

78 負傷した体の様々な部位

99 上記に記載されていない負傷した身体の一部 (8:王室法令/2007年1月29日)]

(資料4)

Royal Decree of 27 March 1998 on the external services for prevention and protection at work

労働における予防と保護のための外部サービスに関する王室法令 1998 年 3 月 27 日

Royal Decree of 27 March 1998 on the external services for prevention and protection at work (Belgian Official Gazette of 31 March 1998)

- Amended by:
- (1) Royal Decree of 20 February 2002 in amendment of the Royal Decree of 27 March 1998 on the mandatory fixed minimum contribution for the performances of those services by the prevention counsellors and regarding the authorization of those services and in amendment of various regulatory provisions (Belgian Official Gazette of 8 March 2002)
 - (2) Royal Decree of 11 July 2002 on the protection against violence, bullying and sexual harassment at work (Belgian Official Gazette of 18 July 2002)
 - (3) Royal Decree of 28 August 2002 on the designation of officials responsible for the supervision of compliance with the Act of 4 August 1996 on well-being of workers in the performance of their work (Belgian Official Gazette of 18 September 2002)
 - (4) Royal Decree of 31 March 2003 (Belgian Official Gazette of 9 April 2003)
 - (5) Royal Decree of 28 May 2003 on the health surveillance of workers (Belgian Official Gazette of 16 June 2003)
 - (6) Royal Decree of 2 December 2003 (Belgian Official Gazette of 8 January 2004)
 - (7) Royal Decree of 5 December 2003 on the expertise of the prevention counsellors of the external services for prevention and protection at work (Belgian Official Gazette of 22 December 2003)
 - (8) Royal Decree of 17 February 2006 on the abrogation, for certain documents, of the requirement of the declaration of true and certified copy (Belgian Official Gazette of 16 March 2006)
 - (9) Royal Decree of 23 October 2006 to adjust various Royal Decrees pursuant to the restructuring of the High Council for Prevention and Protection at work (Belgian Official Gazette of 21 November 2006)
 - (10) Royal Decree of 17 May 2007 on the training and refresher courses of the prevention counsellors of the internal and external services for prevention and protection at work (Belgian Official Gazette of 11 July 2007)
 - (11) Royal Decree of 19 May 2009 (Belgian Official Gazette of 8 June 2009)

Section I – General provisions regarding external services

Article 1. – For the purposes of this decree, the following definitions shall apply:

- 1° the Act: the Act of 4 August 1996 on well-being of workers in the performance of their work;
- 2° the external service: the External Service for Prevention and Protection at Work;
- 3° the prevention counsellor of the external service: the natural person linked to an external service responsible for the assignments referred to in Section II of the Royal Decree of 27 March 1998 concerning the Internal Service for Prevention and Protection at Work, who is

specialised in one of the fields referred to in Article 21 and complies with the terms of Article 22;

- 4° the Committee: the Committee for Prevention and Protection at work, in the absence of a Committee, the trade union representatives or in the absence of trade union representatives, the workers themselves in accordance with the provisions of Article 53 of the Act;
- 5° the Minister: the Minister of Employment and Labour;
- 6° ARAB: General Regulations concerning Protection at Work.
- [7° Royal Decree on internal services: Royal Decree of 27 March 1998 concerning internal services for prevention and protection at work (1)].

[Art. 2. – Every time an employer calls on or must call on an external service to perform assignments referred to in Section II of the Royal Decree concerning the internal service, s/he calls on one single external service.

The external service performs the assignments referred to in the first paragraph, collaborates with the internal service and is available for the employer, members of the hierarchical line and of the workers, in particular by providing them with all types of useful information and advice.

In derogation from the first paragraph, the employer must call on a second external service when a technical operational unit is located on the territory of a Community for which the first service does not have the authorization referred to in Article 40, § 3, third paragraph of the Act.

In derogation from the first paragraph and without prejudicing the possibility which Article 4, fourth paragraph of the Royal Decree concerning the internal service provides for the employer, the latter may call on a second external service when the technical operational unit must continually call on special skills and on technical equipment necessary to perform the abovementioned assignments, and which the first external service does not have. (1)]

[In derogation from the first paragraph, an employer can call on another external service for any technical operational unit that has been established. In every technical operational unit, one single external service performs the totality of the assignments referred to in the first paragraph. (6)]

[Art. 3. [An employer who, on his/her own initiative, or at the Committee's request, decides to either call on more than one external service, or to entrust the assignments of the internal service to the external service, or to allow the internal service to perform the assignments that s/he had entrusted to the external service, or to change external services, shall request the prior advice of the authorised committee or committees. (6)]

If no agreement is reached, the employer requests the advice of the official responsible for the supervision.

