

Art. 33. - § 1. This periodic health assessment is carried out once a year, unless when other special decrees created to implement the Act, provide for a different periodicity.

§ 2. If the prevention counsellor-doctor in occupational medicine deems it necessary, s/he can impose a shorter interval due to the nature of the work station or activity, or the state of health of the worker, or because the worker belongs to a particularly sensitive risk group, or due to incidents or accidents that occurred and which can change the duration and intensity of the exposure.

The actions performed between two periodic assessments are the additional actions referred to in Article 28, § 2. If these lead the prevention counsellor-doctor in occupational medicine to form the opinion that it is not advisable to keep an worker at his/her work station or to let him/her continue performing his/her activity, these actions are supplemented by a general clinical examination, before the prevention counsellor-doctor in occupational medicine makes a decision regarding this worker.

§ 3. Where the result of the health assessment of the workers indicates that there is uncertainty regarding the actual existence of the risk, the prevention counsellor-doctor in occupational medicine can propose that the periodic health assessment be extended by one year. A suitable system for surveillance of the exposure of the workers is initiated in the meantime and evaluated annually. This system entails the additional actions referred to in Article 28, § 2, 2° and 3°.

§ 4. The proposed reduced or extended interval and the results of the adapted system for surveillance referred to in § 3 are submitted to the Committee for prior advice and reported to the medical inspector of labour of the medical Labour Inspectorate.

§ 5. If s/he regards it necessary, the medical inspector of labour of the Medical Labour Inspectorate can change the interval proposed by the prevention counsellor-doctor in occupational medicine or establish a new interval for the periodic health assessment of some workers.

§ 6. The worker who is affected by an occupation-related disorder, of which the diagnosis, with reference to the actions stipulated in Article 28, cannot be adequately stated, is subject to each additional examination which is regarded as essential by the prevention counsellor-doctor in occupational medicine or the medical inspector of labour of the Medical Labour Inspectorate.

Art. 34. - § 1. On the grounds of the results of the periodic health assessment and where the worker's state of health requires it, the prevention counsellor-doctor in occupational medicine proposes to the employer all appropriate individual and collective preventive or protective measures.

§ 2. Those measures may entail the following:

- 1° reducing the duration, intensity or frequency of the exposure to such agents or reduce the load;
- 2° proposing that the work station or activity be redesigned or adapted, and/or the working methods and/or the working conditions;
- 3° providing training or information on the general preventive and protective measures that must be applied;
- 4° assessing the health of all workers who have experienced analogous exposure or who were employed for similar activities;
- 5° once again performing the risk analysis with reference to the specific risks of the work station or activity, in particular by applying a new technique, using a new product or increasing the pace of the work;
- 6° no longer exposing the worker to an agent or stress referred to in Article 2, 3° or temporarily transferring the worker from his/her work station or exercised activity.

The measures regarding the worker are taken in accordance with the provisions of Section 6, which regulate the decisions of the prevention counsellor-doctor in occupational medicine.

The Committee is informed of the collective measures taken.

Sub-section 3. – Examination upon work resumption

Art. 35. – After at least four weeks of absence due to whatever illness, disorder or accident or following a birth, the workers employed in a safety function, a function with increased vigilance, an activity with specific risk or an activity related to foodstuffs are mandatorily subjected to an examination when resuming work.

If the prevention counsellor-doctor in occupational medicine deems it necessary due to the nature of the illness, disorder or accident, this examination can take place after a shorter absence.

This examination is done, at the earliest, on the day on which the work or duty is resumed and, at the latest, on the eighth working day thereafter.

Art. 36. The examination upon work resumption must enable the prevention counsellor-doctor in occupational medicine to check whether the worker is still able to do the work at the work station that s/he occupied or the activity that s/he performed previously, and in the case of disability, to take the appropriate preventive or protective measures.

[Art. 36bis. - § 1. The employer informs all workers who are [*RD of 27 January 2008*) or not] subject to the mandatory health surveillance, of their right to a consultation prior to work resumption in the case of occupational disability of four weeks or more, with a view to a possible adaptation of the work station, and of the conditions to be fulfilled, which are summarised in § 2, 1° and 2°.

§ 2. In the case of occupational disability of four weeks or more, the worker who is subject [*RD of 27 January 2008*) or not] to mandatory health surveillance can request a consultation prior to work resumption if the following conditions are met:

- 1° the worker him/herself takes the initiative to be considered for this option by addressing a written request to the employer;
- 2° the worker gives his/her consent so that the prevention counsellor-doctor in occupational medicine, who has been informed by the employer, can consult the worker's medical dossier at the treating doctor and can deliberate the matter with the latter.

§ 3. As of the moment that the employer receives a request from the worker, as referred to in § 2,1°, s/he informs the prevention counsellor-doctor in occupational medicine so that the worker may be invited for a consultation before resuming work, which must take place within a term of eight days following receipt of the request.

§ 4. The consultation before resuming work as referred to in § 1 must enable the prevention counsellor-doctor in occupational medicine to propose adjusted measures based on the state of health of the worker and the examination of his/her work station, which measures, in particular, consist of an adjustment of the work station or the working conditions to reduce the stress related to this station so that the employer can give the worker adapted work as soon as s/he resumes work.

§ 5. The prevention counsellor-doctor in occupational medicine examines the worker's work station as quickly as possible with a view to investigating the possibilities of adapting this work station.

§ 6. In derogation from the provisions regarding the health assessment form, the prevention counsellor-doctor in occupational medicine formulates his/her proposals regarding the adaptations to the work station or the working conditions by completing only item F on the health assessment form.

