

*An excerpt of the Labour Law:*

#### **Section 4. Employer**

(1) An employer is a natural or legal person or a partnership with legal capacity that employs at least one employee on the basis of an employment contract.

(2) If an employment contract is entered into with an employee by a work placement service provider to appoint the employee to perform work for the benefit and under the management of the recipient of the work placement service for a specified period, the work placement service provider shall be deemed as the employer.

#### **Section 7. Principle of Equal Rights**

(1) Everyone has an equal right to work, to fair, safe and healthy working conditions, as well as to fair remuneration.

(2) The rights provided for in Paragraph one of this Section shall be ensured without any direct or indirect discrimination – irrespective of a person’s race, skin colour, gender, age, disability, religious, political or other conviction, ethnic or social origin, property or marital status, sexual orientation or other circumstances.

(3) In order to promote the introduction of the principle of equal rights in relation to persons with a disability, an employer has an obligation to take measures that are necessary in conformity with the circumstances to adjust the work environment, to facilitate the possibility of persons with a disability to establish employment relationship, perform work duties, be promoted to higher positions or be sent to occupational training or further education, insofar as such measures do not place an unreasonable burden on the employer.

(4) It is the obligation of the work placement service provider as the employer to ensure the same working conditions and apply the same employment provisions to an employee who has been appointed for a specified period to perform work in the undertaking of the recipient of the work placement service as would be ensured and applied to an employee if an employment relationship between the employee and the recipient of the work placement service had been established directly and the employee was to perform the same work.

(5) The working conditions and employment provisions referred to in Paragraph four of this Section shall apply to working time and rest time, remuneration, pregnant women, women during the period following childbirth up to one year, women who are breastfeeding, to the protection assigned to children and adolescents, and also to the principle of equal rights and the prohibition of differential treatment.

#### **Section 10. Representation of Employees**

(1) Employees shall exercise the defence of their social, economic and occupational rights and interests directly or through the mediation of the representatives of employees. Within the meaning of this Law, the representatives of employees shall mean:

1) an employee trade union on behalf of which a trade union institution or an official authorised by the articles of association of the trade union acts;

2) authorised representatives of employees who have been elected in accordance with Paragraph two of this Section.

(2) Authorised representatives of employees may be elected if an undertaking employs five or more employees. Authorised representatives of employees shall be elected for a specified term of office by a simple majority vote of the persons present at a meeting in which at least half of the employees employed by an undertaking of the respective employer participates. The course of the meeting shall be recorded in minutes and decisions taken shall be entered in the minutes. Authorised representatives of employees shall express a united view with respect to the employer.

(..)

(5) In calculating the number of employees upon the reaching of which authorised representatives of employees may be elected in an undertaking, or institutions of representation of employees may be established, as well as in calculating the number of employees represented, the employees with whom an employment contract has been entered into for a specified period as well as the employees who are performing work in the undertaking within the scope of the work placement service for a specified period shall also be taken into account.

## **Section 11. Rights and Duties of the Representatives of Employees**

(1) Representatives of employees, when fulfilling their duties, have the following rights:

1) to request and receive from the employer information regarding the current economic and social situation of the undertaking, and possible changes thereto as well as the relevant information regarding the employment in the undertaking of employees appointed by the work placement service provider;

(..)

## **Section 14. Posting of an Employee**

(1) Within the meaning of this Law, posting of an employee shall mean those cases where, in connection with the provision of international services:

1) the employer, on the basis of a contract which it has entered into with a person for whose benefit the work will be performed, posts an employee to another state;

2) the employer posts an employee to a branch or to an undertaking in another state, which is part of the group of companies;

3) a work placement service provider as an employer posts an employee to the recipient of the work placement service for whose benefit and under whose management the work will be performed if the undertaking of such person is located in another state or it performs its operations in another state.

(2) Within the meaning of this Law, a posted employee shall mean an employee who for a specified period performs work in a state other than the state in which he or she normally performs work.

(2<sup>1</sup>) The work placement service provider referred to in Paragraph one, Clause 3 of this Section shall be regarded as an employer who posts an employee to perform work in Latvia also if, within the provision of international services, the recipient of the work placement service has to provide services in another country and the performance

thereof is ensured by the posted employee. In such situation, all the provisions for posting an employee shall be applicable to the work placement service provider.