This official hears the parties concerned and attempts to reconcile the points of view.

If no reconciliation can be attained, the official responsible for the supervision gives advice, of which the employer is informed by registered letter.

Before making a decision, the employer informs the committee of the advice of the official responsible for the supervision within a term of thirty days after the notice.

The notice is deemed to be received on the third working day after the letter has been handed in at the post office.

Section II. – Establishment of the external service and general principles regarding management

Art. 4. – An external service can be established by the following:

- 1° employers;
- 2° the State, Communities, Regions, public institutions, provinces and municipalities.

It is established, either for the entire Belgian territory, or a territory for which one or more communities are competent, a territory to be defined, a specific sector of activity or for various sectors of activity in a specific territory.

The territorial or sector-wide authority of the external service is exclusively determined by the authorization referred to in [Article 40, § 3, first paragraph (1)] of the Act, including the section charged with medical supervision.

Art. 5. – The external service is established in accordance with Belgian law in the form of a non-profit organisation.

In derogation from the first paragraph and after advice by the [Permanent Operational Commission (9)] referred to in Article 44, the Minister can also recognise the institutions of the State, Communities, Regions, public institutions, provinces and municipalities that were not established in the form of non-profit organisations.

Art. 6. – The legal person has the following exclusive social objects:

- 1° to manage the external service;
- 2° to fulfill the assignments of an external service and other prevention activities that are directly related to it, as specified by the Act and its executive decrees.

The external service is always obliged to conclude an agreement with an employer to the extent that this employer undertakes that s/he will comply with the provisions of the Act, of its executive decrees and of the agreement.

The sections of which the external service consists may not have their own legal personality.

Art. 7.-[§ 1. (4) The external service may have not any direct or indirect interest in the undertakings or institutions in which it has to fulfill its assignments.

[§ 2. The external service meets the following terms:

- 1° the external service performs its assignments according to the principles of total quality management;
- 2° on starting its activities, it must have a policy statement available regarding total quality management. (4)]

[§ 3. The external service applies a quality system that is certified in accordance with the NBN EN ISO 9001 (2) standard and provides proof of this.

The external service that was recognised on 31 December 2002 and whose authorization is renewed thereafter must be able to submit the proof referred to in the previous paragraph on 31°December at the latest, and must, in the meantime, after a term of four years of activity, be able to submit a document from which it appears that it applies the principles of total quality management.

The external service whose first authorization commences after 1 January 2003 must be able to submit the proof referred to in the first paragraph, at the latest, within a term of two years of activity.

The proof referred to in the first paragraph is provided by a certificate for the performance of the assignment referred to in Section 2 of the Royal Decree concerning internal services, issued by a certification body which, in accordance with the Act of 20 July 1990 concerning the accreditation of certification bodies, test bodies and test laboratories, or in accordance with a similar accreditation body established within the European Economic Area, is specifically accredited by the Belgian accreditation system to execute certification of these quality systems.

The external service may not make any use of the possibility that might be provided for by the NBN EN ISO 9001 standard to not apply some of its specific requirements. (4)]

Art. 8. – The external service has the required material, technical, scientific and financial resources available to be able to fulfill its assignments fully and efficiently at all times.

These resources are determined by the board of directors, taking into account the assignments to be performed, the nature of the risks and the size of the undertakings or institutions calling on the external service and the principles of total quality management [or the quality system (4)] referred to in Article 7.

Art. 9. – The external service does its accounting in accordance with the provisions of the Act of 17 July 1975 on the accounting system and annual accounts of undertakings and its executive decrees and, in particular, by taking into account the provisions of the Royal Decree of 23 January 1992 on the accounting system, annual accounts and the budgeting of the inter-company medical services, including the assignments of the auditor.

Art. 10. – Every external service establishes a rate system for the assignments that it shall perform.

The Minister is informed of this rate system.

[This rate system takes into account the mandatory fixed minimum amounts for the performance of the prevention counsellors determined in Section *IIbis*. (1)]

Art. 11. – No form of reduction, return, refund or other commercial practice that has the objective or consequence of reducing the amount of the mandatory fixed minimum contribution referred to in Section *IIbis* may be applied by the external service or be proposed to the employer, and the latter may neither request nor accept it, not even where the agreement was concluded following the awarding of a public contract. (1)]

Art. 12. – The income generated by the external service’s operations are used to enable the service to fulfill the assignments with which it has been entrusted, in implementation of the Act and its executive decrees.

The remainder, in its entirety, must be spent on the following:

- 1° doing scientific research regarding the well-being of workers at work;
- 2° preparing specific action programmes regarding the well-being of workers at work in the undertakings or institutions or in a specific sector.

