Individual Labour Dispute Resolution Act

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26.03.2014 RT I, 16.04.2014, 3 01.07.2014
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Chapter 1
GENERAL PROVISIONS

§ 1. Purpose of Act

This Act provides the procedure and conditions for resolution of an individual labour dispute between an employee and an employer.

§ 2. Definition of individual labour dispute

For the purpose of this Act, an individual labour dispute is a private dispute between an employer and an employee which arises under an employment contract. An individual labour dispute is also a dispute over a claim arising from the preparation of an employment contract.

[RT I 2009, 5, 35 - entry into force 01.07.2009]
§ 3. Resolution, by agreement, of disagreement arising from employment relationships

(1) If possible, a disagreement arising from the employment relationship between an employee and an employer shall be resolved by agreement between the employee and the employer through the mediation of an employees’ trustee or a directing body of an association or federation of employees.

(2) In order to resolve disagreements, an employer may, in co-ordination with an employees’ trustee or a directing body of an association or federation of employees, establish a conciliation committee the membership, competence and rules of procedure of which shall be determined by agreement between the employer and the employees’ trustee or directing body of an association or federation of employees.

(3) Attempts to resolve a disagreement by agreement do not deprive the parties of the right of recourse to a labour dispute resolution body in order to resolve a labour dispute.

(4) Parties have the right of recourse to a labour dispute resolution body without seeking the mediation of an employees’ trustee or a directing body of an association or federation of employees if they find that the labour dispute cannot be resolved by agreement.

§ 4. Individual labour dispute resolution bodies

(1) Individual labour disputes are resolved by:
1) a labour dispute committee;
2) a court.

(1 1) A labour dispute committee does not resolve disputes over financial claims exceeding 10,000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(2) An employee and an employer have the right of recourse to a labour dispute committee or a court for resolution of an individual labour dispute. Concurrent filing of an application with a labour dispute committee and with a court is prohibited.

(3) If an application has been filed with a court concerning a labour dispute for the resolution of which the employee or the employer has already had recourse to a labour dispute committee, the court shall refuse to accept or hear the claim.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

(4) Resolution of individual labour disputes by a court is regulated by the Code of Civil Procedure with the specifications arising from this Act.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

(5) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 5. Adherence to international agreement in resolution of labour dispute

If an Act, administrative act, rules established by employer, collective agreement or employment contract is contrary to an international agreement binding on Estonia which prescribes application of the international agreement regardless of passage of an Estonian legislative act, a labour dispute resolution body shall adhere to the international agreement in the resolution of a labour dispute.

§ 6. Limitation period for filing claim

(1) The limitation period for filing a claim concerning the recognition of rights or protection of violated rights arising from employment relationships in order to take recourse to a labour dispute committee or a court is four months, except in the case prescribed in subsections (2) and (3) of this section.

(2) The limitation period for filing a claim to challenge the cancellation of an employment contract is 30 calendar days as of the receipt of a notice of cancellation.
[RT I 2009, 5, 35 - entry into force 01.07.2009]

(3) The limitation period for filing a claim for payment of wages is three years.
[RT I 2009, 5, 35 - entry into force 01.07.2009]

(4) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 7.–§ 8. [Repealed – RT I 2009, 5, 35 – entry into force 01.07.2009]

§ 9. State fee in labour matters

(1) Recourse to a labour dispute committee is exempt from state fees.

(2) Upon filing of a statement of claim with a court, a state fee shall be paid pursuant to the procedure prescribed in the Code of Civil Procedure and pursuant to the rate provided for in the State Fees Act.
§ 9. Processing of information concerning labour disputes in labour dispute committees

Information concerning labour disputes in labour dispute committees shall be processed in the working environment database established on the basis of the Occupational Health and Safety Act.

[RT I, 04.06.2014, 2 - entry into force 01.09.2014]

Chapter 2

ESTABLISHMENT AND RULES OF PROCEDURE OF LABOUR DISPUTE COMMITTEE

§ 10. Legal status of labour dispute committee

(1) A labour dispute committee is a pre-trial independent individual labour dispute resolution body which operates pursuant to international agreements binding on Estonia, the law, administrative acts and other rules regulating employment relationships, and also collective agreements and employment contracts.

