- a woman immediately before and after pregnancy and maternity leave or immediately after child care leave;
- a man immediately after child care leave or during the pregnancy and maternity leave of a woman;
- a parent raising a child of up to seven years of age;
- a parent raising a child of seven to ten years of age – during the child's school holidays;
- a minor subject to the obligation to attend school – during school holidays.

An employee must notify the employer of the use of holiday not indicated in the holiday schedule 14 calendar days in advance. An employee has the right to interrupt or postpone a holiday due to circumstances preventing use of the holiday, in particular due to temporary incapacity for work, and must notify the employer at the earliest opportunity.
An employer has the right to interrupt or postpone a holiday due to an unforeseen substantial work organisation-related emergency. If a holiday was interrupted or postponed, the unused portion of the holiday must be granted immediately after the circumstance interrupting or postponing the holiday ceases to exist or, by agreement of the parties, at another time.

Holiday pay must be paid no later than on the penultimate working day before the start of the holiday.
The employer and the employee may agree for holiday pay to be paid at a later date. In this case, the holiday pay must be paid at the latest on the pay day following the use of the holiday (Section 70(2) ECA).
Holiday pay is calculated in line with the principles for calculating the average wage set out in Government of the Republic Regulation No 91 of 11 June 2009, which is available (in Estonian) at https://www.riigiteataja.ee/akt/129032013021 Upon expiry of an employment contract, the employee must be compensated in money for unused annual holiday which has not expired (Section 71 ECA).

Study leave

Under Section 67 of the ECA, an employee has the right to study leave and holiday without pay in order to take entrance exams.
The rules on granting study leave are laid down in the Adult Education Act, which is available (in Estonian) at https://www.riigiteataja.ee/akt/111072013019.

Pregnancy and maternity leave

Under Section 59 of the ECA, pregnancy and maternity leave is 140 calendar days, and can be taken from the 70th calendar day before the estimated delivery date. If a woman starts using pregnancy and maternity leave less than 30 days before the estimated delivery date, the pregnancy and maternity leave is shortened accordingly. Compensation for pregnancy and maternity leave is paid to the mother by the Estonian Health Insurance Fund on the basis of a maternity certificate in line with the procedure laid down in the Health Insurance Act.
The Health Insurance Act is available (in Estonian) athttps://www.riigiteataja.ee/akt/123032015018; Health Insurance Act https://www.riigiteataja.ee/en/eli/502042015016/consolide.

The amount of maternity pay per calendar day is 100% of the employee's average income per calendar day, calculated on the basis of the person's income subject to individually registered social tax in the calendar year preceding their pregnancy and maternity leave (Sections 54(1)4) and 58 of the Health Insurance Act).

Time spent on pregnancy or maternity leave is included in the time serving as the basis for the right to grant holiday (Section 68(2) ECA).

Leave for Parents

Under Section 60 of the ECA, fathers are entitled to take a total of ten working days' paternity leave during the two months preceding the estimated birth date determined by a doctor and the two months following the birth of the child. Paternity leave is remunerated on the basis of his average wages, but no more than three times the average gross monthly salary in Estonia. The right to paternity leave does not depend on whether or not the child's father is married to the child's mother.

According to Section 61 of the ECA, an adoptive parent of a child under 10 years of age has the right to adoptive parent leave of 70 calendar days as of the date of entry into force of the court judgment approving the adoption.

Under Section 62 of the ECA, a mother or father has the right to child care leave until his or her child reaches the age of three years and to use the leave in one part or several parts. Child care leave may only be used by one person at a time. The employee must notify the employer of the intention to take child care leave or interrupt child care leave 14 calendar days in advance.
An employee has the right to compensation for the period of child care leave in accordance with the Parental Benefits Act, and to a child care allowance in accordance with the State Family Benefits Act.
The Parental Benefits Act is available in Estonian at https://www.riigiteataja.ee/akt/116042014031

The State Family Benefits Act is available in Estonian at https://www.riigiteataja.ee/akt/104122014006

Under Section 65 of the ECA, the actual caregiver of a child (e.g. grandmother, grandfather, aunt, uncle), guardian or a person with whom a foster care agreement has been entered into has the right to the child care leave.