Art. 13. – The external service shall conclude a written agreement with the employer who calls on its services [agreement which is submitted to the Committee for its prior advice and (11)] in which, in particular, the following provisions are included:

- 1° the assignment or assignments that are entrusted to the external service;
- 2° the nature, scope and minimum duration of the performances that will be provided to the employer to fulfill each of the agreed assignments;
- 3° the resources that the employer makes available to the external service in the form of rooms and equipment in his/her undertaking or institution;
- 4° the manner in which there is collaboration with the Internal Service for Prevention and Protection at Work;
- 5° the relations with the Committee;
- 6° the way in which the agreement is terminated, in particular its impact on the adjustment of the fixed amounts referred to in Article 13^{quater}. (11)]

The agreement is concluded for an indefinite period. It is terminated as follows:

- 1° ex officio, when the external service is no long authorised;
- [2° via termination by one of the parties, observing a term of notice of at least six months that commences on the first day of the month following the term in which the notice was given and which ends on 31 December of, depending on the case, the current year or the following calendar year. (not applicable to the notices that were given before 18 June 2009) (11)]

The agreement is kept available for the official responsible for the supervision.

The external service is obliged to execute itself the assignments provided in the agreement.

[Section IIbis. – Mandatory fixed minimum contributions for the performances of the prevention counsellors of the external services

Art. 13bis. – This section is applicable to the employers and assimilated persons referred to in Article 2 of the Act, and to the external services which they call upon in implementation of Articles 8 and 11 of the Royal Decree on internal services.

Art. 13ter. – The employer owes the service a fixed contribution, which covers the general minimum performances that must be provided to do the following:

- 1° perform the assignments and tasks referred to in Articles 5 to 7 of the Royal Decree concerning internal services that are performed by the external service in implementation of Articles 8 and 11 of the same Decree and that are described in the agreement concluded in implementation of Article 13, first paragraph, 1° and 2°;
- 2° give the advice referred to in Article 31bis of the Royal Decree of 3 May 1999 on the assignments and operation of the Committees for Prevention and Protection at Work;
- 3° [the assignments and tasks in connection with prevention and protection against violence, bullying and sexual harassment at work, which are designated to the prevention counsellor in implementation of Chapter Vbis of the Act. (2)]

Art. 13quater. - § 1. The fixed contribution referred to in Article 13ter is an annual minimum contribution and amounts to the following:

- 1° 13.58 euros per worker for whom the risk analysis has shown that medical supervision is unnecessary;
- 2° 95.09 euros per worker who is subject to mandatory medical supervision.

§ 2. The total fixed contribution does not include possible travelling expenses for the prevention counsellors and the persons assisting them.

Art. 13quinquies. - The other performances with which an employer entrusts an external service, particularly studies, research, measurements and controls that are performed within the context of the assignments of risk management and that form part of the analysis or expert assessment methods, are regarded as additional performances to the general performances and are charged separately at a minimum of 81.51 euros per hour.

Art. 13sexies. – The costs of the analyses, radiological examinations, functional or other targeted tests that are performed within the context of medical supervision, are determined in conformity with the fees that are included in the nomenclature of the provision of medical services that is compiled in implementation of Article 35 of the Act on the mandatory insurance for medical treatment and allowances, co-ordinated on 14 July 1994.

Art. 13septies. – In derogation from Article 13quater, § 1 1°, employers who have in total fewer than twenty workers in their employ and for whom the risk analysis has shown that medical supervision is not necessary, owe the service a one-off fixed minimum contribution amounting to the following:

- 1° 81.51 euros for the entire undertaking if the number of workers is equal to or less than nine;
- 2° 163.02 euros for the entire undertaking if the number of workers is higher than nine.

Art. 13octies. - § 1. The number of workers that must be taken into consideration for the calculation of the fixed minimum contribution referred to in Article 13quater, § 1, 1° and in Article 13septies corresponds with the average number of workers stated on the four quarterly returns to the NOSS of the past civil year.

§ 2. The number of workers that must be taken into consideration for the calculation of the fixed minimum contribution referred to in Article 13*quater*, § 1, 2° corresponds to the number of workers registered on the list of names referred to in Articles 6, §§ 1 and 7, § 1 of the Royal Decree of 28 May 2003 on the health surveillance of workers (5)].

Art. 13*nonies*. – Where a non-annual periodicity of the periodic health assessment for a worker is provided in the executive provisions of the Act, the employer owes the service an annual fixed contribution that is equivalent to the amount of 95.09 euros divided by the number of years between every periodic medical examination.

Art. 13*decies*. – The fixed minimum contribution is linked to the index figure of the consumption prices in accordance with the principles provided by Articles 2, 4, 5 and 6, 1° of the Act of 1 March 1977 regarding the establishment of a system whereby some expenses in the government sector are linked to the index figure of the consumption prices of the Kingdom.

