

**ESTONIA**

Items	Regulations in force on 1 January 2019
<b>1:</b> Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>An employment contract may be terminated by a declaration of termination made in a format which must be reproduced in writing (art. 95 Employment Contracts Act). A declaration of termination made in breach of the formal requirement or a contingent declaration of termination is void. An employer shall justify termination. Breach of the obligation to justify cancellation does not affect the validity of the cancellation, but the party in breach of the obligation shall compensate the other party for the damage caused thereby.</p> <p>Advance warning is required in the case of unsuitability. Before termination of the employment contract with the employees' representative the employer shall seek the opinion of the employees who elected the person to represent them or the trade union about the termination of the employment contract. The employer shall take the opinion of the employees into account to a reasonable extent. The employer shall justify disregard for the opinion of the employees.</p> <p>The employer must also give communication to the Unemployment Insurance Fund within 5 days of termination if the employee job tenure is at least 5 years (art. 100 Employment Contracts Act, ECA hereafter, and Art. 14.1 and 14.3 of the Unemployment Insurance Act).</p> <p>Value (for EPL indicators): 1.5 (1+0.5 for warning)</p> <p>As of a certain number of dismissals (see Item 18): see item 19.</p>
<b>2:</b> Delay involved before notice can start	<p>The term of advance notice begins to run on the day following the calendar day when the declaration of termination was delivered. Advance warning is required in the case of unsuitability.</p> <p>An employer may not terminate an employment contract with a pregnant woman or a woman who has the right to pregnancy and maternity 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.</p> <p>An employer may not terminate an employment contract with a pregnant woman or a woman who has the right to pregnancy and maternity leave arguing a decrease in the employee's capacity for work.</p> <p>The previous two sections shall be applied only 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 termination or within 14 calendar days thereafter.</p> <p>Calculation (for EPL indicators): 1 day for notice + 6/2 days for warning = 4 days</p> <p>As of a certain number of dismissals (see Item 18): 15 days for consultation + 30 for Fund notification (see Item 20)</p>
<b>3:</b> Length of notice period at different tenure durations (a)	<p>An employer shall give an employee advance notice of termination if the employee's employment relationship with the employer has lasted:</p> <ol style="list-style-type: none"> <li>1) less than one year of employment – no less than 15 calendar days;</li> <li>2) one to five years of employment – no less than 30 calendar days;</li> <li>3) five to ten years of employment – no less than 60 calendar days;</li> <li>4) ten and more years of employment – no less than 90 calendar days.</li> </ol> <p>Calculation for EPL indicators for individual dismissals: 9 months tenure -15 calendar days, 4 years tenure 30 calendar days, 20 years tenure 90 calendar days.</p> <p>As of a certain number of dismissals (see Item 18): Collective termination of employment contracts enters into force upon the expiry of the term for advance notice of termination, but no sooner than 30 calendar days after the time when the Estonian Unemployment Insurance Fund received the information.</p> <p>Calculation for EPL indicators as of a certain number of dismissals (see item 18): 9 months tenure -30 calendar days, 4 years tenure 30 calendar days, 20 years tenure 90 calendar days.</p>