Under Section 63 of the ECA, the mother or the father is entitled to use the child care leave in one part or in several as follows:

- for three working days each calendar year if she or he has one or two children under 14 years of age;
- for six working days each calendar year if she or he has at least three children under 14 years of age or at least one child under three years of age.

This is remunerated based on the minimum wage. Child care leave is granted in the year a child reaches three years of age and 14 years of age, regardless of whether the child's birthday is before or after the leave.

In addition to this child leave, a mother or father of a disabled child has the right to child leave of one working day per month until the child reaches the age of 18 years, which is remunerated on the basis of the average wage (Section 63(2) ECA). If there is more than one disabled child, the parents are entitled to additional days leave per month to reflect the number of disabled children. Under Section 64 of the ECA, a mother and father who are raising a child of up to 14 years of age or a disabled child of up to 18 years of age have the right to child leave without pay of up to ten working days every calendar year.

The unpaid child leave may be taken in one part or in several within the calendar year. A claim for unpaid child leave expires at the end of the calendar year.

IX. Pay [Article 3 (1) (c) of the Directive]

The basic conditions for remunerating the work performed by an employee are laid down in Chapter 3, Division 2 of the ECA. The ECA is available at https://www.riigiteataja.ee/akt/112072014146
Translation: Employment Contracts Act, https://www.riigiteataja.ee/en/eli/509012015006/consolide

Under Section 28(2) of the ECA, an employer is obliged to pay wages for work under the conditions and at the time agreed on, to provide the employee with information about the wages calculated and paid or payable to the employee if so requested, to provide other notices characterising the employee or the employment relationship, and not to disclose, without employee's consent or legal basis, information about wages calculated, paid or payable to the employee.

Under Section 29(1) of the ECA, if a person does work which, considering the circumstances, can be expected to be done for remuneration, it is presumed that wages have been agreed on. If the amount of remuneration paid according to agreement has not been agreed on or the agreement cannot be proven, the amount of remuneration is calculated on the basis of the collective pay agreement, if there is no collective pay agreement then the amount usually paid under similar circumstances (Section 29(2) ECA).
The employee's tax liability, that is the taxes and premiums prescribed by law which are to be withheld from the wages, are debited from the agreed wages. Wages must be paid in money (Section 29(3) ECA).
The Government will establish in a regulation the minimum wage corresponding to a specific unit of time. Wages falling below this minimum may not be paid to an employee.

Central organisations of the social partners, namely the Confederation of Estonian Trade Unions and the Estonian Employers' Confederation, agree upon the minimum monthly and hourly salary annually. The agreement is concluded on national level. The Estonian Government only confirms the Act.
Sectoral Trade Unions are still involved to a limited degree in agreement on minimum salary at sectoral level. Collective agreements are registered in the Registry of Collective Agreements kept by the Working Life Development Department of the Ministry of Social Affairs, see www.sm.ee. Extended collective agreements are published in Ametlikud Teadaanded, see www.ametlikudteadaanded.ee

The employer must pay wages to the employee once per month unless a shorter term has been agreed on. If the pay day falls on a public holiday or a day off, the pay day is deemed to be the working day preceding the public holiday or day off. The employer must pay wages to the employee based on the economic performance and transactions if this has been agreed.

The employer is obliged to pay wages even if the employee does not work. An employer must pay average wages to an employee who is capable of working and ready to do work even if the employee does not work because the employer has not provided him or her with work, has not performed an act required for doing work or has otherwise delayed acceptance of work,

unless the employee is at fault in failing to be provided with work (Section 35 ECA). The employer must pay an employee average wages for a reasonable period if the employee could not perform work for a reason attributable to the employee but not caused intentionally or due to gross negligence or if the employee cannot be expected to do work for another reason not attributable to the employee (Section 38 ECA).

