

Legal Alert in the field of labour law

7 January 2022

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Testing in the context of the COVID-19 pandemic

On January 5, 2022, the government approved the issuance of an emergency measure by the Ministry of Health, which introduces new rules for testing for the presence of COVID-19 in employees, self-employed persons, and now also in members of legal persons and prisoners, effective January 17, 2022. Testing applies to vaccinated and also to unvaccinated employees. The reason for the reintroduction of testing is the continued dominance of the delta variant and the accelerating rate of spread of the omicron variant.

Frequency of testing

Employers will be required to ensure that their employees are regularly tested in the workplace by performing a rapid antigen test (RAT) designed for self-testing at a frequency of twice a week, with the next test taking place no earlier than the third day after the previous one. If the employee is not present at the workplace on the date of the testing date, testing shall be performed on the day of his/her arrival at the workplace.

Range of persons concerned

Preventive testing is also ordered for self-employed persons and persons who are an organ or member of an organ of a legal person and are not also employees of that legal person. The rules for testing these persons are similar to those for testing employees.

Exemptions from testing

All employees are required to undergo preventive testing with the exception of:

- ▶ employees who, because of the nature of their work, do not meet third parties in their workplace, other than those living in the same household,
- ▶ employees who do not perform work at the workplace;
- ▶ persons who have had a negative PCR test within the last 72 hours;
- ▶ persons who have undergone a negative antigen test within the

last 24 hours by a medical practitioner; and

- ▶ employees who have undergone preventive testing with another employer of which they are employees.

The employee must provide proof of a negative test result to the employer by means of an EU COVID digital certificate, or a certificate issued by a health care provider, or written confirmation from the employer.

Refusal of testing

If an employee refuses to take a preventive test, the employer must notify the local hygiene station. Furthermore, an employee who refuses to take the test shall be ordered to wear a respirator at all times when present in the workplace, to keep at least 1,5 m distance apart from other persons, if this is possible due to the nature of the work, and to eat separately from others.

Registration and notification obligations

The emergency measure also orders employers, self-employed persons and legal entities that provide testing for their members to:

- ▶ keep a record of the tests carried out, including: the date of testing, the names and surnames of the persons who underwent the test on that date, including their date of birth, their insurance number and the name of the health insurance company with which they are insured, and the results of the tests. This record is to be retained for 90 days; and
- ▶ send a list of persons with a positive test result to the locally competent hygiene station in the form of an electronic report, together with the data recorded in the register of tests carried out (see above) and the contact telephone number of the person tested, no later than the day following the test.

Obligations in case of a positive result

In the event of a positive antigen test result, the employee must:

- ▶ notify the employer of a planned absence from the workplace,
- ▶ must then leave the workplace and
- ▶ provide assistance to the hygiene station, which shall order quarantine for a period of five days from the date of the test. Until

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the quarantine is ordered, the employee shall wear a respirator and avoid contact with other people if possible, but no longer than five days from the date of the test..

Termination of quarantine

In the event that persons who test positive for the antigen test subsequently undergo a PCR test with a negative result, the quarantine shall be terminated by the hygienic station.

On the first day that persons are present at the workplace or place of work after the end of the quarantine, they must undergo an antigen test.

The full text of the emergency measure is available [here](#).

Testing allowances of up to CZK 60 per test per employee (the number of tests paid for per month is not yet clear) can be applied for through the COVID-19 self-testing support programme on the website www.samotesty-covid.cz. You can find more detailed conditions for the grant on these pages.

Suspend Antivirus B mode

On 29 December 2021, the Government decided (Government Resolution No. 1208) to suspend the payment of the Mode B Antivirus benefit (it applies to situations where the employer has to limit/close workplace because a significant number of employees are prevented from working due to caring for a family member or quarantined, where there is a reduction in production due to pandemic-related input shortages, or where there is limited demand for the employer's services or products due to a pandemic). Employers are eligible for the December 2021 Scheme B allowance if all the conditions of the scheme are met. Mode A (the contribution towards the payment of wage replacement costs for employees in quarantine and isolation) should continue until 28 February 2022.

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

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