(2<sup>2</sup>) If the recipient of the work placement service in Latvia intends to provide a service in another country within the provision of international services and its performance is ensured by the employee posted to Latvia, then the recipient of the work placement service in Latvia has the obligation to inform the work placement service provider thereof in a timely manner before the provision of the service in another country.

(2<sup>3</sup>) If an employee is posted to Latvia by the work placement service provider, then such provider as the employer has the obligation to ensure the same working conditions and apply the same employment provisions to an employee who has been posted to Latvia as would be ensured and applied to the employee if the employment relationship between the employee and the recipient of the work placement service had been established directly and the employee performed the same work.

(2<sup>4</sup>) In order to ensure the fulfilment of the obligations referred to in Paragraph 2.<sup>3</sup> of this Section, the recipient of the work placement service who is located in Latvia has the obligation to inform the work placement service provider of another country of the working conditions and employment provisions at the recipient of the work placement service in a timely manner before posting the employee.

(2<sup>5</sup>) In case of posting an employee, the concept of remuneration and the mandatory elements of remuneration shall be determined according to the laws and regulations or practice of the country to which the employee has been posted. If the employee has been posted to perform work in Latvia, the provisions of this Law and the general agreement entered into according to Section 18, Paragraph four of this Law, and also other laws and regulations of Latvia that govern remuneration shall be applicable to remuneration.

(2<sup>6</sup>) The person to the benefit of which work is performed shall not admit the posted employee to the performance of work if the employer of another European Union Member State or European Economic Area State who posts the employee to perform work in Latvia has failed to submit a certification on the fulfilment of the obligation referred to in Section 14.<sup>1</sup>, Paragraph two of this Law.

(3) The provisions of this Law regarding posting of an employee shall not apply to the ship's crews of merchant fleet undertakings.

#### **Section 14.<sup>1</sup> Obligations of an Employer when Posting an Employee to Perform Work in Latvia**

(1) If an employer from another European Union Member State or European Economic Area State posts an employee to perform work in Latvia, then, irrespective of the law applicable to the employment contract and employment relationship, such posted employee shall be ensured the working conditions and employment provisions provided for by the laws and regulations of Latvia and the general agreement entered into according to Section 18, Paragraph four of this Law and governing:

- 1) maximum working time and minimum rest time;
- 2) minimum annual paid leave;
- 3) remuneration, including supplements for work associated with special risk, overtime work, night work, work on a public holiday, additional work. Within the meaning of this Clause, remuneration shall not include contributions to supplementary pension capital made by the employer;
- 4) provisions regarding securing a workforce, especially with the intermediation of work placement service provider;

5) safety, health protection and hygiene at work;  
6) protection measures for persons under 18 years of age, for pregnant women and women during the period following childbirth, as well as the working and employment provisions of such persons;

7) equal treatment of men and women, as well as prohibition of discrimination in any other form;

8) provisions for the accommodation of such employees who are outside their permanent workplace if such service is provided by the employer;

9) reimbursement of the expenses of the employee in relation to an official trip or work trip in Latvia, including the disbursement of a daily allowance for an official trip. This provision shall be applied to the reimbursement of expenses to an employee who has been posted to perform work in Latvia if he or she is sent on an official trip or work trip in the territory of Latvia.

(2) An employer of another European Union Member State or European Economic Area State who posts an employee to perform work in Latvia has the obligation to, prior to posting the employee, electronically inform the State Labour Inspectorate of such employee in the official language, indicating:

1) the given name, surname, the number of personal identification document, and address of the employer – natural person, or the name (firm), registration number, and address of a legal person, the given name, surname, and address of the responsible official of the executive body of the employer – legal person, and also other contact information (telephone number, electronic mail address). If the employer is a work placement service provider, it shall be especially indicated and a certification shall be submitted that the employer as a work placement service provider is entitled to provide work placement services in its home country;

2) the given name and surname of the employee as well as the number of personal identification document;

3) the anticipated duration of posting, as well as the time of starting and ending work;

4) the address or addresses of the work performance location if the work is to be performed in several places;

5) the representatives of the employer referred to in Paragraphs four and five of this Section, indicating the given name, surname as well as contact information;

6) the person for whose benefit work will be performed (recipient of the service), as well as the nature of service justifying the posting of the employee;

7) the certification that the posted employee who is a third-country national legally works for the employer in the European Union Member State or the European Economic Area State;

8) the information on the Certificate of Social Security Legislation Applicable to the Recipient of the Certificate (Certificate A1), indicating the issuing country and number.