Article 4 of the same Act, supplemented by Article 18, § 2 of the Royal Decree of 24 December 1993 on the implementation of the Act of 6 January 1989 on safeguarding competitiveness, provides that only the smoothed health index may be taken into consideration for the social benefits.

The basic pivot index amounts to 107.30 (euros).

Art. 13*undecies*. – The services receive the contribution in accordance with the agreement concluded with the employer to the extent that the payment terms below are not exceeded:

- 1° the amount of the one-off fixed minimum contribution referred to in Article 13*septies* shall be paid at the latest thirty days following the date that the agreement was concluded with the employer or, at the latest, on 31 January of the current year for an employer who is already bound by an agreement;
- 2° the fixed minimum contributions referred to in Article 13*quater* are paid per provisional quarter, at the latest, thirty days after the expiry of every calendar quarter; the first payment that is made during the course of the current year, may, however, not be lower than the one-off fixed minimum contribution referred to in Article 13*septies*;
- 3° the accounts that concern the total amounts owed for a calendar year are settled, at the latest, at the end of February of the following year.

Art 13*duodecies*. – All disputes that may arise from the implementation of the provisions of this section must be submitted to the Medical Labour Inspectorate. (1)]

Section III. – Organising the external service

Art.14. – An advice committee is established within the external service, which is jointly composed of members who represent the employers who form the organisation, and of members who represent the workers of the employers with whom an agreement was concluded.

The members who represent the workers are appointed by the workers' organisations that are represented on the High Council for Prevention and Protection at work.

These members are appointed for a term of four years and are re-electable.

They may not number fewer than three and more than five.

[The members representing the employers are appointed by the employers' organisations that are represented on the High Council for Prevention and Protection at work, and these members may not number more than the number of members that represent the workers. (11)]

One of the members of the advice committee is its Chairperson.

For every member of the advice committee, a replacement member is appointed to replace a working member when the latter cannot attend.

If there is disagreement on the designation of the members who represent the employers or of the members who represent the workers, the [Permanent Operational Commission (9)] referred to in Article 44 shall decide.

[The advice committee draws up a set of in-house regulations in which at least the more detailed rules are included regarding the required attendance quorum to be able to hold legally valid meetings and the manner according to which it is established that an agreement has been reached.(1)]

Art. 15. – Without prejudice to the provisions of Articles 18, 20 and 24, the advice committee has the authority to organise and manage the external service for the following fields:

- 1° the external service's annual account and budget;
- 2° the implementation of the principles of total quality management [and the quality system referred to in Article 7, § 3, first paragraph (4)];
- 3° the composition of the sections in proportion to the number of prevention counsellors and their area of expertise;
- 4° the division of the tasks between the prevention counsellors and the persons who assist them;
- 5° the minimum performances that have to be executed at the employers' with whom the agreement is concluded, within the context of the characteristics of these employers;
- 6° the designation, replacement or removal of the prevention counsellors and persons who assist them;
- 7° the use of the external service's revenue;
- 8° the quarterly follow-up of the activities of the external service, including the performances;
- 9° the annual activity reports of the external service.
- 10° [the renewal (1)] of the authorization of the external service.

The advice committee gives advice on the fields referred to in the first paragraph, 1° and 7° to 10°.

It gives its prior consent on the criteria of internal policy regarding the fields referred to in the first paragraph, 2° to 6°.

[At the request of at least three members of the advice committee, the board of directors or the person entrusted with the management of the service provides the advice committee with all the information and documents that are deemed necessary to fulfill the assignments regarding the fields referred to in the first paragraph. (11)]

[[If no agreement can be reached, the advice committee or the board of directors requests the advice of the official responsible for the supervision, after it has informed the Permanent Operational Commission about this. (11)]

This official hears the parties involved and attempts to reconcile the points of view.

If no reconciliation can be attained, the official responsible for the supervision gives advice, of which the board of directors is informed by registered letter.

The notice is deemed to be received on the third working day after the letter has been handed in at the post office.

Before making a decision, the board of directors informs the advice committee of the advice by the official responsible for the supervision within a term of thirty days after the notice has been received.

Art. 16. - The advice committee holds a meeting every three months to fulfill the assignments referred to in Article 15.

At least one month before the dates of each of those meetings, the person charged with managing the service sends the members a report regarding the previous period and which concerns the activities of the service and, where applicable, all issues regarding the organisation and management of the service, as well as the staff situation.

The person entrusted with the management of the service presents this report him/herself. S/he is assisted by the prevention counsellors who manage the sections.

This report corresponds to the template established by the Minister.

At the end of every year of service, the Chairman of the board of directors submits to the advice committee the annual account of the service, to which the written report of the chartered accountant is added.

