

## COMPENSATION FOR INDUSTRIAL INJURIES AND OCCUPATIONAL DISEASES

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### Abstract

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According to the current legislation in the Labour Code the employer's liability for personal injury resulting from industrial injury or disease is objective, i.e. liability for result. Employer has always an obligation to pay damages if the employer has not liberated himself from no-fault liability. In terms which are explicitly defined by the Labour Code the employer can be relieved from fully liability or in part. The injured party is entitled to compensation for loss of earnings and compensation for pain and diminished social capability, and compensation for reasonably incurred expenses related to medical treatment and compensation for damage.

Additional compensation is provided in the case of an employee's death which occurred due to an industrial injury or occupational disease. This may be compensation for reasonable funeral expenses, reimbursement for dependent survivors, one-off compensation for dependents and damage compensation. Each employer now has to pay compulsory insurance against injury. The new law on accident insurance of employees makes the principle of compensation redundant and establishes the principle of insurance. Employers will pay premiums to the Czech Social Security Administration, who will pay allowances from the accident insurance directly to the injured employees. The aim of the new law on accident insurance of employees is to motivate employees to return to work and curb abuse of the insurance. The law should come into effect on 1st January 2013.

liability for damage, industrial injury, occupational disease, compensation, accident insurance

Employer's liability for damage in the case by industrial injuries and occupational diseases has been regulated from the beginning of the Labour Code as strict liability for result – injury, which the employee suffered under specified conditions at work. This approach was justified in the system of state organizations. With changing social conditions this greatly burdened entrepreneurs with small companies and did not allow workers' compensation in the event of insolvency of the employer or his dissolution. The institute of statutory insurance for damages resulting from employee work injury or disease makes it possible to alleviate the situation, but does not address the very

concept of legal regulation.<sup>1</sup> Major changes should occur in connection with the adoption of the new law on accident insurance.

The aim of this work is to analyze the current legal regulation of employer's liability for damage in the case by occupational diseases and industrial injuries, specify the current compensation for damage, to clarify the legal liability insurance of employer, to draw attention to the principles set out in the new law on accident insurance of employees and to compare the differences in legislation.

The sources for this article are valid laws and legal journals.

1 BĚLINA, M. a kol., *Zákoník práce. komentář*. Praha: C. H. Beck, 2010. s. 931.

## RESULTS

### The concept of industrial injury and occupational disease

#### *Industrial injury*

The term industrial injury is defined in the Labour Code Act No. 262/2006 Coll., industrial injury shall mean damage (harm) to an employee's health, which occurred independently of institution, will, and which was caused by a short-term, sudden and violent impact of extraneous forces. An injury which an employee sustained in connection with performance of institution working tasks shall also be regarded as an industrial injury. An injury which occurred to an employee during institution journey to work and back home shall not be considered as an industrial injury.<sup>2</sup>

The injury is either a sudden impact of external forces (e.g. a load falling on the employee), or caused by institution own physical strength (e.g., falling), or exposure to chemical substances through acid burns. Violation of health, which occurred independently of the will of the victim, may be not only physical but also psychological.<sup>3</sup>

#### *Occupational disease*

Occupational diseases are diseases arising from the adverse effects of chemical, physical, biological or other harmful influences, if they arose under the conditions specified in the list of occupational diseases. Within the meaning of § 380 paragraph 4 of Labour Code occupational diseases shall be diseases which are laid down in other statutory provisions, given in the Government Regulation No. 290/1995 Coll. The procedure for the recognition of occupational diseases and the list of medical devices that recognize these diseases are regulated by Decree No. 342/1997 Coll.

The employer shall be liable to his employee for damage arising from an occupational disease if before its ascertainment the employee was working at the employer's undertaking under the conditions from which the employee's occupational disease arose.<sup>4</sup> In contrast to an industrial injury, this may not be always the employer for whom the employee worked at the time when the occupational disease occurred.

#### *Performance of working tasks and direct connection with it*

A prerequisite for employer liability for damage caused to employees is that the injury arose

in performance the working task or in direct connection with it.