§ 7. The employer shall pay for the worker's travelling expenses for the consultation before resuming work. (RD of 4 July 2004)]

Sub-section 4. – Consultation on own initiative

Art. 37. – Every worker, whether subject to health surveillance or not, is entitled to consult promptly the prevention counsellor-doctor in occupational medicine for health complaints that s/he thinks are due to the fact that inadequate preventive measures, as referred to in Article 9 of the Royal Decree regarding well-being, were taken. Should the occasion arise, this health assessment is confirmed by the prevention counsellor-doctor in occupational medicine's decision to which all the conditions regarding the execution of health surveillance are related.

Sub-section 5. – Continued health surveillance

Art. 38. - § 1. The employer takes the necessary measures to ensure that the workers who are exposed to biological, physical and chemical agents in the cases referred to in the special decisions made in implementation of the Act, can continue to benefit from a surveillance of their state of health after the exposure has been terminated.

§ 2. This surveillance includes all targeted functional examinations and tests necessary, having regard to the worker's state of health and the conditions to which s/he is exposed.

§ 3. If the respective worker forms part of the staff of the undertaking where s/he was exposed, the costs for the continued health surveillance are at the expense of the employer.

§ 4. If the respective worker no longer forms part of the staff of the undertaking where s/he was exposed, the continued health surveillance can be ensured by the Fund for occupational diseases on the terms and in accordance with the detailed rules as stipulated by the Acts regarding occupational disease compensation and the prevention of occupational diseases, co-ordinated on 3 June 1970.

The employer reports to the Fund without delay which workers are entitled to continued health surveillance.

§ 5. If s/he deems it necessary, the medical inspector of labour of the Medical Labour Inspectorate can impose continued health surveillance.

Sub-section 6. – The health assessment of an worker who has a permanent occupational disability with a view of his/her reintegration

Art. 39. – If the treating doctor indicated by the worker declares that the worker has a permanent occupational disability to execute the agreed work due to illness or accident, this worker is entitled to a procedure of reintegration, regardless whether s/he is subject to medical surveillance or not.

To this end, the worker submits his/her request for integration with the employer by means of a registered letter, and encloses the attestation by his/her treating doctor.

Art 40. As soon as s/he has received the request by the worker, the employer submits the form "request for health surveillance of workers" referred to in Article 11 to this worker.

This form is destined for the prevention counsellor-doctor in occupational medicine who examines the worker and gives advice or makes his/her decision in accordance with the same conditions and rules as referred to in Section 6.

Art. 41. – The prevention counsellor-doctor in occupational medicine states the following in item C of the form for the health assessment referred to in Article 48:

- either that the worker is adequately able to continue the agreed work;
- or that the worker can execute the agreed work, subject to a few adjustments that the prevention counsellor-doctor in occupational medicine determines;
- or that the worker is adequately able to execute a different function subject, if applicable, to making the necessary adjustments and under the terms that the prevention counsellor-doctor in occupational medicine determines;
- or that the worker has a permanent occupational disability.

Where the employer deems that it is neither objectively nor technically possible to provide adapted work or other work, or that this cannot, on justified grounds, be demanded, s/he shall inform the prevention counsellor-doctor in occupational medicine accordingly.

Sub-section 7. Expansion of the health surveillance

Art. 42. – At the initiative of the prevention counsellor-doctor in occupational medicine, the employer or the workers' representatives, on the recommendation of the Committee, and based on the results of the risk analysis, the health surveillance can be expanded to all workers who work in the immediate vicinity of the work station of a worker who is subject to mandatory health surveillance. The preventive actions for these workers are similar to those imposed on the worker who is subjected to mandatory health surveillance.

Art. 43. The characteristics and the consequences of the expansion of the health surveillance referred to in Article 42 are established by the prevention counsellor-doctor in occupational medicine, and the medical inspector of labour of the Medical Labour Inspectorate is informed of them. The latter can also impose any new health assessment s/he deems necessary.

Sub-section 8. Special provisions for certain categories of workers

Art. 44. – This section is applicable to the following:

- 1° workers with disabilities, whom the employer must employ in accordance with Article 21, § 1 of the Act of 16 April 1963 concerning reintegration of disabled people into the labour market;
- 2° young people at the workplace as referred to in Article 12 of the Royal Decree of 3 May 1999 on the protection of young people at the workplace, replaced by the Royal Decree of 3 May 2003;
- 3° female workers during pregnancy or the breast-feeding period as referred to in Article 1 of the Royal Decree of 2 May 1995 on the protection of motherhood;
- 4° the trainees, apprentices and students as referred to in Article 2, § 1, second paragraph, 1°, d) and e) of the Act;
- 5° temporary workers as referred to in Article 1 of the Royal Decree of 19 February 1997 laying down measures concerning the occupational health of temporary workers;
- 6° workers from the Local Employment Agency referred to in Article 4, § 2 of the Act.

Art. 45. – The employer shall take the necessary measures to ensure that the workers referred to in Article 44 are subjected to appropriate health surveillance.

The conditions for the execution of this health surveillance are laid down in specific royal decrees concerning the special categories of workers referred to in Article 44.

Art. 46. – The abovementioned appropriate health surveillance is instituted to take into account specific characteristics of the workers or the nature of the work relationship referred to in Article 44, which results in them being regarded as workers with special risk due to their increased vulnerability or sensitivity, lack of experience, different development, and for whom special measures regarding protection and health surveillance must be taken.

Art. 47. – The employer may neither refuse to take on workers belonging to one of the categories referred to in Article 44 nor dismiss them solely and merely because of the fact that they belong to one of those categories.

Section 6. – The decision of the prevention counsellor-doctor in occupational medicine regarding health assessment

Sub-section 1. – Health assessment form

Art. 48. – The form for the health assessment, a template of which is included as Appendix II, first part, is the document with which the prevention counsellor-doctor in occupational medicine communicates his/her decision after every preventive medical examination.

The text of Articles 64 to 69, which is included in the second part of Appendix II, must be stated on the form for health assessment.