<b>4: Severance pay at different tenure durations (a)</b>	<p>Upon termination of an employment contract due to lay-off, an employer shall pay an employee compensation in the amount of one month's average wage of the employee.</p> <p>Also an insurance benefit shall be paid by the Estonian Unemployment Insurance Fund to an employee whose employment relationship with an employer or to an official whose employment in the service has lasted for:</p> <p>1) five to ten years - in the amount of one month's average salary or wage;          2) over ten years - in the amount of two months' average salary or wage.</p> <p>Calculation for EPL indicators for individual dismissals: average of layoff and personal reasons: 9 months – 0.5 months; 4 years – 0.5 months; 20 years – 0.5 month</p>
<b>5: Definition of unfair dismissal (b)</b>	<p>Fair: An employer may extraordinarily terminate an employment contract with good reason arising from the employee as a result of which, upon respecting mutual interests, the continuation of the employment relationship cannot be expected, especially if the employee has:</p> <p>1) for a long time been unable to perform his or her duties due to his or her state of health which does not allow for the continuation of the employment relationship (decrease in capacity for work due to state of health). A decrease in capacity for work due to state of health is presumed if the employee's state of health does not allow for the performance of duties over four months; 2) for a long time been unable to perform his or her duties due to his or her insufficient work skills, non-suitability for the position or inadaptability, which does not allow for the continuation of the employment relationship (decrease in capacity for work); 3) in spite of a warning, disregarded the employer's reasonable instructions or breached his or her duties; 4) in spite of the employer's warning been at work in a state of intoxication; 5) committed a theft, fraud or another act bringing about the loss of the employer's trust in the employee; 6) brought about a third party's distrust in the employer; 7) wrongfully and to a significant extent damaged the employer's property or caused a threat of such damage; 8) violated the obligation of maintaining confidentiality or restriction of trade (ECA § 88).</p> <p>Before termination of an employment contract, in particular on the basis specified in cases 1) and 2), the employer shall offer other work to the employee, where possible (ECA § 88 (2)). The employer shall offer other work to the employee, including organise, if necessary, the employee's in-service training, adapt the workplace or change the employee's working conditions if the changes do not cause disproportionately high costs for the employer and the offering of other work may, considering the circumstances, be reasonably expected. An employer may cancel an employment contract due to a breach of an employee's obligation or decrease in his or her capacity for work.</p> <p>An employer may also extraordinarily cancel an employment contract if the continuation of the employment relationship on the agreed conditions becomes impossible due to a decrease in the work volume or reorganisation of work or other cessation of work (lay-off) (ECA § 89). According to the ECA § 89 in the event of a dismissal for economic reasons an employer should, where possible, offer other work to the employee, except in the cases of cancellation of an employment contract upon cessation of the activities of employer or upon declaration of bankruptcy of employer. The employer shall, where necessary, organise the employee's in-service training or change the employee's working conditions, unless the changes cause disproportionately high costs for the employer. The employer should take into account the principle of equal treatment. However the employees' representative and an employee who is raising a child under three years of age have the preferential right of keeping their job. The degree of freedom of judges is not regulated by the law. Every case is handled individually. However there have been judgements where court has found that court does not have the right to assess the economic state of an employer and if the dismissal was therefore eligible.</p>
<b>6: Length of trial period (c)</b>	<p>A probationary period shall not exceed 4 months.</p> <p>In the case of the employment contract entered into for a specified term of up to eight months the probationary period may not be longer than half of the contract term.</p> <p>The only special rule to terminate before the end date of probationary period, is the advance notice of cancellation due to failure to achieve goal of probationary period. According to the paragraph, an employment contract may be cancelled during a probationary period by giving no less than 15 calendar days' advance notice (ECA § 96).</p>
<b>7: Compensation following unfair dismissal (d)</b>	<p>Employer shall pay employee compensation in the amount of three months' average wages of the employee. In the case of an employee who is pregnant, who has the right to pregnancy and maternity leave or who has been elected employees' representative, the employer shall pay the employee compensation in the amount of six months' average wages of the employee. The court or labour dispute committee may change the amount of the compensation, considering the circumstances of the termination of the employment contract and the interests of both parties (ECA § 109).</p>

<b>8:</b> Reinstatement option for the employee following unfair dismissal (b)	Reinstatement is possible if both parties agree to that. If the employer is not agreeing to this, the reinstatement is possible if, at the time of the termination, the employee is pregnant or has the right to pregnancy or maternity leave or has been elected employees' representative, unless it is reasonably not possible considering mutual interests (Art. 107 ECA).
<b>9:</b> Maximum time period after dismissal up to which an unfair dismissal claim can be made (e)	An action with the court or an application filed with a labour dispute committee for establishment of nullity of termination shall be filed within 30 calendar days as of the receipt of the declaration of termination.
<b>10:</b> Valid cases for use of standard fixed term contracts	An employment contract may be entered into for a specified term of up to five years if it is justified by good reasons arising from the temporary fixed-term characteristics of the work, especially a temporary increase in work volume or performance of seasonal work.  There are some additional valid cases for use of fixed-term contracts for example the director of a state museum, members of the teaching staff or research staff of a university, etc.
<b>11:</b> Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	If an employee and employer have on more than two consecutive occasions entered into an employment contract for a specified term for the performance of similar work or extended the contract entered into for a specified term more than once in five years, the employment relationship shall be deemed to have been entered into for an unspecified term from the start. Entry into employment contracts for a specified term shall be deemed consecutive if the time between the expiry of one employment contract and entry into the next employment contract does not exceed two months.
<b>12:</b> Maximum cumulated duration of successive standard FTCs	120 months
<b>13:</b> Types of work for which temporary work agency (TWA) employment is legal	If fixed-term duties are performed by way of temporary agency work, an employment contract may be entered into for a specified term also if it is justified by the temporary characteristics of the work in a user undertaking.
<b>14:</b> Are there restrictions on the number of renewals and/or prolongations of TWA assignments? (f)	If duties are performed by way of temporary agency work, the restriction on consecutive entry into or extension of an employment contract for a specified term mentioned in item 11 shall be applied to every user undertaking separately (ECA § 10 (2)).
<b>15:</b> Maximum cumulated duration of TWA assignments (f)	The restriction on consecutive entry into or extension of an employment contract for a specified term mentioned in items 11 and 12 shall be applied to every user undertaking separately. By contrast, there is no limit on regulations on number and duration of the contracts between the TWA and the employee.
<b>16:</b> Does the set-up of a TWA require authorisation or reporting obligations?	Temporary agency work services may be provided by a legal person in private law who has been registered as an intermediary of temporary agency work in the register of economic activities.
<b>17:</b> Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	The Equal Treatment Act (into force since 1 January 2009) (§ 11 <sup>1</sup> ) establishes equal treatment of regular workers as well as employees who perform duties by way of temporary agency work. Employees who perform duties by way of temporary agency work should not be subjected to less favorable conditions of occupational health and safety, working and rest time and remuneration for work than those applied to comparable employees of the user undertaking. Employees who perform duties by way of temporary agency work are entitled to use, during the period of performing duties, the benefits of the user undertaking, first of all meal, transportation and childcare services, on the same conditions as comparable employees of the user undertaking.
<b>18:</b> Definition of collective dismissal (b)	Redundancy within 30 days if: (1) an employer who employed up to 19 employees terminates the employment contracts of at least 5 employees; (2) an employer who employs 20-99 employees terminates the employment contracts of at least 10 employees; (3) an employer who employs 100-299 employees terminates the employment contracts of at least 10% of employees; (4) an employer who employs at least 300 employees terminates the employment contracts of at least 30 employees.

