

Amendment to the Decree on Occupational Medical Services: Will occupational medical examinations become a thing of the past?

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Among the changes introduced by the Czech Ministry of Health's draft amendment to the Decree on Occupational Medical Services, expected to become effective from the beginning of 2023, is a significant reduction in the number of initial, periodic and exit medical examinations, depending on the type of work to be performed. The content of such examinations will likely also be fundamentally changed.

The idea to make legislative changes in respect of occupational medical services first came up in April 2022, when Minister of Health Vlastimil Válek mentioned easing the requirements as a possible means to "relieve" doctors overwhelmed with the influx of refugees from Ukraine.

Since the intention was first announced, several prospective changes were unclear and evolved over time — the effective date of the changes, the range of employees affected—and it also was not entirely clear what types of examinations would be affected.

According to ministry's current draft proposal, the resulting regulation will probably be broader than expected. Below is a basic outline of the proposed new regimen for occupational medical examinations:

- **Initial examination**

- When an "occupational risk" exists (this term is not used in the current regulation, and it should replace the term "risk to health");
- When the type of work to be performed will be changed (to one involving risks or under different conditions than those for which the medical fitness was initially assessed);
- Before the employee is assigned to night work;
- If the employer or new hire so requests.

- **Periodic examination** for employees in categories 1 and 2 (non-risk), principally only if the employer or new hire requests it (this remains required for higher-risk categories, with a new setting of the examination periods).
- **Exit examination** only at the request of the employer or employee.

With these changes already proposed, many employers are already asking themselves whether to maintain the examinations, whether it is worth continuing to cover the costs of all types of examinations for employees performing work in low risk categories, etc.

From a legal point of view, such examinations cannot be said to unequivocally protect the employer from liability should an employee contract an occupational disease. Key in such cases is whether the employee has worked for the employer under conditions that could provoke an occupational disease.

In principle, it is rather rare for employees in administrative positions to contract an occupational disease as defined by the law since the government decree that sets out the list of occupational diseases focuses more on maladies that affect factory workers, rather than the bad backs of office workers, even though these are also diseases originating in the performance of work.

As far as **exit examinations** are concerned, their current legal regulation is rather indicative. This is matched by their low practical usefulness in determining the health status of the employee at the time of the exit examination. At the same time, it is difficult to see what the employer gains if the exit examination does reveal an occupational disease.

In the case of **initial examinations**, the situation is somewhat different, since they are, generally speaking, more thorough than the other types of occupational medical examinations. Nevertheless initial examinations are currently more administrative than medical, as the purpose is to determine fitness or unfitness for work, not to record health status.

The new occupational medical services rules thus raise a number of questions, and **with the amendment now scheduled to come into force on 1 January 2023**, interest in this topic can be expected to increase. Thus, these changes will have a wide-ranging effect—it is not an exaggeration to say that every employer will have to deal with tailoring their overall concept of occupational medical services to the specific operations of the business.

We are monitoring the legislative development of this amendment and will keep you informed of its progress and results. However, please don't hesitate to contact us if you have any questions on this issue.

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