The officials responsible for the supervision are informed in time by the chairperson of the board of directors of the date, the time and the place of the advice committee meetings. They may participate in these meetings *ex officio* and be heard at their request. They are provided with all information they wish to receive within the context of their assignments.

Art. 17. – Within the external service, a person is designated who is entrusted with the leadership and management of the service and who bears the final responsibility for this leadership and management.

This person must meet the following terms:

- 1° give proof that s/he is competent in one of the fields referred to in Article 21, by complying with the terms referred to in Article 22; (1)]
- 2° have adapted scientific and professional experience to be able to lead the service with the necessary expertise;
- 3° be connected to the external service by means of an employment contract for an indefinite term;
- 4° have a full-time job within the external service.

[The term referred to in the second paragraph, 1° is not applicable to the person entrusted with the leadership or management of the external service who has held this function for three years on 1 January 2002, subject to a prior agreement of the Advice Committee, procured, at the latest, on 1 January 2003. This person must be holder of a completed university degree of a degree of tertiary education of university level. (1)]

Art. 18. – The person entrusted with the leadership of the external service has the following specific assignments:

- 1° to co-ordinate the activities of the different sections that constitute the external service;
- 2° to ensure that the assignments of the external service that are being performed at an employer's are executed in collaboration with the employer's internal service;
- 3° to see to the preparation and to safeguard the applicability of the principles of total quality management [or of the quality system (4)] of applicability in the external service;
- 4° to draw up an annual report on the operation of the external service;
- 5° to appoint, in writing, a prevention counsellor who does the following:
 - a) in deliberation with the Internal Service for Prevention and Protection at Work, compiles a list of the supplementary assignments and tasks that have to or will have to be done by the external service in accordance with the provisions of Articles 8 to 10 of the Royal Decree of 27 March 1998 concerning Internal Services for Prevention and Protection at Work;
 - b) prepares the agreement that, in accordance with Article 13, will be concluded with the employer;
- 6° to table proposals to the board of directors regarding the material, technical and scientific resources necessary to fulfill the assignments of the external service.

The person entrusted with the management of the external service is exclusively accountable to the board of directors for his/her activities regarding the management of the service.

Art. 19. - § 1. The external service consists of two sections, a section charged with risk management, which is composed in a multi-disciplinary manner, and a section charged with medical supervision.

§ 2. The external service is composed of prevention counsellors who may be assisted by nurses who are holders of a qualifying certificate, by social workers or persons who have successfully completed a supplementary second-level training course.

These persons who complement the external service perform their activities under the responsibility of the prevention counsellors whom they assist.

[In implementation of Article 18, 5°, a), a first visit to the workplaces is made by a prevention counsellor referred to in Article 22.

With the employers where not a single worker is subject to the mandatory medical supervision and with the employers where the workers are subject to non-annual medical supervision, the following visits to the workplaces are made every three years by a person who assists the prevention counsellor and who has successfully completed at least a supplementary second-level training course.

With the employers where the workers hold a safety function or are exposed to physical, mental or psychosocial stress, an annual visit is made to the workplaces by a person who assists the prevention counsellor as referred to in the previous paragraph, or the visit is made every two years by a prevention counsellor as referred to in Article 22 within the context of the permanent risk analysis.

With the employers where the workers are exposed to physical, chemical or biological agents which cause occupational diseases or illnesses that have their origin in the occupation, an annual visit is made to the workplaces by a prevention counsellor referred to in the previous paragraph. (1)]

§ 3. The person entrusted with the leadership of a section bears the final responsibility for the execution of the activities of the section.

Art. 20. – The section responsible for the risk management is led by an engineer who successfully completed a supplementary first-level training course and who:

- 1° is either academically qualified;
- 2° or is an industrial engineer and who delivers proof of ten years' useful professional experience regarding prevention and protection at work.

[The prevention counsellor responsible for the management of this section is exclusively accountable to the person entrusted with the leadership of the service for his/her work regarding the leadership, management and organisation of the section. (1)]

The persons who constitute a part of this section fulfill their tasks under the responsibility of this prevention counsellor.

Art. 21. – The section responsible for risk management consists of prevention counsellors who are experts in the field of the following:

- 1° safety at work;
- 2° occupational medicine;

3° ergonomics;

4° occupational hygiene;

5° the psychosocial aspects of work [including violence, bullying and sexual harassment at work (2)].