(2) A labour dispute committee is competent to resolve a dispute if the chairman of the committee and at least one representative of employees and one representative of employers participate in the work of the committee. The chairman of a labour dispute committee shall invite an equal number of representatives of employees and representatives of employers to participate in the work of the committee. In the cases provided for in this Act, the chairman of a labour dispute committee is competent to resolve a dispute alone.

[RT I 2003, 15, 83 - entry into force 01.07.2003]

§ 11. Establishment of labour dispute committee

(1) Labour dispute committees are established within the local labour inspectorates of the Labour Inspectorate.

(2) The membership of a labour dispute committee comprises the chairman of the labour dispute committee and representatives of employees and representatives of employers.

(21) A labour dispute may be resolved by the chairman of a labour dispute committee alone if the party against whom a claim has been filed admits in the written response thereto all the claims set out in the application.

[RT I 2003, 15, 83 - entry into force 01.07.2003]

(3) The Minister of Social Affairs shall appoint to and release from office a chairman of a labour dispute committee on the proposal of the Director General of the Labour Inspectorate. A chairman appointed to a labour dispute committee must be a person with higher education in law.

(4) The chairman of a labour dispute committee is an official of the local labour inspectorate of the Labour Inspectorate, but he or she is prohibited from exercising supervision over the implementation of labour legislation.

[RT I 2003, 15, 83 - entry into force 01.07.2003]

(5) The directing bodies of federations (central federations) of occupational and professional associations of employees and central federations of employers shall present the required number of representatives of employees and representatives of employers to the Labour Inspectorate as determined by the Labour Inspectorate for the membership of labour dispute committees.

(6) The procedure for the establishment and the rules of procedure of a labour dispute committee shall be specified in its statutes which are subject to approval by the Government of the Republic.

§ 12. Working conditions of labour dispute committee

(1) The working conditions (rooms, clerical support) of a labour dispute committee shall be provided by the Labour Inspectorate.

(2) The administrative expenses of a labour dispute committee and expenses related to resolution of labour disputes (including expenses prescribed in subsection 13(2) of this Act) are covered from the state budget out of the funds allocated to the Labour Inspectorate for these purposes.
§ 13. Release of representatives of employees and representatives of employers from performance of their duties

(1) Representatives of employees and representatives of employers shall be released from the performance of their duties for the period of time they are participating in the work of a labour dispute committee.
[RT I 2009, 5, 35 - entry into force 01.07.2009]

(2) Wages shall be paid to the representatives of employees and representatives of employers and their travel expenses shall be reimbursed from the budget of the Labour Inspectorate during the period of time they are participating in the work of a labour dispute committee. Wages shall be the product of the highest salary rate specified in subsection 2(1) of the High-Ranking State Public Servants Salaries Act, the highest salary rate index specified in subsection (2) and a factor of 0.078.
[RT I, 26.03.2013 – entry into force 01.04.2013]

(3) Wages shall be paid to the representatives of employees and representatives of employers pursuant to the duration of a meeting so that 1 hour = 1/8 of the daily wages calculated on the basis of wages set out in subsection (2) of this section.
[RT I 2003, 15, 83 - entry into force 01.07.2003]

Chapter 3
RESOLUTION OF LABOUR DISPUTES
IN LABOUR DISPUTE COMMITTEE

§ 14. Filing of application with labour dispute committee

(1) A labour dispute committee shall decide on the acceptance of a matter of labour dispute within three working days after submission of a written application to the labour dispute committee.
[RT I 2003, 15, 83 - entry into force 01.07.2003]

1) An application shall be submitted to the labour dispute committee of the workplace of the employee in writing in two original copies. If the workplace of the employee is located within an area which includes several counties determined in the employment contract, an application shall be submitted to the labour dispute committee of the location or residence of the employer.
[RT I 2003, 15, 83 - entry into force 01.07.2003]

(2) An association representing employees and, in the cases provided by law, an association representing employers in labour disputes may also have recourse to a labour dispute committee. A person representing an association shall present to the labour dispute committee a letter of authorisation concerning his or her right of representation which shall be issued with the signature of the person authorised by the articles of association and with the seal of the union.