(3) An employer of another European Union Member State or European Economic Area State who posts an employee to perform work in Latvia has the obligation to electronically inform the State Labour Inspectorate in the official language of the changes that have occurred in relation to the information referred to in Paragraph two of this Section within three working days from the day the changes have occurred.

(4) An employer of another European Union Member State or European Economic Area State who posts an employee to perform work in Latvia has the obligation to designate its representative in Latvia who is authorised to represent the employer in public institutions and court of Latvia.

(5) An employer of another European Union Member State or European Economic Area State who posts an employee to perform work in Latvia has the obligation to, if necessary, designate its representative who may be addressed by the parties of the collective agreement in order to initiate negotiations regarding entering into a collective agreement in accordance with the provisions of this Law. That person may be a person other than that referred to in Paragraph four of this Section, and this person does not have to be in Latvia, however, it has to be available on a reasonable and justified request.

(6) An employer of another European Union Member State or European Economic Area State who posts an employee to perform work in Latvia has the obligation, during the period of posting the employee, to ensure storage of the employment contract entered into, the calculation of the remuneration, and documents certifying the disbursement of remuneration, as well as the documents accounting working time with the person referred to in Paragraph four of this Section and to present such documents to the supervisory and control authorities, and also, if necessary, to ensure their translation into the official language.

(7) An employer of another European Union Member State or European Economic Area State who posts an employee to perform work in Latvia has the obligation to, within two years after the end of the period of posting the employee, ensure presentation of the documents referred to in Paragraph six of this Section to the supervisory and control authorities.

(8) The provisions of Paragraph one of this Section shall also be applicable to third-country nationals who are employed in Latvia within the framework of an intra-corporate transfer.

(9) Remuneration disbursed to the employee in relation to the posting shall be regarded as part of remuneration in Latvia, unless it is regarded as compensation for the expenses. If the amount and constituent elements for the expenses have not been clearly stated, all the remuneration disbursed to the employee in relation to the posting of the employee shall be regarded as the compensation for the expenses.

(10) If the actual duration of the posting of the employee exceeds 12 months, then also other working conditions and employment provisions provided for by the laws and regulations of Latvia and the general agreement entered into according to Section 18, Paragraph four of this Law shall be ensured for the employee in addition to the provisions referred to in Paragraph one of this Section, except for the provisions for the entering into and termination of the employment contract, including restriction on competition after termination of the employment relationship and contributions to supplementary pension capital made by the employer.

(11) If an employer of another European Union Member State or European Economic Area State who has posted an employee to perform work in Latvia submits a reasoned notification to the State Labour Inspectorate, the provisions referred to in Paragraph ten of this Section shall be applicable if the actual duration of the posting exceeds 18 months.

(12) If an employer of another European Union Member State or European Economic Area State who posts an employee to perform work in Latvia replaces such employee by another employee who performs the same work at the same work performance location, the duration of posting referred to in Paragraphs ten and eleven of this Section shall be calculated as the total duration of individual postings.

(13) An employer of another European Union Member State or European Economic Area State who posts an employee to perform work in Latvia shall have the obligation to, prior to commencing the provision of international service, inform the person for

whose benefit the work will be performed of the fulfilment of the obligation referred to in Section 14.<sup>1</sup>, Paragraph two of this Law.

## **Section 28. Employment Relationship and Employment Contract**

(1) An employer and an employee shall establish mutual employment relationship by an employment contract.

(2) With an employment contract the employee undertakes to perform specific work, subject to specified working procedures and orders of the employer, while the employer undertakes to pay the agreed remuneration and to ensure fair and safe working conditions that are not harmful to health.

(3) The provisions of the Civil Law shall apply to an employment contract, unless otherwise provided for by this Law and other laws and regulations that govern employment relationship.

(4) If an employee has been posted to perform work for the benefit of and under the management of the recipient of the work placement service within the scope of the work placement service, it is the obligation of the recipient of the work placement service to ensure the employee with safe and harmless working conditions during the period of posting according to the requirements of laws and regulations governing labour protection, except for mandatory health examinations.