The employer and the employee may agree for overtime work to be compensated in money. If so, the employer must pay the employee 1.5 times the wages (Section 44(7) ECA). If the working time falls on night-time (from 22:00 to 6:00), the employer must pay 1.25 times the wages for the work, unless it has been agreed that the wages include remuneration for working at night-time. If the working time falls on a public holiday, the employer must pay 2 times the wages for the work. These are the anniversary of the Republic of Estonia (24 February), New Year's Day (1 January), Good Friday, Easter Sunday, Labour Day (1 May), Whitsun, Victory Day (23 June), Midsummer Day (24 June), Day of Restoration of Independence (20 August), Christmas Eve (24 December), Christmas Day (25 December) and Boxing Day (26 December).
An employer and employee may agree to compensate work done at night-time or on a public holiday by granting additional time off (Section 45 ECA).

X. Rules concerning hiring-out workers and the terms and conditions applying to temporary workers [Articles 3(1)(d) and 3(9) of the Directive]

In order to operate as a provider of temporary agency work, a notification of economic activity must be submitted to the Estonian economic activity registry (mtr.mkm.ee) before starting the economic activity. This can be done through the Estonian information gateway (www.eesti.ee) or through a notary. The Ministry of Economic Affairs and Communications is responsible for handling and keeping the economic activity register.

XI. Health, safety and hygiene at work [Article 3(1)(e) of the Directive]

The Occupational Health and Safety Act is available (in Estonian) at https://www.riigiteataja.ee/akt/126022015017
Translation: Occupational Health and Safety Act, https://www.riigiteataja.ee/en/eli/525022015005/consolide

Collective agreements are registered in the Collective Agreements Registry kept by the Working Life Development Department, Ministry of Social Affairs, see www.sm.ee
Extended collective agreements are published in Ametlikud Teadaanded, www.ametlikudteadaanded.ee
The translations of collective agreements can be obtained from the parties to the agreements.
The Occupational Health and Safety Act provides for the occupational health and safety requirements set for work performed by employees and officials (hereinafter *employee*), the rights and obligations of an employer and an employee in creating and ensuring a working environment which is safe for health, the organisation of occupational health and safety in enterprises and at state level, the procedure for challenge proceedings, and the liability for violation of the occupational health and safety requirements (Article 1 of the Act).

XII. Rules concerning the terms and conditions of employment of pregnant women and women who have recently given birth [Article 3(1)(f) of the Directive]

Occupational Health and Safety Act (OHSA) (in Estonian), see https://www.riigiteataja.ee/akt/126022015017
Translation: Occupational Health and Safety Act, see https://www.riigiteataja.ee/en/eli/525022015005/consolide

Under Section 10 of the OHSA, an employer must create suitable working and rest conditions for pregnant and nursing women and observe the restrictions provided by legislation for ensuring their safety when assigning work to them.

An employer is required to grant a pregnant employee time off for prenatal examinations, to be included in the working time, at the time indicated in a decision made by a doctor or a midwife (Section 10(4) OHSA).
A nursing mother has the right to additional breaks for nursing until the child is a year and a half old. An additional break must granted every three hours for no less than 30 minutes at a time. A break granted for nursing two or more up to one and a half year old children shall last for at least one hour (Section 10(5) OHSA).
Nursing breaks must count as working time and be paid from the state budget at the average wage calculated on the basis of Section 29(8) of the Employment Contracts Act.

Further conditions and restrictions are laid down in Government Regulation No 95 of 11 June 2009 ‘Occupational health and safety requirements for work performed by pregnant and nursing women’, see https://www.riigiteataja.ee/akt/13290413

The Regulation applies to the work performed by pregnant and nursing women ('female employee') to ensure they have a safe work environment and applies when the woman has informed her employer of her condition.

Under Section 2 of the Regulation, an employer is obliged to assess the risk to the female employee’s health posed by any hazards, work or production processes with which she may come into contact in terms of their nature, level and duration, as well as any possible effect they may have on the outcome of the pregnancy or the health of the nursing child. If this assessment identifies a risk or if the female employee comes into contact with hazards or hazardous products, safety measures must be taken in consultation with the female employee or, where necessary, with a doctor or midwife. The female employee must be informed of the results of the risk assessment and the measures taken to ensure she has a safe work environment. The female employee must be allowed to use a relaxation room where she may lie down. These conditions also apply to female employees who are entitled to pregnancy and maternity leave but who are not nursing.