As soon as s/he has all the assessment elements, and, more particularly, the results of the actions referred to in Article 28, and after the measures referred to in Articles 55 to 58 have been taken, the prevention counsellor-doctor in occupational medicine completes this document in triplicate.

The prevention counsellor-doctor in occupational medicine sends one copy of this document in a closed envelope to the employer and another to the worker, or he hands them over personally. He encloses the third copy with the worker's health dossier, in accordance with Article 81.

The form for the health assessment may not contain a single indication of the diagnosis whatsoever, nor any other formulation that would jeopardise due respect for privacy.

Any limitation regarding the occupational capacity stated on the form for the health assessment is accompanied by preventive measures as referred to in Article 34.

Art. 49. – If it concerns a preceding health assessment of a candidate or worker, the prevention counsellor-doctor in occupational medicine states on the form for the health assessment that the candidate or worker is either fully able to do the work, or is not able to do the work, either permanently or for the period that s/he determines.

The prevention counsellor-doctor in occupational medicine justifies every statement of occupational disability pursuant to a preceding health assessment. To better adjust the state of health of the candidate or the worker to or tune it in to another employment possibility, the prevention counsellor-doctor in occupational medicine can, at their request, send the data that substantiate this decision of occupational disability to the treating doctor indicated by the worker or the candidate.

Art. 50. – If it concerns a preceding health assessment, a periodic health assessment or an examination upon work resumption of an worker who holds a control or safety function or who is in charge of an activity with a specific risk related to exposure to ionizing radiation, the prevention counsellor-doctor in occupational medicine indicates on the form of the health assessment that the worker is either adequately able to do the work, or has a disability either permanently or for the period that he determines, and that it is forbidden to employ him/her or keep him/her at the respective work station or in the respective activity.

In that case, s/he makes the recommendation to put him/her to work at a work station or in an activity of which he (the prevention counsellor-doctor in occupational medicine) determines the employment terms in item F or states that the worker must be put on sick leave.

Art. 51. – If it concerns any other preventive medical examination, the prevention counsellor-doctor in occupational medicine states on the form for health assessment that the worker:

- is either adequately able to do the work;
- or that it is advisable that the worker is either permanently or for the period that he (the prevention counsellor-doctor in occupational medicine) determines, transferred to another work station or activity of which the former determines the employment terms provided in item F;
- or that the worker is put on sick leave;
- or that the worker has a permanent occupational disability.

Art. 52. – If it concerns an examination on a female worker during pregnancy or the breast-feeding period, the prevention counsellor-doctor in occupational medicine states on the form for the health assessment that the worker:

- is either adequately able to fully continue her activity, or to continue her activity under the conditions s/he determines, or to perform the new proposed activity for a term that s/he determines;
- or is not able to continue her activity for the term s/he determines or to perform a proposed new activity for the term s/he determines and must therefore be removed;
- or to be put on sick leave due to a disorder that is in no way related to the pregnancy or breast-feeding period.

Art. 53. – If it concerns a medical examination on a young person at the workplace such as referred to in Article 12 of the Royal Decree of 3 May 1999 on the protection of young people at the workplace, or a trainee subject to a type of health surveillance as referred to in the Royal Decree of 21 September 2004 concerning the protection of trainees, the prevention counsellor-doctor in occupational medicine states on the form for the health assessment either that the young person or the trainee is adequately able, or that the young person or trainee is able to work in a function of which he (the prevention counsellor-doctor in occupational medicine) determines the employment conditions. (*RD of 21 September 2004*).

Art. 54. – The employer arranges the forms for the health assessment per worker. As long as the latter is employed at the undertaking, the employer keeps the forms of at least the last three years, and the forms stating recommendations.

S/he keeps these available for the medical labour inspectors and for the social inspectors of the Medical Labour Inspectorate.

Sub-section 2. – Measures to be taken before making any decision

Art. 55. – Before proposing a temporary or definitive change of work for a worker or making a decision regarding occupational disability, the prevention counsellor-doctor in occupational medicine performs the appropriate additional examinations, the costs of which are to be borne by the employer, in particular where the worker has a disorder of which s/he suspects that it is work-related and of which the diagnosis could not be sufficiently made with the resources determined for the periodic health assessment. In addition, the prevention counsellor-doctor in occupational medicine makes inquiries into the worker's social situation, as well as a new risk analysis, and s/he also examines *in situ* which measures and adjustments would make it possible to allow the worker to keep his/her work station or activity, taking his/her possibilities into account. The worker may be assisted in this matter by a worker delegate member of the

Committee or, in the latter's absence, by a trade union representative of his/her choice.

Art. 56. – Where the prevention counsellor-doctor in occupational medicine is of the opinion that the worker can keep his/her work station or continue his/her activities, s/he states on the form for the health assessment, under F, which measures should be taken to limit the risk factors as quickly as possible by applying the protection and preventive measures in accordance with the risk analysis.

Art. 57. – The employer, prevention counsellor-doctor in occupational medicine and, where applicable, other prevention counsellors, the worker and the delegates of the staff on the Committee, or, in the absence of the Committee, the trade union representatives chosen by the worker, deliberate in advance on the possibilities for other work and measures to adapt the work stations.

Art. 58. – The prevention counsellor-doctor in occupational medicine informs the worker of his/her right to use the deliberation and appeal procedures referred to in this decree.

Sub-section 3. – Deliberation procedure

Art. 59. – Except in the case of the preceding health assessment referred to in Article 27, the worker can make use of the deliberation procedure described below if the prevention counsellor-doctor in occupational medicine is of the opinion that a permanent or temporary change of work is essential, because an adaptation of the safety function, control function or of the activity with specific risk is technically or objectively not possible or, for legitimate reasons, cannot reasonably be requested.