(5) During the period of posting, an employee of the work placement service provider shall be responsible to the recipient of the work placement service for the losses caused thereto in accordance with the provisions of this Law regarding the compensation of losses caused by employees.

(6) During the period of posting, the recipient of the work placement service shall be responsible to the employee of the work placement service provider for the losses caused thereto in accordance with the regulations of this Law regarding compensation of losses caused by employers.

## **Section 40. Form of an Employment Contract**

(1) An employment contract shall be entered into in writing prior to commencement of work.

(2) An employment contract shall include:

1) employee's given name, surname, personal identity number (for a foreigner not having a personal identity number – the date of birth), place of residence, employer's given name, surname (name), personal identity number (for a foreigner not having a personal identity number – the date of birth) or registration number and address;

2) the starting date of employment relationship;

3) the expected duration of employment relationship (if the employment contract has been entered into for a specified period);

4) the workplace (the fact that the employee may be employed in various places if the performance of the work duties is not provided for at a particular workplace);

5) the trade, profession, speciality (hereinafter – the occupation) of the employee in conformity with the Classification of Occupations and the general description of the contracted work;

6) the amount of remuneration and time of disbursement;

7) the agreed daily or weekly working time;  
8) the length of the annual paid leave;  
9) the time period for giving a notice of termination of the employment contract;  
10) the provisions of the collective agreement and working procedure regulations to be applied to the employment relationship.

(3) The information referred to in Paragraph two, Clauses 6, 7, 8, and 9 of this Section may be substituted by a reference to the respective provisions in laws and regulations, in the collective agreement or by a reference to working procedure regulations.

(4) An employment contract, in addition to the information set out in Paragraph two of this Section, shall also include other information if the parties consider it necessary.

(5) An employment contract shall be prepared in duplicate, one copy to be kept by the employee, the other by the employer.

(6) An employer has the obligation to ensure that an employment contract is entered into in writing and to maintain a record of the employment contracts entered into.

(7) The Classification of Occupations, the basic tasks appropriate to the occupation and the basic qualification requirements, the procedures for the use and updating of the Classification of Occupations shall be determined by the Cabinet. The Classification of Occupations shall not include the occupations of State security institution employees.

(8) In addition to the information referred to in Paragraph two of this Section, in the employment contract being entered into by the work placement service provider as the employer and the employee who shall perform work for the benefit and under the management of the recipient of the work placement service it shall be indicated that the employer is the work placement service provider as well as that the employee, when performing the work, also has the obligation to be subject to the working procedures and orders specified by the recipient of the work placement service insofar as this is not in contradiction with the orders of the employer.

(9) The employment contract shall not include any provisions concerning foreign language skills, unless it is reasonably necessary for the performance of the work duties.

(10) An employment contract shall be entered into in the official language. If the employee is a foreigner who does not have knowledge of the official language of sufficient level, the employer has the obligation to notify the employee regarding the terms and conditions of the employment contract in writing in a language that is understandable to him or her.

(11) An employer is obliged to ensure that the employment contracts entered into are presented upon request of supervisory and control authorities.

(12) The Cabinet shall determine the types of commercial activities where the employer has the obligation, when entering into an employment contract, to issue the employee an employee's card, as well as determine the information to be included in the employee's card and provisions for issue of such card.

#### **Section 74. Remuneration in Cases where the Employee does not Perform Work due to Justifiable Reasons**

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(7) During the time period between postings, regardless of the contracted working time, remuneration shall be disbursed to an employee of the work placement service provider which is not less than the minimum monthly wage specified by the State, proportionate to the time period between postings.

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## **Section 96.<sup>1</sup> Special Rights of an Employee Posted by a Work Placement Service Provider**

(1) A recipient of work placement service shall inform an employee posted by a work placement service provider regarding free positions in an undertaking.

(2) An employee posted by a work placement service provider has the right to use the facilities, common premises or other opportunities of the undertaking of the recipient of the work placement services, as well as transport services with the same conditions as the employees with which the recipient of work placement service has established employment relationship directly, except where differential treatment may be justified with objective reasons.

(3) An agreement which prohibits or restricts the rights of an employee posted by a work placement service provider to establish employment relationship directly with the recipient of the work placement service shall not be in force.