Under Section 3 of the Regulation, the employer must give a female employee work appropriate to her condition and which avoids contact with hazards by, first and foremost, easing her working conditions, changing her work schedule, including shortening her working day, enabling her to take suitable rest periods, transferring her to daytime work and changing her work tasks. If it is not possible for the employer to give the female employee work

appropriate to her condition, the female employee may temporarily refuse to perform the work duties. When giving work appropriate to the female employee's condition or if the female employee temporarily refuses to perform her work duties, the female employee must be paid compensation in accordance with the conditions and procedures laid down in the Health Insurance Act.

Under Section 4 of the Regulation, an employer may not permit a pregnant woman to work if there is a risk of or contracting rubella or toxoplasmosis, except if it has been certified that the pregnant woman is sufficiently protected from rubella or toxoplasmosis through immunity to them; if there is high air pressure; with lead or lead compounds; underground work.

Under Section 5 of the Regulation, an employer may not allow a nursing woman to work with lead or lead compounds, or to work underground.

Section 6 of the Regulation specifies the risk factors, work and work processes which an employer must take into account when assessing health risks posed to a female employee. The Regulation refers to physical and chemical risk factors; biological risk factors found in the work environment; the manual handling of physical risk factors by pregnant women and the constraining postures or movements which could cause physical tiredness or over-exertion, constant work standing or sitting, fast work tempo; work causing mental exhaustion due to psychological risk factors, highly focused work, isolated or monotonous work.

Employment Contracts Act (in Estonian), see https://www.riigiteataja.ee/akt/112072014146
Translation: Employment Contracts Act, https://www.riigiteataja.ee/en/eli/509012015006/consolide

Under Section 18 of the ECA, a pregnant employee and an employee who has the right to pregnancy and maternity leave have the right to demand that the employer temporarily provide them with work corresponding to their state of health if the employee's state of health does not allow them to perform the duties set out in the employment contract on the agreed conditions. If the employer cannot provide the employee with work corresponding to her state of health, the employee may temporarily refuse to perform the duties. In these cases the employee must submit to the employer a certificate from a doctor or midwife indicating the restrictions on work due to their state of health and, where possible, proposals regarding duties and working conditions corresponding to their state of health. Compensation must be paid to the employee under the conditions and pursuant to the procedure prescribed in the Health Insurance Act.

Under Section 18(5) of the ECA, upon termination of pregnancy and maternity leave, a woman has the right to use the improved working conditions which she would have been entitled to during her absence.
Under Section 21(3) of the ECA, a pregnant woman and an employee raising a child under three years of age or a disabled child may be sent on a business trip only with his or her consent.
Under Section 44(5) of the ECA, a pregnant woman or an employee who is entitled to pregnancy and maternity leave may not be required to work overtime.

In order to protect pregnant women and employees entitled to pregnancy and maternity leave, the Act lays down several restrictions on the cancellation of employment contracts. Under Section 89(5) of the ECA, upon cancellation of an employment contract due to lay-off the

employees' representative and an employee who is raising a child under three years of age have the preferential right of keeping their job. In the event of redundancies, Section 93(1) of the ECA provides for an exception, laying down that an employer may not cancel an employment contract with a pregnant woman or a woman who has the right to pregnancy and maternity leave, or a person who is on child care leave or adoptive parent leave due to lay-off, except upon cessation of the activities of the employer or declaration of the employer's bankruptcy if the activities of the employer cease or upon termination of bankruptcy proceedings, without declaring bankruptcy, by abatement. Under Section 93(2) of the ECA, an employer may not cancel an employment contract with a pregnant woman or a woman who has the right to pregnancy and maternity leave due to redundancies or a decrease in the employee's capacity for work if the employee has notified the employer of her pregnancy or of the right to pregnancy and maternity leave before receipt of a declaration of cancellation or within 14 calendar days thereafter.