Art. 60. - § 1. Before completing the form for the health assessment, the prevention counsellor-doctor in occupational medicine informs the worker in writing of his/her proposal for the worker's permanent change of work either by handing over a document that the latter signs for receipt, or by sending him/her a registered letter with acknowledgement of receipt

§ 2. The worker has a period of five days following the acknowledgement of receipt to agree or not.

§ 3. If the worker does not agree, s/he indicates to the prevention counsellor-doctor in occupational medicine a treating doctor of his/her own choice. The prevention counsellor-doctor in occupational medicine informs the doctor of his/her substantiated decision. The two doctors attempt to come to a joint decision. Each of them may request additional examinations or consultations, which s/he deems indispensable. The employer bears only the costs of the additional examinations or consultations that are requested by the prevention counsellor-doctor in occupational medicine.

Art. 61. – When the deliberation suspends the decision of the prevention counsellor-doctor in occupational medicine, the latter waits until the procedure is over to complete the form for the health assessment.

Art. 62. - § 1. If it concerns a medical examination of a worker who holds a safety or control function, or performs an activity with a risk of exposure to ionizing radiation or is a female worker during pregnancy or the breast-feeding period, who is employed at a work station of which the assessment indicates an activity with a specific risk, or also if the worker is affected by a seriously contagious illness, the deliberation does not suspend the decision of the prevention counsellor-doctor in occupational medicine.

§ 2. In those cases, the prevention counsellor-doctor in occupational medicine completes the first form for the health assessment at the time that s/he informs the worker of his/her decision to propose a permanent change of work. In item G, s/he indicates that if the worker does not agree, s/he can make use of the deliberation procedure referred to in Article 60. In item F, s/he states that s/he recommends that the worker be employed at a work station or in an activity of which s/he (the prevention counsellor-doctor in occupational medicine) determines the employment terms.

§3. After the deliberation procedure has ended, s/he completes a new form for the health assessment.

Art. 63. – Where two doctors do not succeed in making a joint decision, or where it was not possible to terminate the deliberation procedure within 14 working days, the prevention counsellor-doctor in occupational medicine maintains his/her own decision on the form for the health assessment. S/he also states in item G that the doctor of the worker is of a different opinion or that the procedure could not be finalised within the set term, and in item F that the permanent change of work is essential and that s/he recommends that the worker be employed at a work station or in an activity of which s/he (the prevention counsellor-doctor in occupational medicine) determines the employment conditions.

Sub-section 4. – Appeal procedure

Art. 64. – Except in the case of the preceding health assessment referred to in Article 27, the worker who has or has not made use of the deliberation procedure referred to in Article 60 can appeal against the decision of the prevention counsellor-doctor in occupational medicine whereby the ability relating to the executed work is limited or where s/he is found to be not able to continue the executed work. For these purposes, s/he uses the form of which the template is included in Appendix II, third part.

Art. 65. – This appeal is validly lodged on condition that it is sent to the authorised medical inspector of labour of the Medical Labour Inspectorate by registered letter within seven working days after the date of dispatch or the date that the form for the health assessment was handed to the worker.

Art. 66. – The medical inspector of labour of the Medical Labour Inspectorate writes a letter to convene a meeting with the prevention counsellor-doctor in occupational medicine and the worker's treating doctor for the appeal procedure, of which s/he determines the date and place, and s/he requests them to bring the relevant documents regarding the worker's state of health. Where applicable, s/he also calls on the worker to be heard and examined.

Art. 67. – The appeal is dealt with, at the latest, within twenty-one working days of the date on which the worker's appeal was received. In the case of suspension of the execution of the worker's employment contract due to sick leave, this term can be extended to thirty-one working days.

Art. 68. - § 1. If a doctor requests an expert examination during the appeal procedure, the term during which to make the decision may not exceed the term of thirty-one days as of the day on which the appeal was heard.

During the definitive session, the three doctors make a decision by a majority of votes.

If the treating doctor indicated by the worker or the prevention counsellor-doctor in occupational medicine is absent and if no agreement can be reached by the doctors present, the medical labour inspector of the Medical Labour Inspectorate makes the decision him/herself.

§ 2. The medical decision is recorded by the medical labour inspector of the Medical Labour Inspectorate in a report that is signed by the doctors present and is kept in the worker's health dossier.

The worker and employer are immediately provided with a copy of the report of the decision by the medical labour inspector of the Medical Labour Inspectorate.

Art. 69. – The appeal suspends the decision of the prevention counsellor-doctor in occupational medicine. This does not apply to the medical examination of a worker with a safety function, a function with increased vigilance, or an activity that entails a risk of exposure to ionizing radiation or a pregnant or breast-feeding female worker who is employed at a work station of which the assessment indicates that this concerns an activity with a specific risk.

Sub-section 5. – Interim employment during the deliberation and appeal procedures

Art. 70. - § 1. In accordance with the recommendations of the prevention counsellor-doctor in occupational medicine, the employer endeavours, as quickly as possible, to employ every worker for whom the

health assessment recommendations have been recorded in that sense, at another work station or in another activity of which s/he determines the employment conditions.

The employer for whom it is impossible to offer another work station or activity as referred to in the first paragraph, must be able to justify this to the medical inspector of labour of the Medical Labour Inspectorate.

§ 2. The worker who appeals may, until the day of the definitive decision, not incur any form of wage loss. During that period, s/he shall take on any work which, in the opinion of the prevention counsellor-doctor in occupational medicine, is appropriate to his/her state of health.

§ 3. As long as no definitive decision has been made regarding the worker's occupational ability, permanent occupational disability is not proven.