1) When resolving a dispute concerning discrimination, the representative may also be a person who has a legitimate interest in verifying adherence to the requirements for equal treatment.
[RT I 2008, 56, 315 - entry into force 01.01.2009]

(3) An application submitted to a labour dispute committee shall set out the following information:
1) the name of the labour dispute committee to which the application is submitted;
2) the name, personal identification code or registry code, workplace, residence or location and means of communication of the applicant;
3) the name, personal identification code or registry code, residence or location and means of communication of the person against whom the claim is filed;
4) the clearly and unambiguously expressed claim of the applicant and, in the case of a financial claim, the sum of the claim;
5) the description of the facts which serve as the basis for the claim and which substantiate the claim, and the legal basis for the claim;
6) documentary evidence which substantiates the claim.
[RT I 2003, 15, 83 - entry into force 01.07.2003]

(4) An application shall be accompanied by documentary evidence which is listed as an Annex to the application. An applicant has the right to request that a labour dispute committee hear witnesses and require the other party to submit documentary evidence.
[RT I 2003, 15, 83 - entry into force 01.07.2003]

(5) An application received by a labour dispute committee shall be registered.

§ 15. Refusal to accept application and termination of proceedings

(1) A labour dispute committee shall refuse to accept an application or shall terminate the proceedings of a matter if:
1) the claim has already been resolved by a labour dispute committee or a court,
2) the claim has been filed with a court for resolution,
3) the parties to the dispute have entered into an agreement for resolution of the dispute which is approved by the Chancellor of Justice or
4) the resolution of the claim is not within the competence of the labour dispute committee.

(2) In addition to the provisions of subsection (1) of this section, a labour dispute committee shall terminate the proceedings of a matter if:
1) the applicant waives all filed claims before or during a meeting of the labour dispute committee and, if single claims are waived, the labour dispute committee shall terminate the proceedings of the waived claims;
2) the applicant fails to appear at a meeting of the labour dispute committee or has not submitted a reasoned request for adjournment of the hearing of the matter.

(3) Upon termination of the proceedings of a matter on the basis provided for in clause (2)2) of this section, a labour dispute committee shall resume the proceedings of the matter if the applicant applies for acceptance of the matter of a labour dispute again. In such case, the provisions concerning limitation period apply.

§ 16. Period of time for hearing of application

(1) An application filed with a labour dispute committee shall be heard by the labour dispute committee no later than within one month after the date following the date of receipt of the application.

(2) If the hearing of a matter is adjourned, the chairman of the labour dispute committee shall determine a new date for the hearing of the matter which shall be held no later than within one month after the date of the previous hearing.

(3) At a reasoned request of a party, the periods of time specified in subsections (1) and (2) of this section may be extended.

§ 17. Preparation for hearing of application

(1) The chairman of a labour dispute committee shall ascertain the facts in a labour dispute and he or she has the right to verify them at the employer’s location.

(2) The chairman of a committee shall determine the time and place of the meeting of the committee and shall arrange for the delivery of summonses to the parties to the dispute and the witnesses.

(2¹) The chairman of a committee shall determine a due date by which the person against whom a claim has been filed shall give written notification whether or not the person admits the claim of the applicant, and shall justify it with evidence.

(3) A meeting of a labour dispute committee is generally held at the location of the labour dispute committee, but by agreement of the parties, it may also be held at the location of the employer.

§ 18. Participation of parties in hearing of labour dispute

(1) A labour dispute shall be heard and resolved in the presence of the employee and the employer or their representatives.

(1¹) If a person against whom a claim has been filed admits it to the full extent, the claim may be heard with the written consent of the parties to the labour dispute in their absence.