XIII. Rules concerning the terms and conditions of employment of children and young people [Article 3(1)(f) of the Directive]

ECA (in Estonian), see https://www.riigiteataja.ee/akt/112072014146. Translation: Employment Contracts Act, https://www.riigiteataja.ee/en/eli/509012015006/consolide

Under the ECA, whether a young person is allowed to work and the type of work they may perform depends on their age, whether they are subject to the obligation to attend school and the type of work.
Under Section 7(1) of the ECA, an employer may not enter into an employment contract with the following persons, or allow them to work:
• a minor under 15 years of age;
• a minor subject to the obligation to attend school. A minor is obliged to attend school from the age of 7 until they have completed their basic education (until the end of basic schooling) or until they reach 17 years of age.
Section 7(2) of the ECA lays down absolute restrictions in circumstances where it is not permitted to enter into an employment contract with a minor or to allow a minor to work.
These include performing work which:
• is beyond the minor's physical or mental ability;
• is likely to harm the moral development of the minor;
• involves risks which the minor cannot recognise or avoid owing to lack of experience or training;
• hinders the minor's social development or education;
• harms the minor's health due to the nature of the work or the working environment.
Government Regulation No 94 of 11 June 2009 'List of occupational hazards and work prohibited to minors', see https://www.riigiteataja.ee/akt/13191271, lists the work, production processes and hazards prohibited to minors. For example, a minor may not perform work which brings him or her into contact with toxic, carcinogenic, radioactive or other hazardous substances. The Regulation also lists harmful physical, biological and chemical hazards.
By way of exception, this is permitted temporarily if the minor works on a traineeship as part of a vocational training course and provided that the work is performed under the supervision of the traineeship leader or a workplace specialist and if the necessary measures have been taken to ensure the health and safety of the minor.

A minor under 15 years of age or a minor subject to the obligation to attend school may be employed in the exceptional circumstances laid down in the Act, whereby the minor may only be allowed to perform limited, light work.
By way of exception, the following people may be employed under the Act (Section 7(4) ECA):
• a minor of 13–14 years of age or a minor of 15–16 years of age subject to the obligation to attend school depending on the safety and level of difficulty of the work. They may be allowed light work where the duties are simple and do not require any major physical or mental effort;
• a minors of 7–12 years of age is allowed to do light work only in the fields of culture, art, sports or advertising.
Government Regulation No 93 of 11 June 2009 'Light work permitted to minors', see (in Estonian) https://www.riigiteataja.ee/akt/13191258

In order to conclude an employment contract with a minor, the minor must express his or her will and consent, and the legal representative of the minor (usually the mother or father) must give their consent before conclusion of the employment contract, although approval may equally be given after the minor starts work (Section 8(1) ECA). Any work performed by a minor alongside attending school may not hinder his or her social development or education, and a minor subject to the obligation to attend school must be allowed regular rest breaks for study. The legal representative of a minor may not consent to the employment during the school holiday of a minor subject to the obligation to attend school for more than a half of each term of the school holiday (Section 8(2) ECA).

The Act provides for additional state supervision of the employment of children under the age of 15. In order to enter into an employment contract with a minor of 7–14 years of age, the employer must apply for consent from the labour inspector of the place of business (Section 8(3) ECA). In the application to the labour inspector
the employer must set out the work conditions, location, duties, age of the minor and whether he or she is obliged to attend school.

If, in ascertaining the will of a minor of 7–12 years of age, the labour inspector has reasonable doubt that the minor is not expressing his or her true will in the presence of the legal representative, the labour inspector must ascertain the will of the minor in the presence of the minor and a local child protection official (Section 8(5) ECA).

An employee who is a minor may be sent on a business trip only with the prior consent of the minor and his or her legal representative (Section 21(4) ECA).
An agreement on compensation for training expenses concluded with a minor is void (Section 34(5) ECA).