**Sub-section 6. – Consequences of the definitive decision
of the prevention counsellor-doctor in occupational medicine**

Art. 71. - § 1. It is forbidden to take on a worker or to continue employing a worker in a safety function, a function with increased vigilance or for activities to which a risk of exposure to ionizing radiation is related when the prevention counsellor-doctor in occupational medicine has declared him/her not able to do this.

§ 2. It is forbidden to employ or to continue employing female workers whom the prevention counsellor-doctor in occupational medicine has declared not able to do this, in work stations of which the assessment has shown that there is a specific risk for pregnant and breast-feeding workers and for whom an adaptation is, technically or objectively, impossible or where this cannot, on substantiated grounds, be reasonably demanded.

Art. 72. – Subject to the application of Article 71, the employer is, in accordance with the recommendations of the prevention counsellor-doctor in occupational medicine, obliged to keep the worker who has been declared as having a permanent disability by a definitive decision of the latter, employed by giving him/her other work, unless where that is neither technically nor objectively possible or where that cannot on substantiated grounds, be reasonably demanded.

Art. 73 – The worker with a seriously contagious disease who is obliged to take the sick leave that was recommended by the prevention counsellor-doctor in occupational medicine on the form for the health assessment, is obliged, without delay, to consult his/her treating doctor, whom the prevention counsellor-doctor in occupational medicine shall have contacted.

In this case, the provisions regarding the examination when resuming work referred to in sub-section 3 of section 5 are applicable to this worker.

Section 7. – General provisions regarding vaccinations and tuberculin tests

Art. 74. – If from the assessment of the risks related to the exposure to biological agents at work, it appears that the workers are exposed or can be exposed to a biological agent for which vaccination is mandatory, the worker must have the workers who are not yet immune, vaccinated, or if it concerns biological agents for which an effective vaccine is available, the employer must give the workers the opportunity of being vaccinated if they are not yet immune.

Art. 75. – The employer informs the workers at the time of their engagement and before their exposure to the biological agents, either of the obligation of being vaccinated or of the fact that an effective vaccine is available. These workers are also informed of the benefits and the disadvantages of both the vaccine itself and the absence of the vaccine.

Art. 76. – The vaccine can in no single event replace the application of the collective and individual pre-

ventive measures.

Art. 77. – The vaccinations, re-vaccinations and tuberculin tests are performed either by the prevention counsellor-doctor in occupational medicine or by another doctor chosen by the respective worker.

Art. 78. – The special provisions concerning the vaccinations and the tuberculin tests are laid down in Section X of the Royal Decree of 4 August 1996 regarding the protection of the workers against risks of exposure to biological agents at work.

Section 8. – The health dossier

Sub-section 1. – Objectives

Art. 79. - § 1. The health dossier of the worker consists of the filing of all relevant information regarding the worker which enables the prevention counsellor-doctor in occupational medicine to perform the health surveillance and to measure the efficacy of the preventive and protective measures that are applied individually and collectively in the undertaking.

§ 2. The processing of the medical personal data and of the exposure data for scientific research, epidemiological registration, education and continued training must take place with due regard to the terms and detailed rules referred to in the Act of 8 December 1992 on the protection of privacy in relation to the processing of personal data.

Art. 80. – The prevention counsellor-doctor in occupational medicine is responsible for compiling and updating the health dossier of every worker that s/he must examine.

The section or department responsible for medical surveillance lays down the procedural rules regarding the compilation and update of the health dossier, in accordance with the provisions of this section.

These procedures form part of the quality manual of the section responsible for medical surveillance.

Sub-section 2. – Contents

Art. 81. - § 1. The health dossier comprises a totality of structured and clearly ordered data and a number of documents. It consists of four different parts:

- a) social-administrative data regarding the identity of the worker and his/her employer;
- b) the occupational case history and the objective medical personal data referred to in Article 82 which are established with reference to the mandatory actions performed during the preventive medical examinations. These personal data are related to the work station or the activity of the worker;
- c) specific data of a personal nature established by the prevention counsellor-doctor in occupational medicine during the preventive medical examinations and which are reserved for this latter doctor;
- d) exposure data, referred to in Article 83, of every worker who is employed at a work station or in an activity in which s/he is exposed to biological, physical or chemical agents.

§ 2. The health dossier contains no information on the collaboration in programmes regarding public health that are in no way work related.

Art. 82. – The objective medical personal data referred to in Article 81, § 1, b) contain the following:

- 1° the “Request for health surveillance of the workers” referred to in Article 11;
- 2° the date and nature of the type of preventive medical examination performed and the results of the

- actions performed in accordance with and laid down in Section 4;
- 3° the result of the targeted examinations or the targeted functional tests and their dates;
 - 4° the results of the biological surveillance and their dates;
 - 5° the radiographies and reports of the radiology examinations;
 - 6° all other documents or data relating to the targeted examinations which the respective worker has undergone and those that were performed by an external doctor or external services. All those documents are dated and state the worker's identity data;
 - 7° the form referred to in Article 48 for the health assessment;
 - 8° the date and nature of the vaccinations and re-vaccinations, the results of the tuberculin tests, the vaccination cards and, where applicable, the carefully detailed reasons of medical nature of the existence of contra-indications;
 - 9° all useful indications with reference to the continued health surveillance that is possibly applied in implementation of Article 38;
 - 10° all other medical or medical-social documents which the prevention counsellor-doctor in occupational medicine deems useful to add to the dossier, more particularly, the exchange of information with the doctor chosen by the worker;
 - 11° a copy of the report of occupational disease, as referred to in Article 95;
 - 12° a copy of the occupational accident index card which the employer, in implementation of Article 27 of the Royal Decree on the policy of well-being, sends to the section or department responsible for medical surveillance.