(1²) If an alien worked in Estonia without having a legal basis and the alien has left Estonia by the time a labour dispute arises, or leaves Estonia during a labour dispute or is expelled from Estonia during a labour dispute, the labour dispute shall be heard in his or her absence.

(2) If the employee or the employer does not attend a meeting of the committee with good reason, the dispute resolution shall be adjourned.

(3) The parties are required to notify the committee of circumstances which prevent attendance at a meeting before the beginning of the meeting and to provide proof of such circumstances.
(4) If a person against whom a claim has been filed fails to attend a meeting without good reason or has submitted a written consent for hearing of the application in his or her absence, the labour dispute committee may make a decision in his or her absence.  
[RT I 2003, 15, 83 - entry into force 01.07.2003]

(5) [Repealed – RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 19. Removal of labour dispute committee member

(1) At the beginning of a meeting, the chairman of a committee shall announce the subject-matter of the application to be heard and the membership of the committee.

(2) The employee and the employer or their representative have the right to file a petition of challenge against members of the committee. A petition of challenge must be reasoned. Members of the committee are subject to removal if there is reason to believe that they are personally interested in the ultimate resolution of the matter or if other circumstances cast suspicion upon their impartiality. The fact that a representative of the opposing party (a federation of employees or employers) participates in the work of the committee does not substantiate a petition of challenge.

(3) Removal of the chairman of a labour dispute committee shall be decided by other members of the committee. If even one member of the committee is in favour of the removal of the chairman, the petition of challenge shall be satisfied. Removal of the chairman of a labour dispute committee sitting alone shall be decided by the Director General of the Labour Inspectorate. In such case, the petition shall be sent for resolution to a labour dispute committee working within another labour inspectorate, or the chairman of a labour dispute committee of another area shall be asked to resolve the dispute.

(4) Removal of committee members representing employees or employers shall be decided by the chairman of the committee. Upon satisfaction of a petition of challenge, the hearing of the matter shall be adjourned and another person appointed by a corresponding union or federation shall be invited to participate in the work of the committee.

(5) A petition of challenge shall be filed in a committee meeting before the hearing on the merits of the matter. Later filing of a petition of challenge is permitted only if the basis for removal becomes known to the person filing the petition of challenge after the hearing of the matter has begun.

(6) The chairman or a member of a labour dispute committee is required to remove himself or herself before referral of the matter to a meeting for resolution or during a meeting if he or she cannot remain impartial in the resolution of the matter or is interested in the ultimate resolution of the matter. Removal shall be reasoned. Removal shall be decided pursuant to the procedure provided for in subsections (3) and (4) of this section.

[RT I 2003, 15, 83 - entry into force 01.07.2003]

§ 20. Hearing of labour dispute

(1) A meeting of a labour dispute committee is chaired by the chairman of the labour dispute committee. He or she shall explain in the meeting the nature of the dispute between the parties and the corresponding rules of law.

(2) An applicant shall present his or her claims and justifications thereof. In a meeting, the applicant may supplement the claims set out in a written application and submit additional documentary evidence. Additional claims shall be filed in writing.

(2\footnote{1}) In a meeting, an applicant has the right to waive, in full or in part, claims set out in the application.
[RT I 2003, 15, 83 - entry into force 01.07.2003]

(3) A person against whom claims have been filed shall either admit or contest them. He or she has the right to submit additional documentary evidence.

(3\footnote{1}) In case of disputes concerning discrimination, shared burden of proof prescribed in the Equal Treatment Act or in the Gender Equality Act applies.
[RT I 2008, 56, 315 - entry into force 01.01.2009]

(4) In a meeting, the explanations of persons concerned and witnesses shall be heard, and documents and other evidence shall be examined and assessed.

(4\footnote{1}) Every witness shall be heard individually. Witnesses who have not been heard may not be present in the meeting room during the hearing of the matter.
[RT I 2003, 15, 83 - entry into force 01.07.2003]

(5) At the end of a meeting, final positions of the parties to the dispute shall be heard. Thereafter, the committee shall withdraw to deliberate on the matter.
§ 21. Minutes of committee meeting

Minutes shall be taken of a meeting of a labour dispute committee.