[Art. 22. – A prevention counsellor is competent in one of the fields referred to in Article 21, if s/he meets the following terms:

- [1° regarding safety at work, is an academically educated engineer or industrial engineer, and delivers proof that s/he successfully completed a supplementary first-level training course as provided in the Royal Decree of 17 May 2007 on the training and refresher courses of the prevention counsellors of the internal and external services for prevention and protection at work; (10)]
- 2° regarding occupational medicine, is the holder of a degree of medical doctor who, in addition:
 - is either the holder of a certificate allowing him/her to practise occupational medicine;
 - or is the holder of a title of specialist in occupational medicine;
 - or has passed the theoretical training to attain the title of specialist in occupational medicine, which includes the knowledge required in the multi-disciplinary basic training, and attains the title, at the latest, within the subsequent three years;
- 3° regarding ergonomics, is the holder of a certificate completed at a university or tertiary education at university level, of which an important part of the course was either anthropometry, bio-mechanics and kinetics, or anatomy and effort physiology, or psychology in the fields of work and organisation, and who proves that s/he has successfully completed basic multi-disciplinary training and a specialisation module in ergonomics as referred to in the Royal Decree of 5 December 2003 on the expertise of the prevention counsellors of the external services for prevention and protection at work and who, in addition, proves five years' experience in the field of ergonomics;
- 4° regarding occupational hygiene, is the holder of a certificate completed at a university or in tertiary education at university level, of which an important part of the course included the sciences chemistry, physics and biology and who proves that s/he successfully completed basic multi-disciplinary training and a specialisation module in occupational hygiene as referred to in the Royal Decree of 5 December 2003 on the expertise of the prevention counsellors of the external services for prevention and protection at work and who, in addition, proves five years' experience in the field of occupational hygiene;
- 5° regarding the psychosocial aspects of the work, is the holder of a certificate completed at a university or in tertiary education at university level, of which an important part of the course was psychology and sociology and, in addition, has already one specialisation in the fields of work and organisation and who proves that s/he has successfully completed basic multi-disciplinary training and a specialisation module in the psychosocial aspects of work, including violence, bullying and sexual harassment at work, as referred to in the Royal Decree of 5 December 2003 on the expertise of the prevention counsellors of the external ser-

VICES for prevention and protection at work and who, in addition, proves five years' experience in the field of psycho-social aspects of work.

The persons referred to in the first paragraph, 3°, 4° and 5° who successfully completed the specialisation modules, can exercise their activities under the responsibility of a prevention counsellor of the respective discipline to attain the required professional experience.

The persons who, in implementation of the provisions in force before the Royal Decree of 5 December 2003 on the expertise of the prevention counsellors of the external services for prevention and protection at work came into effect, held the function in a recognised external service of prevention counsellor with expertise in the field of ergonomics, occupational hygiene and the psychosocial aspects of work, may continue to hold this function on condition that they undertake to successfully complete the specialisation modules referred to in the first paragraph, 3°, 4° and 5° within four years after this decree takes effect.

However, the persons referred to in the third paragraph who have completed one of the degrees referred to in the first paragraph, 3°, 4° and 5° may continue to hold the functions without following the specialisation courses stated, if, on the date that the Royal Decree of 5 December 2003 on the expertise of the prevention counsellors of the external services for prevention and protection at work came into force, they successfully completed an additional first-level training course or started this training course and on condition that they prove that they exercise the respective discipline for at least a thousand hours per year. (7)]

Art. 23. – When performing the same assignment regarding risk management, one single prevention counsellor may not simultaneously represent more than two fields.

In any event, the field of occupational safety and the field of occupational medicine may never be exercised by one and the same person.

Art. 24. – The section responsible for medical supervision is led by a prevention counsellor-doctor in occupational medicine who meets the terms referred to in Article 22, first paragraph, 2°.

This prevention counsellor-doctor in occupational medicine is exclusively accountable to the person entrusted with the management of the service for his/her work in connection with the leadership, management and organisation of the section.

The special rules provided in [Articles 18, 19, 23 and 25 of the Royal Decree of 28 May 2003 on the health surveillance of workers (5)] are applicable to these prevention counsellor-doctors in occupational medicine. (1)]

Art. 25. – The section responsible for the medical supervision consists of prevention counsellor-doctors in occupational medicine, who are assisted by nursing staff and administrative staff.

The persons who form part of this section fulfill their functions under the responsibility of the prevention counsellor-doctor in occupational medicine referred to in Article 24, first paragraph.

The special rules provided in [Articles 18, 19, 23 and 25 of the Royal Decree of 28 May 2003 on the health surveillance of workers (5)] are applicable to the prevention counsellor-doctors in occupational medicine.

During the assignments that are performed at the employers' for the purposes of medical supervision, the prevention counsellor-doctors in occupational medicine are exclusively assisted by staff who form part of the section responsible for medical supervision.