Art. 83. – The exposure data, as referred to in Article 81, § 1, d), of the respective worker contain the following:

- 1° the list of the chemical substances identified with reference to their CAS, EINECS, or ELINCS numbers, or with reference to all other information that makes careful identification possible;
- 2° the qualitative, quantitative and representative data relating to the nature, intensity, duration and frequency of the exposure of the worker to chemical or physical agents;
- 3° date and the exposure level where the threshold limit values are exceeded;
- 4° the list of the biological agents and possible incidents or accidents.

Sub-section 3. – Means of safekeeping

Art. 84. – The health dossier is, depending on the case, kept in the section or department responsible for medical surveillance or at the external service's regional centre for examination.

Only the prevention counsellor-doctor in occupational medicine responsible for the section or department of medical surveillance, and who is its manager, is entrusted with its safekeeping and is exclusively responsible for it, and s/he alone can designate one or more members of the staff who assist him/her and who are subject to professional secrecy to have exclusive access to it.

In derogation from the first paragraph, the health dossier for employers of groups A and B, as stipulated in Article 3 of the Royal Decree of 27 March 1998 concerning internal services for prevention and pro-

tection at work, where the prevention counsellor-doctor in occupational medicine is permanently present, may be kept at the undertaking.

Art. 85. - § 1. The department or section responsible for medical surveillance keeps the dossier of the worker who is no longer a member of staff and who is subject to health surveillance in good condition, complete and well organised in its files and subject to the terms that guarantee medical secrecy, except if, in accordance with Article 88, it sends it on to another department or another section responsible for medical surveillance. This dossier contains data as referred to in Article 81, § 1, a), b), and d).

§ 2. The dossier is kept there at least fifteen years after the worker has left. When that time has lapsed, the section or department responsible medical surveillance may destroy the dossier, or hand it to the doctor indicated by the worker if the worker has made a timely request after being informed of this possibility.

§ 3. However, whenever, in the cases laid down by the specific provisions of the decrees established in the implementation of the Act, the dossier must be kept for longer than fifteen years, the section or department responsible for medical surveillance keeps it in the files from the day that the worker no longer forms part of the staff subject to health surveillance.

After this term has expired, the dossier is neither destroyed nor handed to the worker or to any other institution, but is sent to the Federal Public Service, Employment, Labour and Social Dialogue – Administration of Occupational Hygiene and Medicine.

Art. 86. – No single section or no single department responsible for the medical surveillance may be closed down if the doctor entrusted with its management has not informed the Federal Public Service, Employment, Labour and Social Dialogue – Administration of Occupational Hygiene and Medicine of this at least three months in advance, so that this administration is granted the opportunity of making a timely decision on the measures that must be taken regarding the destination to be designated to the dossiers that are in this section or department.

Art. 87. – The destruction and transfer of the health dossiers, and the loan and issue of copies of the documents that they contain, as provided in this Section, is carried out subject to terms fully guaranteeing medical secrecy.

Sub-section 4. – Transfer and movements

Art. 88. - § 1. The entire health dossier containing the data referred to in Article 81, § 1, a), b) and d), of a worker who changes employers must be kept at the seat of the present department or the present section responsible for medical surveillance that performed the health surveillance of the worker.

§ 2. To avoid medical actions being performed on a candidate or worker which s/he recently underwent and whenever a health dossier already exists in this person's name in another undertaking, the prevention counsellor-doctor in occupational medicine requests that the department or section responsible for the medical surveillance of this other undertaking send him/her the objective medical personal data on this person, as well as the exposure data referred to in Article 83 if it concerns a worker who was exposed to ionizing rays and shall again be exposed to them, and if the prevention counsellor-doctor in occupational medicine deems this useful in implementation of Article 29, 1°.

§ 3. The department or section responsible for medical surveillance which prefers not to transfer the part with the objective medical personal data lends the documents in question to the prevention counsellor-doctor in occupational medicine or provides him/her, without delay, with a true and certified copy of the documents that the latter has requested. Original radiographies are, however, always submitted to this doctor.

The section or department responsible for medical surveillance which delivers the copies must put the text "for true and certified copy of the original document" on the document.

§ 4. A full inventory of the documents that the dossier contains is enclosed with every dossier or part of dossier that is transferred.

Every section or every department responsible for medical surveillance registers the movements of the dossiers and the parts of the dossiers by stating, for every dossier that is sent or received, the surname and first name of the respective worker, and the address of the department responsible for medical surveillance which is, depending on the case, the recipient or the sender.

All abovementioned movements of dossiers or parts of dossiers take place under the exclusive responsibility of the persons stated in Article 84.

Art. 89 – The dossiers and documents are sent to the sections or departments responsible for medical surveillance or to the treating doctors of the workers in closed envelopes and addressed personally. The dispatch is guaranteed by and under the exclusive responsibility of the prevention counsellor-doctor in occupational medicine responsible for the management of the dossier, or of the staff member who is subject to professional secrecy and who assists him/her. The dossiers and documents are dispatched to the recipients by post or by any other means which offers at least the same guarantees against loss or damage.

Art. 90. – The department or section responsible for medical surveillance which opts for electronic transfer of the dossier or parts of it must apply the principles and guarantees of authenticity, reliability and confidentiality.

The transfer of the medical data takes place under the responsibility of the doctor who is the manager of the department or section responsible for medical surveillance and who, with reference to proven effective methods, is responsible for the protection and safeguarding of those data regarding access, use and transfer.

The measures that are taken in this respect are laid down in detailed instructions that are included in the internal regulations, the implementation and supervision of which are entrusted to the doctor who manages the department or section responsible for medical surveillance.

Sub-section 5. Access

Art. 91. -§ 1. At the request or with the agreement of the worker, the prevention counsellor-doctor in occupational medicine may contact the doctor who is treating this worker and lend him/her documents from the health dossier containing the data referred to in Article 81, § 1, a), b) and d), or provide him/her with a copy.

