

Legal Alert

in the field of labour law

29 October 2020

Weinhold Legal

Labour law measures in connection with a state of emergency

Antivirus B program extended

The program to support maintaining employment by employers was extended by a decision of the government (on 26 October 2020, ref. 1301/20) **until 31 December 2020**. The program is designed to help employers:

- affected by the corona crisis indirectly through supplier-customer ties (downtime and partial unemployment);
- whose operations have been restricted due to the absence of staff, in particular due to quarantine or childcare due to school closures.

The amount of the contribution remains at **60% of the paid wages, including mandatory contributions**, however, maximum of **CZK 29,000** per employee / month. More [here](#).

Home office

By part III. paragraph 4 of the Government Resolution No. 1102 of 26 October 2020 **it was ordered to employers to use work from home** if the employees can perform it from the place of their residence with respect to the nature of the work and operating conditions.

It is up to the employer to evaluate which employees can work from home. However, if the contractual arrangement between the employer and the employee does not allow the employee to be sent to „home office“, it is up to the employee whether he/she accepts the performance of work from home.

We recommend that employers set clear rules for working from home, for example by means of an internal regulation.

- ▶ **Keeping the working hours** as employees are used to. It does not apply that the employee's working hours change automatically when switching to work from home, or that the employee manages the working hours himself/herself. This does not apply if the employer and the employee agrees on it.


Although the employee is not physically present at the workplace, the employer remains responsible for ensuring **safety and health at work**. Employees should therefore be instructed in the rules they should follow when working from home.

If the employer provides the employee with the devices to work from home, he should also instruct him/her on safe use. If the employee uses his/her own devices (computer, telephone), it should be determined in advance what costs and in what amount the employer will pay to the employee.

Occupational health examinations

As in the so-called first wave of the corona crisis, the rules for arranging occupational health examinations were amended, it is the same case now when the government declared a state of emergency again from 5 October 2020 for the period of 30 days (Government Resolution **No. 957** of 30 September 2020, in the Collection under No. 391/2020 Coll.).

Government Resolution No. 1049 of 16 October 2020 regulates the validity of medical reports that would end during the state of emergency and the rules for affidavits, which replace the initial medical examinations and medical cards. The resolution is effective from 19 October 2020 from 00:00 for the duration of the state of emergency, this resolution is available [here](#). Affidavit of person whose employment relationship arises from the date of announcement of this measure (i.e. 16 October 2020) until the end of the state of emergency and whose agreed type of work is in accordance with Act No. 258/2000 Coll., On the protection of public health and on the



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change of some related laws, as amended, included in the first or second category is seen as an assessment of the medical fitness of the person applying for employment. This does not apply if the conditions of medical fitness for the performance of work are stipulated by another legal regulation or in Annex No. 2, Part II of Decree No. 79/2013 Coll., On occupational health services and certain types of assessment care, as amended, with the exception of the following points of this Annex, which are risk factors:

- ▶ Lead and its compounds (with special reference to C and R);
- ▶ Mercury and its compounds;
- ▶ Antimony and its compounds;
- ▶ Beryllium and its compounds (with special reference to C);
- ▶ Chlorine and its inorganic compounds (for example hypochlorites, chlorates, perchloric acid).

Affidavits therefore replace the entrance examination for persons who have not yet undergone an entrance medical examination.

An example of affidavit which can replace the entrance medical examination is available [here](#) and is valid for maximum of **90 days from the day following the end of the state of emergency.**

An affidavit can be used to **replace a health card** for person whose employment relationship arises from the date of announcement of this measure (i.e. 16 October 2020) until the end of the state of emergency and who performs epidemiologically serious activities, issued pursuant to Section 19(2) of Act No. 258/2000 Coll. The affidavit is also valid for a maximum of **90 days** from the day following the day of the end of the state of emergency.

Periodic medical examinations

An exemption is granted for periodic medical examinations by the government resolution. These examinations do not need to be arranged and carried out during the state of emergency.

Extension of the validity of medical reports

During the state of emergency, medical examinations, which would expire during the duration of this state of emergency, are considered valid, namely medical assessments of medical fitness issued on the basis of entrance medical examinations pursuant to Section 59(1) of Act No. 373/2011 Coll. and according to Section 10 of Decree No. 79/2013 Coll., or periodic medical examinations according to Section 11 of Decree No. 79/2013 Coll., for the period until the end of the state of emergency and further for the period of other maximum

- ▶ **90 days** from the day following the day of the end of the state of emergency, if the conclusion of the medical report states that the assessed person is **medically fit** for the purpose for which it was assessed;
- ▶ **30 days** from the day following the day of the end of the state of emergency, if the conclusion of the medical report states that the assessed person is **medically fit with a condition** for the purpose for which it was assessed.

Furthermore, medical reports on medical fitness for work issued on the basis of an extraordinary examination pursuant to Section 12(2)(e) or (f) (3) of Decree No. 79/2013 Coll., the validity of which expired at the time of the declared state of emergency, are considered **valid** for the period until the end of the state of emergency and further for the period of other maximum

- ▶ **90 days** from the day following the day of the end of the state of emergency, if the conclusion of the medical report states that the assessed person is **medically fit** for the purpose for which it was assessed;

Legal Alert

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Weinhold Legal

- ▶ **30 days** from the day following the day of the end of the state of emergency, if the conclusion of the medical report states that the assessed person is **medically fit with a condition** for the purpose for which it was assessed.

Providers of occupational health services pursuant to Act No. 373/2011 Coll. or registering providers of the assessed person who are entitled to it in accordance with Act No. 373/2011 Coll. or another legal regulation, are obliged, on the basis of a government resolution, to carry out an entrance medical or periodic medical examination at the request of the employer and to issue a medical report on his/her medical fitness to work within

- ▶ no later than **90 days** from the day following the date of the end of the state of emergency for the validity of affidavits;
- ▶ **90 days** from the day following the day of the end of the state of emergency, if the conclusion of the medical report states that the assessed person is **medically fit** for the purpose for which it was assessed;
- ▶ **30 days** from the day following the day of the end of the state of emergency, if the conclusion of the medical report states that the assessed person is **medically fit with a condition** for the purpose for which it was assessed.

The information contained in this bulletin is presented to the best of our knowledge and belief at the time of going to press. However, specific information related to the topics covered in this bulletin should be consulted before any decision is made. The information contained in this bulletin should not be construed as an exhaustive description of the relevant issues and any possible consequences, and should not be fully relied on in any decision-making processes or treated as a substitute for specific legal advice, which would be relevant to particular circumstances. Neither Weinhold Legal, v.o.s. advokátní kancelář nor any individual lawyer listed as an author of the information accepts any responsibility for any detriment which may arise from reliance on information published here. Furthermore, it should be noted that there may be various legal opinions on some of the issues raised in this bulletin due to the ambiguity of the relevant provisions and an interpretation other than the one we give us may prevail in the future.

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