



Changes in legislation concerning medical examinations

THIS IS THE LATEST EDITION OF KSP LEGAL ALERT IN WHICH WE WOULD LIKE TO INFORM YOU OF CHANGES TO THE LABOUR CODE AND REGULATIONS CONCERNING MEDICAL EXAMINATIONS FOR EMPLOYEES, WHICH TOOK EFFECT ON 1 APRIL 2015. WE HOPE THIS PUBLICATION IS OF INTEREST TO YOU.

The new regulations concerning medical examination for employees were implemented upon the Act of 7 November 2014 on Facilitation of Business Activity (Journal of Laws of 2014, Item 1662). According to the amendment, **as of 1 April 2015, no medical examinations are required for people employed within 30 days after termination or expiration of their previous employment contract provided that they present to their employer a valid medical certificate (obtained for the purpose of employment with the previous employer) confirming that no contraindications exist for them to work in conditions described in the referral, and the conditions in which they are to be employed correspond to those of their prior employment.**

This is an extension of the list of exemptions to be applied in respect of medical examinations required for employees. So far, employers were exempt from this obligation only with respect to their former staff members who were re-employed within the aforesaid time limit, provided that the employee was to be hired for the same position and in the same working conditions as before.

Additionally, an amendment was made to the Ordinance by the Minister of Health and Social Welfare of 30 May 1996 concerning medical examinations of employees, the scope of prophylactic healthcare provided to employees and medical certificates issued for the purposes provided for in the Labour Code (Journal of Laws No 69 Item 332), and the change that is of utmost practical importance involves **the establishment of new template referrals to medical examinations**. The purpose of the change was to standardise referrals used so far by employers, which often differed considerably both in form and in content, and to facilitate verification of working conditions in previous employment against those that the employer offers in its own establishment (otherwise the amendment would be unreasonable). In this respect, it is of particular importance that the template includes both the factors related to the working environment and a section concerning the identification of the work post, including the type of work, the major responsibilities and the manner in which they are performed. The foregoing is justified by the fact that it is the conditions of work and not the name of the post that are of key importance for the possibility to apply a specific regulation and waive the requirement of medical examinations.

LEGAL ALERT

03/2015

We would like to point out that it is the future employer that determines whether the requirement of identical conditions of work for the current and previous employer has been satisfied. Thus, if it is not possible to verify the conditions of work for the previous employer (which may happen if the employee fails to provide the referral and presents the medical certificate only, which does not contain the relevant details), or if there are any doubts regarding the identity of the conditions, the employee will be referred to a medical examination, as it was normally done before.

One should also remember that, pursuant to the interim regulations to the act implementing the amendment, the new provisions do not apply to medical certificates which confirm the absence of contraindications to work issued before 1 April 2015. Additionally, the possibility to omit the repeated examinations does not apply to those staff members who are employed to perform particularly dangerous work.

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