For specific performances of a medical nature imposed by the Act and its executive decrees, the prevention counsellor-doctor in occupational medicine must call on the specifically qualified staff such as provided in these decrees. This staff may or may not belong to the section responsible for medical supervision. (1)]

Art. 26. – [§ 1. (1)] Without prejudice to the provisions of Article 19 §§ 2 and 21, the number and the expertise are determined for the prevention counsellors entrusted with risk management and the prevention counsellors-doctors in occupational medicine, as well as the nursing (1)] and administrative staff that must be connected to the external service while taking into account the requirements that are set for the work to be done by every employer who has concluded an agreement with the external service and taking into account the fact that their assignments must be completed fully and efficiently at all times.

[§ 2. The minimum number of prevention counsellors is calculated in accordance with the following apportionment of their performances:

- 1° for the performances of a prevention counsellor-doctor in occupational medicine, the following average:
 - a) one hour per worker who is under the mandatory obligation of medical supervision;
 - b) twenty minutes per young person at work referred to in Article 12 of the Royal Decree of 3 May 1999 on the protection of young people at the workplace;
 - c) twenty minutes per worker who is exposed to pressure at work, in conformity with the provisions of Title VIII of the Codex on well-being at work.
- 2° for performances of the prevention counsellors who are entrusted with risk management, an average of ten minutes per worker on the staff.

§ 3. The hours that are performed by the prevention counsellor-industrial medical officers for the workers who are subject to medical supervision, are apportioned as follows:

- 1° forty-five minutes per worker are allotted to assignments referred to in Article 6 of the Royal Decree concerning internal services;
- 2° fifteen minutes per worker are allotted to the performance of the assignments referred to in Article 5 of the Royal Decree concerning internal services, in collaboration with the prevention counsellors of other fields and who form part of the risk management section. (1)]

Art. 27. – Performances of the prevention counsellor are understood to be all the activities that this prevention counsellor must perform to accomplish the activities assigned to the external service fully and effectively at all times.

The travelling expenses that the prevention counsellors have to incur to go to the different employers who are members of the external service are not included in these performances.

In addition, these performances take into account the time that is spent on the studies and research necessary to fulfill these assignments conscientiously and in full.

Art. 28. – The external service is organised in such a way that at one and the same employer's, the different assignments of that service are always performed by the same team of prevention counsellors.

The employer provides the Committee with the name(s) of the prevention counsellor(s).

Art. 29. – For every intervention performed within the context of the agreement, the external service generally draws up a report containing the following data:

- 1° indicating the employer where the intervention takes place;
- 2° the name(s) of the prevention counsellor(s) who performed the intervention and their qualification(s);
- 3° the reference to the quality manual as soon as this exists;
- 4° the date of the intervention;
- 5° a description of the intervention with, where applicable, an indication of the regulatory provision that it imposes;
- 6° the advice and decisions.

Depending on the case, the report is supplemented with the requirements imposed by the specific methods that were used in the intervention.

Art. 30. – This report is destined for the employer who calls on the external service, and it is kept at the internal service.

It is kept available for the officials responsible for the supervision and is submitted to the committee for information purposes.

Art. 31. – The external service draws up an annual account, the contents of which are determined by the Minister.

This annual account is submitted to the board of directors of the organisation, the advice committee and [the Administration of the occupational hygiene and medicine (1)] and is kept at the disposal of the official responsible for the supervision.

Section VI. – The prevention counsellors' status

Art. 32. – The board of directors of the external service appoints the prevention counsellors or their temporary replacements, replaces them or dismisses them from their functions after prior agreement of the members who represent the employers and the members who represent the workers on the advice committee.

[If no agreement is reached, the board of directors requests the advice of the official responsible for the supervision.

The procedure referred to in Article 15, fifth to eighth paragraphs, applies. (1)]

[Art. 33. – In implementation of Article 43 of the Act, the prevention counsellors fulfill their assignments totally independently from the employers and the workers with whom they perform their assignments, and from the board of directors.

At the request of one of the respective parties, the differences of opinion regarding the reality of the autonomy and regarding the competence of the prevention counsellors are investigated by the official responsible for the supervision.

This official hears the parties concerned and attempts to reconcile the points of view.

If no reconciliation is attained, s/he gives advice of which the parties concerned, the board of directors and the advice committee are informed by registered letter.

The notice is deemed to be received on the third working day after the letter was handed in at the post office. (1)]

Art. 34. – [The employer requests the board of directors to replace the prevention counsellor when this prevention counsellor who performs assignments at the employer's in accordance with Article 28, no longer has the trust of the workers and if all the members who represent the workers on the Committee make such a request.

The board of directors replaces the prevention counsellor and informs the Advice Committee and employer accordingly. (1)]

Art. 35. – The prevention counsellors are paid by the board of directors of the external service.

Section V. – The external service's authorization

Art. 36. – The application for authorization or for renewing the authorization is addressed to the Minister.