Section 43(4) of the ECA lays down the maximum permitted working hours for minors (shortened full-time work), depending on their age and the obligation to attend school:

three hours per day or 15 hours over a seven-day period for employees who are 7–12 years of age;

four hours per day or 20 hours over a seven-day period for employees who are 13-14 years of age or subject to the obligation to attend school;

six hours per day or 30 hours over a seven-day period for employees who are 15 years of age and who are not subject to the obligation to attend school;

seven hours per day or 35 hours over a seven-day period for employees who are 16 years of age and who are not subject to the obligation to attend school, and for employees who are 17 years of age.

In calculating the summarised working time when concluding a contract with an employee who is a minor, the working times may not exceed the above daily or seven-day time limits. An overtime work agreement with a minor is void (Section 42(2) ECA[1]).
The Act lays down restrictions on the times at which a minor may work. A minor may not work between 20:00 and 6:00. By way of exception, a minor may perform light work in the fields of culture, art, sports or advertising under the supervision of an adult from 20:00 to 24:00, taking into account the general restriction on the length of a minor's working day. A minor subject to the obligation to attend school may not perform work immediately before the start of the school day.

Minors are required to have longer rest periods in addition to the restriction on their working times. A minor must be given a break of no less than 30 minutes within the working day after no more than 4.5 hours' work. The break is not considered working time (Section 47(3) ECA).
Section 51(2) of the ECA sets out the statutory daily rest times. The following agreements providing for less than these daily rest times are void:
- if an employee who is a minor of 7–12 years of age is left over a period of 24 hours with less than 21 hours of consecutive rest time;
- if an employee who is a minor of 13–14 years of age or an employee who is subject to the obligation to attend school is left over a period of 24 hours with less than 20 hours of consecutive rest time;
- if an employee who is a minor of 15 years of age and not subject to the obligation to attend school is left over a period of 24 hours with less than 18 hours of consecutive rest time;
- if an employee who is a minor of 16 years of age and not subject to the obligation to attend school, and an employee who is 17 years of age is left over a period of 24 hours with less than 17 hours of consecutive rest time.
A minor must have a weekly rest time of at least 48 consecutive hours over a period of seven days (Section 52 ECA).

Under Section 56 of the ECA, the annual holiday of an employee who is a minor is 35 calendar days (minor's annual holiday), unless the employee and the employer have agreed on a longer annual holiday or unless otherwise provided by law. A minor subject to the obligation to attend school has the right to demand annual holiday during school holidays (Section 69(7)(5) ECA).

Occupational Health and Safety Act, (in Estonian) see https://www.riigiteataja.ee/akt/126022015017
Translation: Occupational Health and Safety Act, see https://www.riigiteataja.ee/en/eli/525022015005/consolide

[1] Translator's note: This is in fact Section 44(2) ECA.

Under Section 10^1 of the OHSA, an employer must create suitable working and rest conditions for employees who are minors and disabled and observe the restrictions provided by legislation for ensuring their safety.

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

If an employer fails to comply with the restrictions on the employment of minors, in addition to issuing an order the labour inspector has the right to open misdemeanour proceedings against the employer and impose a fine (Section 115 ECA).

XIV. Equality and non-discrimination [Article 3(1)(g) of the Directive]

The Constitution of the Republic of Estonia, (in Estonian) see https://www.riigiteataja.ee/akt/127042011002
The Constitution of the Republic of Estonia https://www.riigiteataja.ee/en/eli/530102013003/consolide

Under Section 12 of the Constitution, everyone is equal before the law. No one may be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. Incitement to ethnic, racial, religious or political hatred, violence or discrimination is prohibited and punishable by law. Incitement to hatred and violence between social classes or to discrimination against a social class is also prohibited and punishable by law.

Under Article 12, everyone is equal before the law. No one may be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other views, property or social status, or on other grounds.
Incitement to ethnic, racial, religious or political hatred, violence or discrimination is prohibited and punishable by law. Incitement to hatred and violence between social classes or to discrimination against a social class is also prohibited and punishable by law.