§ 2. The worker is entitled to take cognizance of all personal medical data and of the exposure data from his/her health dossier. The request to take cognizance of and the applications for improvement or deletion of objective personal medical data that form part of the dossier are made through the intervention of a doctor indicated by the worker for this purpose.

§ 3. Subject to the provisions of §§ 1 and 2 and of Articles 84 and 88, all necessary measures are taken to prevent anyone from being able to take cognizance of the health dossier.

Sub-section 6. Automated processing

Art. 92. – The data from the health dossier can be processed automatically or manually in accordance with the provisions of the Act of 8 December 1992 on the protection of privacy in relation to the processing of personal data and the provisions of this section.

Art. 93. – Subject to the provisions of Article 16, § 1 of the Act referred to in Article 92, the prevention counsellor-doctor in occupational medicine who manages the section or department responsible for medical surveillance is the person required to do the processing if the health dossier is processed automatically. In that capacity, s/he ensures that a descriptive statement of the electronic file, which contains the

following data, is compiled:

- 1° the way in which the structure of the dossier is described;
- 2° the way in which the different data categories of the dossier are divided into items;
- 3° the coding systems applied;
- 4° the measures and the capacity of the persons that guarantee the continuity and security of the automated data processing;
- 5° the capacity of the persons who may consult and process the different data categories.

Section 9. – Reporting occupational diseases

Art. 94. – The prevention counsellor-doctor in occupational medicine who establishes one of the cases summarised below, or is informed of it by another doctor, reports this to the medical labour inspector of the Medical Labour Inspectorate and to the medical advisor of the Fund for occupational diseases:

- 1° the cases of occupational diseases on the list of these diseases compiled in application of Article 30 of the Acts regarding compensation for occupational diseases and the prevention of occupational diseases, co-ordinated on 3 June 1970;
- 2° the cases that do not appear on the abovementioned list but do appear on the European list of occupational diseases and on the additional list of diseases that are presumed to be caused by the execution of an occupation, that would have to be reported and [that are stated in the Appendices I and II of the Commission Recommendation 2003/670/EC of 19 September 2003 concerning the European schedule of occupational diseases (*RD of 27 December 2004*)], of which the inclusion in Appendix I of the European list can be considered in future;
- 3° the cases of other diseases of which it has been established that their origin lies in the occupation, or for which the doctor who has established them, confirms or presumes a similar origin;
- 4° the cases of predisposition for one of the abovementioned occupational diseases or for the first symptoms hereof, whenever this has an influence on the permanence of the function or the wages of the respective worker.

The lists referred to in the first paragraph, 2° have been included for informative purposes in Appendix III to this decree.

Art. 95. - § 1. The prevention counsellor-doctor in occupational medicine reports this as quickly as possible and with reference to a form that corresponds to the template in Appendix IV of this decree.

S/he completes the form in triplicate, sends one copy to the medical labour inspector of the Medical Labour Inspectorate, a second to the medical advisor of the Fund for occupational diseases, and encloses a third in the health dossier of the person concerned.

It is dispatched in a closed envelope.

§ 2. The prevention counsellor-doctor in occupational medicine can obtain the reporting forms free of charge from the Federal Public Service, Employment, Labour and Social Dialogue – Administration of Occupational Hygiene and Medicine or from the Fund for occupational diseases.

§ 3. If the worker for whom the prevention counsellor-doctor in occupational medicine makes a report pursuant to occupational disease or any other disease of which the origin in the occupation can be shown to comply with the required condition to be considered for the legislation concerning the compensation of

damage due to occupational disease, the prevention counsellor-doctor in occupational medicine informs the worker of this and provides him/her with all the attestations necessary to compile his/her dossier regarding this application for compensation.

Section 10. – Differences of opinion

Art. 96. – Except in the case of an appeal procedure as referred to in Articles 64 to 69, all differences of opinion or all difficulties that can emanate from the provisions of this decree are dealt with by the medical labour inspectors of the Medical Labour Inspectorate.

APPENDIX I

Template of the “Request for health surveillance of workers” referred to in Article 11 of the Royal Decree of 28 May 2003 on the health surveillance of workers

Request for health surveillance of workers

The undersigned employer (surname, first name and address of the employer, natural person or legal form, name and registered office of the undertaking or institution)

.....
requests the prevention counsellor-doctor in occupational medicine to subject
Mr/Mrs (surname, first name of the person to be examined)
born on
and living at
to a health assessment as prescribed by Royal Decree of 28 May 2003 on the health surveillance of workers and to
make that assessment considering the indications below:

Work station or activity(*) that will be executed:
that is currently being executed:

Nature of the health assessment: (*)

1. health assessment before the employment: (°)
 - in a safety function
 - in a function with increased vigilance
 - in an activity with a specific risk: nature of the activity
 - in an activity related to foodstuffs
 - for a person with a disability
 - for a young person employed for the first time
2. assessment of the health before the change of employment (°)
 - in a safety function
 - in a function with increased vigilance
 - in an activity with a specific risk: nature of the activity
 - in an activity related to foodstuffs
3. examination upon work resumption
4. examination within the context of protection of motherhood (°)
pregnant/breastfeeding/female worker or who has given birth
 - who holds a function of which the assessment indicates that it is an activity with a specific risk
(nature:
 - who holds a function of which the assessment indicates forbidden exposure
(nature:
 - who has to perform night work (work timetable:
 - who requests a consultation
 - who is resuming work
5. consultation on own initiative
6. health assessment within the context of a reintegration procedure (permanent occupational disability)
Date and signature of the employer or his/her delegate,
.....

(*) Draw a line through the statements that are not applicable.

(°) Tick the applicable square.