<b>19:</b> Additional notification requirements in cases of collective dismissal (g)	<p>Before an employer decides on collective termination he or she shall consult in good time the trustee / shop steward or, in his or her absence, employees with the goal of reaching an agreement on prevention of the planned terminations or reduction of the number thereof and mitigation of the consequences of the terminations, including re-employment assistance or re-training of the employees to be laid off. After consultations an employer shall submit in writing the information about collective terminations and consultations to the Estonian Unemployment Insurance Fund (ECA 101 &amp; ECA 102).</p> <p>Calculation (for EPL indicators): 2 minus the notification requirements required for individual dismissals</p>
<b>20:</b> Additional delays involved in cases of collective dismissal (h)	<p>Collective termination of employment contracts enters into force upon the expiry of the term for advance notice of termination, but no sooner than 30 calendar days after the time when the Estonian Unemployment Insurance Fund received the information. Given average notice period this does not imply additional constraints. However, consultation with unions, for up to 15 days, must be undertaken before notifying the Estonian Unemployment Insurance Fund.</p> <p>The Estonian Unemployment Insurance Fund may extend the term up to 60 calendar days if it finds that it cannot resolve the employment problems relating to the collective termination within 30 calendar days.</p> <p>Calculation: 15 days for consultation + 30 for Fund notification minus value reported in Item 2 for economic reasons (1 day) and 3 (1 month) = 14 days</p>
<b>21:</b> Other special costs to employers in case of collective dismissals (i)	<p>No additional requirements.</p>
<b>22:</b> The worker alone has the burden of proof when filing a complaint for unfair dismissal	<p>No</p>
<b>23:</b> Ex-ante validation of the dismissal limiting the scope of unfair dismissal complaints	<p>No</p>
<b>24:</b> Pre-termination resolution mechanisms granting unemployment benefits	<p>An insured person does not have the right to receive an unemployment insurance benefit if the person's last employment ended upon cancellation of the contract of employment at the initiative of the employee or by agreement of the parties i.e. unemployment is voluntary. There is also no right for unemployment insurance benefit if the person has been released for a disciplinary offence. If the unemployed person has quit a job voluntarily and is now registered as unemployed, actively looking for work and has worked or engaged in other activities for at least 180 days prior to the registration as unemployed, he/she will be entitled to unemployment allowance.</p>

Legend: d: days; w: weeks; m: months; y: years. For example "1m < 3y" means "1 month of notice (or severance) pay is required when length of service is below 3 years".

Notes:

- a) Three tenure durations (9 months, 4 years, 20 years). Case of a regular employee with tenure beyond any trial period, dismissed on personal grounds or economic redundancy, but without fault (where relevant, calculations of scores to compute OECD EPL indicators assume that the worker was 35 years old at the start of employment). Averages are taken where different situations apply – e.g. blue collar and white collar; dismissals for personal reasons and for redundancy.
- b) Based also on case law, if court practice tends to be more (or less) restrictive than what specified in legislation.
- c) Initial period within which regular contracts are not fully covered by employment protection provisions and unfair dismissal claims cannot usually be made.
- d) Typical compensation at 20 years of tenure, including back pay and other compensation (e.g. for future lost earnings in lieu of reinstatement or psychological injury), but excluding ordinary severance pay and pay in lieu of notice. Where relevant, calculations of scores to compute OECD EPL indicators assume that the worker was 35 years old at the start of employment and that a court case takes 6 months on average. Description based also on case law.
- e) Maximum time period after dismissal up to which an unfair dismissal claim can be made.
- f) Description based on both regulations on number and duration of the contract(s) between the temporary work agency and the employee and regulations on the number and duration of the assignment(s) with the same user firm.
- g) Notification requirements to works councils (or employee representatives), and to government authorities such as public employment offices. Only requirements on top of those requirements applying to individual redundancy dismissal count for the OECD EPL indicators Versions 1 to 3 (cf. Item 1).
- h) Additional delays and notice periods in the case of collective dismissal (only delays on top of those required for individual dismissals – as reported in Items 2 and 3 – count for the OECD EPL indicators).
- i) This refers to whether there are additional severance pay requirements and whether social compensation plans (detailing measures of reemployment, retraining, outplacement, etc.) are obligatory or common practice.