Gender Equality Act (in Estonian) https://www.riigiteataja.ee/akt/126042013009
Gender Equality Act https://www.riigiteataja.ee/en/eli/530102013038/consolide

Equal Treatment Act (in Estonian) https://www.riigiteataja.ee/akt/106072012022
Equal Treatment Act https://www.riigiteataja.ee/en/eli/530102013066/consolide

ECA (in Estonian), https://www.riigiteataja.ee/akt/112072014146
Translation: Employment Contracts Act, https://www.riigiteataja.ee/en/eli/509012015006/consolide

According to Section 1(1) of the Equal Treatment Act, the purpose of the Act is to ensure the protection of persons against discrimination on grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation. The Act does not preclude the requirements of equal treatment in labour relations, in particular due to family-related duties, social status, representation of the interests of employees or membership in an organisation of employees, level of language proficiency or duty to serve in defence forces (Section 2(3) ETA).

Discrimination is prohibited when entering into an employment contract, giving work instructions, paying remuneration, promoting an employee, cancelling an employment contract, etc. (Section 2 ETA). Since the ETA obliges an employer to promote employees in accordance with the principle of equal treatment, the employer must take the necessary measures to protect the employee from discrimination.

According to Section 1(1) of the Gender Equality Act, the purpose of the Act is to ensure the equal treatment of men and women as provided for in the Constitution of the Republic of Estonia and to promote equality of men and women as a fundamental human right and for the public good in all areas of social life. In professional life, cases in which an employer hires, promotes, selects for performance of a task or sends for training a person of one sex and overlooks a person with higher qualifications and of the opposite sex are deemed to be discriminatory. Overlooking an employee in this way is justified only if there are objective and strong reasons to do so.

Under Section 3 of the ECA, an employer must ensure that employees are protected against discrimination, and must observe the principle of equal treatment and promote equality in accordance with the Equal Treatment Act and the Gender Equality Act. The provisions prohibiting discrimination are not repeated in the ECA, but a reference is made to the relevant Acts.

Section 89(4) of the ECA expressly states that upon cancellation of an employment contract due to lay-off, the employer must take into account the principle of equal treatment. The employer may retain the employees who work best and who the employer considers necessary, but may not give preference to employees based on their gender, age, race, sexual orientation or other non-work related factors.

Discrimination disputes are resolved by the courts or a labour dispute committee. In the conciliation procedure, discrimination disputes are resolved by the Chancellor of Justice. Employers and employees may also have recourse to the Gender Equality and Equal Treatment Commissioner to assess compliance with the requirements of the ETA and the GEA.

XV. Terms and conditions of employment concerning other matters [Article 3(10) of the Directive]

There are no public policy provisions that need to be applied in this context.

XVI. Procedural and administrative requirements

There are no procedural or administrative requirements.

XVII. Mediation mechanisms in case of conflict

Working Conditions of Employees Posted to Estonia Act, (in Estonian), see https://www.riigiteataja.ee/akt/13123285
Working Conditions of Employees Posted to Estonia Act, see translation https://www.riigiteataja.ee/en/eli/530102013107/consolide

Under Section 7 of the WCEPEA, a posted employee has the right of recourse to a court of the Republic of Estonia for the protection of the rights guaranteed by the Act. This does not limit his or her right to bring his or her claim to a court of a foreign state if such right arises from an international agreement. The limitation period for claims arising from the WCEPEA is four months, and in the case of wage claims three years, from the day following that on which the posted employee became aware or should have become aware of the violation of his or her rights.

State supervision over compliance with the requirements of the WCEPEA is exercised by the Labour Inspectorate on the conditions and pursuant to the procedure provided for in the Occupational Health and Safety Act (Section 8).

A labour inspector and the head of a regional office of the Labour Inspectorate have the right to issue an employer or employer's representative a precept in the event of violation of the requirements of this Act or legislation established on the basis thereof. A precept is binding on an employer or employer's representative, and the labour inspector has the right to verify compliance with the precept within the specified term. Upon failure on the part of the employer to discharge his obligations, 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.

Information on possible judicial remedies in Estonia can be obtained from the following address:
Mrs Liis Naaber-Kalm
Chief Lawyer of Legal Department
Labour Inspectorate
29 Gonsiori Str,
10147 Tallinn,
ESTONA
phone + 372 6269423
fax +372 6269434
liis.naaber@ti.ee; www.ti.ee