APPENDIX II – 1st part

Template of the “Form for health assessment”

Form for the health assessment referred to in Article 48 of the Royal Decree of 28 May 2003
on the health surveillance of workers

Surname, first name and address of the examined worker:

Surname, first name and address of the employer:

Date of birth:

Proposed or occupied work station (*) as of
 since

Proposed or performed risk activity related to foodstuffs (*) as of
 since

A. If it concerns a preceding health assessment

The undersigned prevention counsellor-doctor in occupational medicine declares that the abovementioned person (°)

- is adequately able to occupy the work station or perform the activity (*)
 is not able (*) permanently (*)
 for a term of (*) for the abovementioned work station or activity
-

B. If it concerns an examination of a worker who is in charge of a safety function or an activity accompanied by a risk of exposure to ionizing radiation (1) (2)

The undersigned prevention counsellor-doctor in occupational medicine declares that the abovementioned person (°)

- is adequately able to occupy the work station or perform the activity (*)
 has a disability (*) permanently (*)
 for a term of (*)
for the abovementioned work station or activity, that it is forbidden to employ him/her at this work station or in this activity (*), or to continue to employ him/her(*) and recommends to employ him/her at a work station or in an activity that meets the recommendations stated in F.
 be put on sick leave
-

C. If it concerns any other examination

The undersigned prevention counsellor-doctor in occupational medicine declares that the abovementioned person (°)

- is adequately able to occupy the work station or perform the activity (*)
 recommends that the abovementioned person be transferred:
 permanently (*)
 to a work station or activity that meets the recommendations stated in F hereinafter
 for a term of (*)
 must be put on sick leave
 has a permanent occupational disability
-

D. If it concerns an examination of a female worker during pregnancy or the breastfeeding period

The undersigned prevention counsellor-doctor in occupational medicine

1° declares that the abovementioned female worker (°)

- is adequately able to do the following:
 - continue her activities
 - continue her activities stated under the conditions stated in 2° for a term of
 - to perform the proposed, new activity for a term of
- is not able to do the following:
 - continue her activities for a term of
 - to perform the proposed, new activity for a term of and must be removed
- must be put on sick leave for another reason

2° makes the following proposals regarding the adjustment of the employment conditions, the adjustment of the risk-related work times, the circumstances under which the work can be executed during the day and the prevention measures to be taken in respect of the female workers during pregnancy and the breastfeeding period.

[E. If it concerns an examination of a young person at work or a trainee:

The undersigned prevention counsellor-doctor in occupational medicine declares that the abovementioned person: (°)

- is adequately able
 - is able to be employed at a work station or in an activity that meets the conditions for employment referred to in F. (*Royal Decree of 4 October 2004*)
-

F. Recommendations and proposals of the prevention counsellor-doctor in occupational medicine regarding the employment terms, the adjustment and prevention measures regarding the work station or activity.

G. Deliberation

Validity term:

- 6 months (*)
- 1 year (*)
- 3 years (*)
- 5 years (*)

Date of the medical examination:

Date card was communicated: to the employer:
 to the worker:

Stamp of the service for prevention and protection at work:

Surname and first name of the prevention counsellor-doctor in occupational medicine:

Signature

(*) Draw a line through the statements that are not applicable.

(°) Tick the applicable square.

On the back: appeal procedure.

(1) Preceding health assessment, periodic health assessment, examination upon work resumption.

(2) If a worker referred to in this item wishes to make use of the deliberation procedure, a new form is drawn up after that procedure has ended. The date on which this form is sent or given by hand applies as the commencement date of the appeal procedure explained in the second part of this Appendix.

APPENDIX II – 2nd part

Excerpt from the Royal Decree of 28 May 2003 on the health surveillance of workers

Art. 64. – Except in the case of the preceding health assessment referred to in Article 27, the worker who has or has not made use of the deliberation procedure referred to in Article 60 can appeal against the decision of the prevention counsellor-doctor in occupational medicine where the capacity relating to the executed work is limited or where s/he is found not to be able to continue carrying out the executed work. For these purposes, s/he uses the form of which the template is included in Appendix II, third part.

Art. 65. – This appeal is validly lodged on condition that it is sent to the authorised medical inspector of labour of the Medical Labour Inspectorate by registered letter within seven working days after the date of dispatch or the date that the form for the health assessment was handed to the worker.

Art. 66. – The medical inspector of labour of the Medical Labour Inspectorate writes a letter to convene a meeting with the prevention counsellor-doctor in occupational medicine and the worker's treating doctor for the appeal procedure, of which s/he determines the date and place, and s/he requests them to bring the relevant documents regarding the worker's state of health. Where applicable, s/he also calls on the worker to be heard and examined.

Art. 67. – The appeal is dealt with, at the latest, within twenty-one working days of the date on which the worker's appeal was received. In the case of suspension of the execution of the worker's employment contract due to sick leave, this term can be extended to thirty-one working days.

Art. 68. - § 1. If a doctor requests an expert examination during the appeal procedure, the term during which to make the decision may not exceed the term of thirty-one days as of the day on which the appeal was heard.

During the definitive session, the three doctors make a decision by a majority of votes.

If the treating doctor indicated by the worker or the prevention counsellor-doctor in occupational medicine is absent and if no agreement can be reached by the doctors present, the medical labour inspector of the Medical Labour Inspectorate makes the decision him/herself.

§ 2. The medical decision is recorded by the medical labour inspector of the Medical Labour Inspectorate in a report that is signed by the doctors present and is kept in the worker's health dossier.

The worker and employer are immediately provided with a copy of the report of the decision by the medical labour inspector of the Medical Labour Inspectorate.

Art. 69. – The appeal suspends the decision of the prevention counsellor-doctor in occupational medicine. This does not apply to the medical examination of a worker with a safety function, a function with increased vigilance, or an activity that entails a risk of exposure to ionizing radiation or a pregnant or breast-feeding female worker who is employed at a work station of which the assessment indicates that this concerns an activity with a specific risk.