This application is accompanied by [the following information and documents (1)]:

- 1° a copy of the Articles of Association of the external service;
- 2° an organisational chart describing the structure of the service and the list of persons working in the service;
- 3° a copy of the authorization granted by the Communities to the section responsible for medical supervision;
- 4° the surname and first name of the person entrusted with the management of the service, his/her qualifications and professional experience.
- 5° the surname and first name of the prevention counsellor entrusted with the management of the section responsible for the risk management, and his/her qualifications;
- 6° the surname and first name of the prevention counsellor-doctor in occupational medicine entrusted with the management of the section responsible for medical supervision, and his/her qualifications;

- 7° the surnames and first names of the prevention counsellors referred to in Article 22, their qualifications and, where applicable, their professional experience.
- 8° the statement in which the external service undertakes to fully apply the principles of total quality management [or a copy of the certificate referred to in Article 7, § 3, fourth paragraph (4)]; [if there is legitimate doubt regarding the authenticity of the submitted or dispatched copy of this latter document, there must be compliance with the procedure provided for in Article 508, §§ 2 and 3 of the Programme Act of 22 December 2003; (8)]
- 9° an inventory of the material resources.

[The Minister or the official responsible for the supervision can request other information or documents that s/he deems necessary. (1)]

[Art. 37. – The application for authorization is investigated by the official responsible for the supervision, as based on the documents of the dossier, supplemented, where applicable, with the information and documents in implementation of Article 36, third paragraph.

As soon as the dossier is complete, s/he makes an investigation *in situ* and draws up a report.

The dossier and the report are submitted to the [Permanent Operational Commission (9)] which provides the Minister with a advice within three months after having sent the documents(1)].

[Art. 38. – The Minister makes the decision whereby the authorization is or is not granted.

The applicant is informed of the decision by registered letter.

The [Permanent Operational Commission (9)] is informed of the Minister’s decision. (1)]

[Art. 39. - § 1. The first authorization of an external service is granted for a term of five years.

At the latest one year before this term expires, the external service applies to the Minister for the renewal of the authorization.

The application is accompanied by the following documents and information:

- 1° the amendments made to the documents and information referred to by Article 36, second paragraph;
- 2° a financial report on the operation of the service during the first three years;
- 3° a report on the organisation and operation of the service and on the assignments performed during the first three years;
- 4° a quality manual [or a copy of the certificate referred to in Article 7, § 3, fourth paragraph (4)]. [If there is a legitimate doubt regarding the authenticity of the submitted or dispatched copy of this latter document, there must be compliance with the procedure provided for in Article 508, §§ 2 and 3 of the Programme Act of 22 December 2003; (8)]

§ 2. The application is investigated by the official responsible for supervision, based on the documents issued in implementation of Article 36, third paragraph, supplemented if need be with the information and documents submitted pursuant to Article 36, third paragraph.

If the service does not provide the information or documents requested by the official in accordance with Article 36, third paragraph, within two months as of the date of that request, the renewal of the authorization is refused *ex officio*. The external service is informed of this by the Administration of the occupational hygiene and medicine by registered letter.

As soon as the dossier is complete, the official responsible for the supervision performs an investigation *in situ* and draws up a report.

§ 3. The dossier and the report are submitted to the [Permanent Operational Commission (9)], which furnishes the Minister with advice within three months after these documents were sent.

The Minister decides whether or not to renew the authorization.

The external service is informed of the decision by registered letter.

The renewal of the authorization is granted for a term of five years.

The [Permanent Operational Commission (9)] is informed of the Minister's decision. (1)]

[Art. 40. - § 1. The external service recognised by the Ministerial Decrees of 5 January 2000 and 1^oFebruary 2000 must submit an application for renewal of the authorization before 31 December 2001.

The application is accompanied by the following documents and information:

- 1^o the amendments made to the documents and information referred to by Article 36, second paragraph;
- 2^o the documents that give proof that the external service complies with the specific provisions imposed by the ministerial decree whereby the authorization is granted;
- 3^o a financial report regarding the service's first year of operation;
- 4^o a report on the organisation and the operation of the service and on the assignments that were fulfilled during the course of the year.

§ 2. The application is investigated by the official responsible for supervision based on the documents of the dossier and, where applicable, supplemented by the information and documents issued in implementation of Article 36, third paragraph.

If the service does not provide the information requested by the abovementioned official in accordance with Article 36, third paragraph, within two months as of the date of that request, the renewal of the authorization is refused *ex officio*. The external service is informed of this by the Administration of occupational hygiene and medicine by registered letter.

As soon as the dossier is complete, the official responsible for the supervision performs an investigation *in situ* and draws up a report.

If applicable, s/he completes the report with the advice or advice made within the context of the interventions regarding reconciliation executed in implementation of Articles 15, fourth paragraph and 33.