Chapter 4
DECISION OF LABOUR DISPUTE COMMITTEE AND EXECUTION THEREOF

§ 22. Decision-making

(1) A labour dispute committee shall make a decision on the day the matter is heard. Only members of the committee shall be present while a decision is being made.

(2) A decision of a labour dispute committee shall be based on law and it shall be reasoned. A committee has the right to specify the legal bases of claims if this is necessary for the protection of the lawful rights and interests of the parties.

(3) A decision of a labour dispute committee shall be made by majority vote. Members of a committee who remain a minority have the right to dissent.

(31) The chairman of a committee shall decide alone on a matter of labour dispute in which the party against whom a claim has been filed has admitted the claim to the full extent.

[RT I 2003, 15, 83 - entry into force 01.07.2003]

(4) A decision consists of an introduction, descriptive part, reasons of the committee and a conclusion.

§ 23. Announcement of decision

(1) A decision of a labour dispute committee shall be announced to the parties to the dispute within five working days after the meeting. On the date the meeting is held, the parties shall be informed of the date and time of announcement of the decision.

(2) On the date of announcement of a decision, a copy of the decision shall be given to the parties or delivered to the parties pursuant to the procedure prescribed in the Administrative Procedure Act.

[RT I 2009, 5, 35 - entry into force 01.07.2009]

§ 23. Delivery of decision by putting it in mailbox

(1) If it is not possible to deliver a decision because it cannot be handed over on the date of announcement of the decision or in the recipient’s dwelling or business premises, the decision shall be deemed delivered by putting the decision in a mailbox belonging to the dwelling or business premises or to another similar place which the recipient uses for mail and which usually guarantees the preservation of packages.

(2) Delivery in the manner specified in subsection (1) of this section is permitted only if the decision has been attempted to be handed over to the recipient on at least two occasions at significantly different times of day with an interval of at least three days and delivery to the recipient’s representative is also not possible.

(3) In the case specified in subsection (1) of this section, the delivery date shall be indicated on the envelope of the package to be delivered.

[RT I 2009, 5, 35 - entry into force 01.07.2009]

§ 23. Delivery of decision with storage

(1) On the conditions provided for in section 23 of this Act, a document may also be stored in a post office at the place of delivery of the document or in the rural municipality or city government or in the office of the labour dispute committee within whose jurisdiction the place of delivery of the document is located.

(2) A written notice of storage shall be left or sent by mail to the recipient’s address, but if this is impossible, the notice shall be affixed to the door of the dwelling, business premises or place of stay. The notice shall clearly set out that the document being stored is a decision of a labour dispute committee and that by storage the decision is deemed delivered and the period of time for challenging the decision will start to run from that moment.
(3) A decision shall be deemed delivered after three days from the date a written notice specified in subsection (2) of this section was sent or left behind. The date of delivery shall be indicated on the envelope of the document.

(4) A document sent to be delivered shall be returned to the labour dispute committee after 30 days from the date it was deemed delivered.

[RT I 2009, 5, 35 - entry into force 01.07.2009]

§ 24. Challenge of decision

(1) If the parties to a dispute do not agree with the decision of a labour dispute committee, the parties to the dispute may have recourse to the county court, for hearing of the same labour dispute, within one month after the date following the date of receipt of a copy of the decision of the labour dispute committee.

(2) Recourse to a court shall be in the form of a statement of claim, not an appeal against a decision of a labour dispute committee.

(3) If a labour dispute committee does not satisfy an application or satisfies it in part, the applicant may file with a court an action for resolution of the matter in the part not satisfied. The action may include only the same claims which were presented to the labour dispute committee.

(4) If a labour dispute committee satisfies an application in full or in part, the other party may file with a court a petition for the court to review the application filed with the labour dispute committee as an action. In such case, the plaintiff is the person who had recourse to the labour dispute committee and the defendant is the party who filed the petition with the court. A state fee shall be paid on the application in the amount which the plaintiff should have paid if he or she had filed an action.

