

# Rödl & Partner

NEWSLETTER ESTONIA

SETTING ACCENTS

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COVID-19: topical issues for the employer

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## → Certain aspects of employment in the case of COVID-19

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**DO EMPLOYEES HAVE A RIGHT TO REFUSE TO WORK IF COLLEAGUES ARE ILL OR CUSTOMER TRAFFIC INCREASES THE RISK OF ILLNESS ("DO I HAVE TO GO TO WORK")?**

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No. Employees must appear on duty if healthy. The employer has no obligation to allow employees time off without a good reason.

The Estonian Health Board announced that people who have recently returned from a risk area or have been exposed to someone that might be infected should stay at home for 14 days.

The information on COVID-19 is updated daily by the Estonian Health Board and can be found here: <https://www.terviseamet.ee/et/uuskoroonaviirus>

**CAN AN EMPLOYEE REFUSE TO TRAVEL TO RISK AREAS ORDERED BY THE EMPLOYER?**

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Yes. Business trips to the risk areas may be refused without having any consequences on the employment of employee.

**ARE EMPLOYEES ENTITLED TO WORK IN THE HOME OFFICE OR CAN HOME OFFICES BE ARRANGED?**

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Working in home office shall be possible by agreement between the employer and employee. The employee cannot work in the home office without the consent of the employer.

The employer shall ensure that the employee has the right conditions to work from home.

If the employee was ordered in quarantine by a doctor or belongs to the group that should stay at home for up to 14 days, this is considered impediment to work in the sense of the Estonian labor law. If no home office can be set up or the service cannot be performed from home, the employee is still entitled to continued wages.

**DO EMPLOYEES HAVE TO GO TO WORK WHEN THE TRAIN (LOCAL TRANSPORT) STOPS RUNNING?**

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Yes. It is the responsibility of the employee to show up for work on time.

**WHAT HAPPENS IF EMPLOYEES HAVE CHILDREN WHO NEED CARE BECAUSE THE SCHOOL AND / OR KINDERGARTEN REMAINS CLOSED?**

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If schools or kindergartens remain closed, there is no excused absence from duty. It is the employee's responsibility to ensure that their children are cared for in other ways. Employers and employees can, for example, agree that the employee works in the home office, uses earned overtime or takes holidays.

**ARE THERE ANY OBLIGATIONS ON THE EMPLOYER TO ACT BASED ON THE CURRENT RISK OF INFECTION? DO EMPLOYEES HAVE TO FOLLOW PRESCRIBED PROTECTIVE MEASURES?**

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There are no specific rules in place yet. However, the general regulations stipulate that the employer shall ensure a safe working environment and take the necessary measures. The employer shall ensure that the risk of infection among employees is minimized or limited.

Employers are encouraged to follow the recommendations of the Health Board regarding quarantine and other precautionary measures.

**WHAT OPTIONS DO EMPLOYERS HAVE TO REDUCE ANY ECONOMIC CONSEQUENCES?**

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Employers can create the best possible conditions for the employee to be able to work from home and thus reduce the amount of work lost - if this is possible depending on the type of work.

In addition, employers should review supply contracts to determine whether, and if so how, loss of production through no fault of one's own or cases of force majeure are regulated.

**DO THE WORKS COUNCIL'S RIGHTS TO PARTICIPATE HAVE TO BE TAKEN INTO ACCOUNT WHEN TAKING MEASURES TO REDUCE THE RISK OF INFECTION AND MITIGATE THE ECONOMIC CONSEQUENCES OF THE EMPLOYER?**

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No. There is no works council comparable to the German works council with similarly extensive

information and influence rights in Estonian labor law. If Estonian company is bound by collective agreement then involvement depends on the agreement concluded with the trade union. An employer and employees are required to cooperate in the name of a safe working environment. For this purpose, an employer shall consult employees or a working environment representative and another representative of employees in advance in all issues concerning the planning for measures to improve the working environment, the organisation of medical examinations, the designation of employees responsible for provision of first aid, performance of rescue operations and evacuation of employees, the planning and organisation of occupational health and safety instruction and training, and the selection and application of new technology and work equipment. An employer shall, where possible, take into account submitted proposals and involve the employees in the implementation of such plans.

## ARE EMPLOYEES ENTITLED TO CONTINUED PAYMENT IN THE EVENT OF A TEMPORARY CLOSURE?

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Yes. As a rule employer shall pay an employee average. Under certain conditions it is possible to reduce wages upon failure to provide work. According to the law, if an employer, due to unforeseen economic circumstances beyond its control, fails to provide an employee with work to the agreed extent, the employer may, for up to three months over a period of 12 months, reduce the wages to a reasonable extent, but not below the minimum wage established by the Government of the Republic, if payment of the agreed wages would be unreasonably burdensome for the employer. An employee has the right to refuse to perform work in proportion to reduction of the wages. Before reducing wages an employer shall inform the trustee / shop steward or, in his or her absence, the employees and consult them pursuant to the procedure provided for in the Employees' Trustee Act, taking into account the terms provided for in this subsection. The employer shall provide notice of the reduction of wages no less than 14 calendar days in advance. The trustee / shop steward or the employee shall give his or her opinion within seven calendar days as of the receipt of the employer's notice.

An employee has the right to refuse to perform work in proportion to reduction of the wages for a reasonable period when the employee cannot be expected to perform work for reasons not attributable to the employee.

## WHAT HAPPENS IN THE OFFICIALLY ORDERED QUARANTINE CASE? DO EMPLOYEES CONTINUE TO RECEIVE THEIR SALARIES? WHO REIMBURSES THESE COSTS TO THE EMPLOYER?

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According to the Communicable Diseases Prevention and Control Act, quarantine can only be applied to prevent the spread of a particularly dangerous communicable disease outside the outbreak. Plague, cholera, yellow fever, viral haemorrhagic fever and tuberculosis are defined as particularly dangerous infectious diseases. Coronavirus is not yet qualified for this.

The state can establish a state of emergency to prevent the spread of coronavirus.

At present, the Estonian state has not yet established any special situation or restrictions on freedom of movement to prevent the spread of coronavirus.

Although the Health Insurance Act regulates the payment of sickness benefit by the health insurance fund in the event of quarantine, there is no specific regulation for the payment of temporary incapacity benefit in the event of an emergency. This means that the state is not obliged to compensate employers or employees for the damage caused to them. Therefore, holiday pay and temporary incapacity benefit are paid in the usual way.

## CONTACT FOR FURTHER INFORMATION

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