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Occupational health service – new duties for employers

The Act No. 373/2011 Sb., on Specific Health Services, became effective on 1 April 2012. This Act introduced the regulation of newly the area field of so-called occupational health services. With regard to the extent of the new legal regulation of occupational health services, occupational health services could continue to be provided in compliance with the previous regulations of company preventive healthcare for no more than one year after entry into force of this Act came into force, i.e. until 31 March 2013, according to the transition provisions of this Act (Sec. 98).

Starting 01 April 2013, the legal regulation contained in the Act. 373/2011 Sb., on Specific Health Services, as amended, shall become apply to the fully extent applicable. This regulation will bring numerous significant changes regarding the approaches of employers when to ensuring the provision of occupational health services for employees and is connected with the new rights and duties of both employers and employees. Below we list the most important changes:

- Employers are obliged to ensure the provision of occupational health services for employees and job applicants on the basis of a written contract (see below);
- Employers are obliged to enter into a **written contract for the provision of occupational health services** with a provider of occupational health services (meaning a provider who specialises in general medical practice or a provider who specialises in occupational medicine) for work performance in their workplaces, namely for jobs grouped into the first, second, second risk, third or fourth categories under the Public Health Protection Act or if the job includes activities whose the performance of activities is governed by other legal regulations.
- An exception to the above duty concerning the performance of occupational medical examinations and medical fitness assessments shall apply as follows: employers are entitled to ensure require occupational medical examinations (in particular entrance pre-service examinations and, periodic examinations) and assessments of medical fitness for work **upon the a written request through aof the provider in the field of general medical practitioner** who is the **registering** provider of the particular employee or job applicant **in casewhere the job belongs to the first category** and does not include any activity governed by other legal regulations. However, the employer shall ensure the provision of other occupational health services through the provider on the basis of a written contract.
- The provision of oOther occupational health services to be ensured by the employer on the basis of a written contract includes, in particular, but is not limited to, consultancy, training and supervising in the employer's workplace;



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- Employers are newly obliged to ensure the performance of an **entrance pre-service medical examination prior to the conclusion agreement of each employment relationship** or any relationship similar to employment;
- Employers are newly now obliged to ensure an entrance pre-service medical examination prior to conclusion the agreement of each **agreement contract to complete a job or agreement contract to perform work** if the job applicant shall be to **perform a work** that is classified as **hazardous** work under the Public Health Protection Act or that includes an activity subject to medical fitness conditions stipulated in other legal regulations; furthermore the employer can require an entrance pre-service medical examination if he has doubts as to the applicant's medical fitness for work which is not classified as hazardous work and shall be performed on the basis of an agreement to complete a job or agreement to perform work.
- Fiction of medical unfitness for work: if the applicant fails to undergo an entrance pre-service medical examination, in legal terms he shall be considered to be **medically unfit for work** to be assigned by operation of law;
- When sending the employee to an occupational health medical examination, the employer shall provide the employee with a **request** containing data on their type of work, work mode and working conditions for which the assessment of the employee is required, and further data according to the Decree on Occupational Medical Service;
- The employer shall enable the provider of occupational health services provider to access each workplace and shall provide him with the data needed required for the performance of medical services;
- When assigning work to employees, the employer shall adhere to the findings of employee assessments of medical fitness of employees assessments;
- The employer shall send an employee to an extraordinary occupational medical examination if the employee so requests;
- The employer shall be entitled to **send** an employee to an **extraordinary occupational medical examination** if he has doubts as to the employee's medical fitness for work;
- Employees are explicitly obliged to **use occupational medical services** provided by the provider of occupational health services provider with whom the employer has entered into a written contract with, or to undergo occupational medical examinations and medical fitness assessments carried out by the provider of occupational health services provider, etc.;
- The employee is obliged to **notify the provider of occupational health services provider** of the name and address of the **registering provider** and other providers who have provided medical care to the employee;



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- The employee is obliged to notify the provider of occupational services provider, upon the provider's request or on his own motion initiative, of all facts known to him or suspicious facts related to health protection at work.

To conclude, it should be mentioned that in the near future a decree should be issued on the basis of of the authorisation contained in Sec. 60 of the Act on Specific Health Services in the near future to stipulate the organisation, contents and extent of occupational health services and procedures when assessing people's medical fitness for education as well as assessing medical fitness for work or service (Decree on Occupational Medical Service). The Decree shall regulate, among other things, the organisation, contents and extent of occupational health services, the monitoring of individual employees' health state (and changes thereto) of the individual employees, the assessment of medical fitness for work, occupational health examinations and their performance (frequency, intervals), the monitoring of working environments and the assessment of health risks related to working conditions and working environments as well as consultancy in the area of the protection of health and safety at work.

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