[RT I 2006, 7, 42 - entry into force 04.02.2006]

(5) An application filed with a labour dispute committee shall be deemed a statement of claim in the case provided for in subsection (4) of this section. If necessary, a court shall grant the parties a period of time for filing an application in the form prescribed for an action, for further substantiating their positions and for presenting additional evidence. The court need not deliver to the parties documents submitted to the labour dispute committee.

(6) If an action or an application is filed with a court in a matter which a labour dispute committee has already resolved, it shall be indicated in the action or application, and a copy of the decision shall be attached. When receiving the action or application, the court shall require the labour dispute committee to submit materials concerning resolution of the matter and shall include them in the file. Submitted evidence shall be deemed submitted to the court.

(7) If a person having recourse to a labour dispute committee fails to submit, in the case provided for in subsection (5) of this section, his or her application in the form prescribed for a statement of claim by the time determined by a court, the court shall refuse to hear the statement of claim. In such case, the decision of the labour dispute committee shall not enter into force to the challenged extent. The court shall draw the plaintiff’s attention to that when it determines a period of time for filing an application in the form of a statement of claim.

(8) A person who has filed with a court an application specified in subsection (4) of this section may discontinue the application on the same bases and pursuant to the same procedure as provided for discontinuance of an action. In case of discontinuance of the application, the decision of the labour dispute committee shall enter into force.

§ 25. Entry into force of decision

(1) A decision of a labour dispute committee enters into force after the expiry of the period of time for recourse to a court if neither party files an application to the county court. In case a decision of a labour dispute committee is challenged in part, the decision enters into force in the part which is not related to the challenged part. In resolving the matter, the court is bound by the decision of the labour dispute committee in the part not challenged.

(2) A decision of a labour dispute committee which has entered into force is binding on the parties.

(3) At the request of a party, a labour dispute committee shall affix to the decision a notation on entry into force. At the request of an administrative authority concerned, a labour dispute committee shall affix to the decision a notation on entry into force for making an entry into the employment register provided for in section 251 of the Taxation Act.

[RT I, 16.04.2014, 3 - entry into force 01.07.2014]
§ 25. Entry of decision into employment register

On the basis of a decision which has entered into force, the Labour Inspectorate shall make an entry into the employment register provided for in section 25 of the Taxation Act in order to add or change the following information:

1) the date of commencement of work by the employee;
2) the type of the legal relationship which served as a basis for working;
3) the date of the expiry of the employment contract;
4) the legal basis for the expiry of the employment contract.

[RT I, 16.04.2014, 3 - entry into force 01.07.2014]

§ 26. Execution of decision

(1) A decision of a labour dispute committee shall be executed after the entry into force thereof, except for immediate execution (section 27 of this Act).

(2) A decision of a labour dispute committee shall be executed pursuant to the procedure provided by the Code of Enforcement Procedure.

§ 27. Immediate execution of decision

(1) A labour dispute committee may obligate an employer by a decision to immediately continue to carry out an employment contract if the committee establishes that cancellation of the employment contract by the employer was void.

(2) A labour dispute committee shall declare a decision ordering payment of wages to be subject to immediate execution to the extent necessary for the employee but not exceeding the extent of two months’ wages.

(3) Upon recourse to a court for challenging a decision which is to be immediately executed, one has the right to apply for suspension of immediate execution by way of securing the action.

[RT I 2009, 5, 35 - entry into force 01.07.2009]

Chapter 5

[Repealed – RT I 2009, 5, 35 – entry into force 01.07.2009]

Chapter 6

[Repealed – RT I 2009, 5, 35 – entry into force 01.07.2009]

Chapter 7

IMPLEMENTING PROVISIONS

§ 34.–§ 35.[Omitted from this text.]

§ 35. Specification of indexation of wages paid to representatives of employees and representatives of employers

Wages paid to the representatives of employees and the representatives of employers for the period of time they are participating in the work of a labour dispute committee shall be subject to indexation from 1 April 2015.

[RT I, 26.03.2013, 1 - entry into force 01.04.2013]

§ 36. Entry into force of Act

This Act enters into force on 1 September 1996.