Performance of working tasks means performance of working duties arising from employment relationship and from agreements on work performed outside an employment relationship, and also other activities carried out under the employer's order and activity which concerns a business trip. Performance of working tasks is also activity carried out for the employer at the initiative of the trade union organization, or at the initiative of other employees or at an employee's own initiative, provided that the employee does need any authorization for carrying out such work and provided that he does not carry out it contrary to the employer's explicit prohibition, and further voluntary assistance organized by the employer.<sup>5</sup>

In direct connection with performance of working tasks are acts required for work performance and acts customary in the course of work or acts necessary before the start or work or after its termination, also acts which are common during breaks for meals and rest and which take place in the employer's premises (even if the breaks for meals do not count as working time) However, a journey to and from work, taking meals, other check-ups and medical treatment at a health care facility and journeys there and back (unless these are on the employer's premises) shall not be regarded as acts which are in direct connection with the performance of working tasks.

Training of employees organized by their employer or trade union organization, or by their employer's superior body, aimed at improving the employees' vocational skills (qualifications), shall also be considered as activity being in direct connection with the performance of working tasks.<sup>6</sup>

#### **Employer's liability for damage in the case of industrial injuries and occupational diseases**

Liability of employer for damage in the case of industrial injury or occupational disease is based on the „objective principle“. The basic assumptions that must be met are the existence of an employment industrial injury or occupational disease, damage and a causal relationship between the industrial injury or occupational disease and the damage. The employer is responsible for the resulting damage and employee does not have to prove that the employer was at fault. The basic condition for employer liability is a causal relationship between the accident and the ill health of the employee. For a claim for compensation to arise it is necessary that all three of these prerequisites are met simultaneously.<sup>7</sup>

<sup>2</sup> section 380 of the Labour Code

<sup>3</sup> DANDOVÁ, E., Odškodňování pracovních úrazů. *Právo pro podnikání a zaměstnání*. 2010, 11, s. 13.

<sup>4</sup> section 366(2) of the Labour Code

<sup>5</sup> section 273 of the Labour Code

<sup>6</sup> section 274 of the Labour Code

<sup>7</sup> BĚLINA, M. a kol., *Zákoník práce. Komentář*. Praha: C. H. BECK, 2010, s. 934.

The employees must just prove that the event happened, the damage and the amount and the causal relationship between them. The employer is always responsible, even though no fault can be proved. The employer is obliged to pay damages, even if s/he complied with all obligations arising from legal and other regulations to ensure safety unless these obligations relieve the situation.

The provisions of the Labour Code lists<sup>8</sup> the cases where an employer shall be relieved from his liability fully. It may in cases where the afflicted employee, through institution own fault, violated statutory provisions and other regulations or instructions concerning occupational safety and health. The second case is that the damage resulted due to the drunkenness of the afflicted employee or due to the employee's misuse of addictive substances. The employer may also be partly relieved from his liability for damage. The same reasons are given as for the full exemption, but in the case that they were one of the causes of damage (not the only cause of damage). Another case is the employee who acted carelessly contrary to the normal conduct but where this is not considered as recklessness. Where the employer is partially relieved of his liability, the employer shall determine the amount of damage for which the employee concerned is liable with regard to the degree of his fault. However, in the case of a careless act to the employee, the employer shall settle at least one third of the damage.

### Types of compensation

The Labour Code sets out exhaustively the claims of an employee who suffered an industrial injury or has been diagnosed as having an occupational disease.<sup>9</sup> They are the following:

#### ● A loss of earnings

The compensation for the loss of earnings during the time of incapacity for work is provided in the amount equivalent to the difference between the employee's average earnings prior to the injury or disease and institution earnings after the industrial injury<sup>10</sup> and full amount of sickness benefits paid for the period of incapacity. Compensation is a lump sum, calculated for the whole period of incapacity.<sup>11</sup>

The compensation for the loss of earnings after the end of incapacitation for work or in case of the employee's disability is a partial, recurring claim. The amount is the difference between the average earnings before the injury and earnings achieved by the employee after an industrial injury or occupational disease, plus any disability pension

received for the same reason.<sup>12</sup> This compensation is provided until the end of the calendar month in which the employee reaches 65 years of age or retirement date and receiving a pension.

Due to the fact that the average earnings is calculated at the time of the damage and paid for the entire period of compensation for loss of earnings, the real value of compensation declines. The possibility of increasing the compensation for loss of earnings after incapacity and compensation for survivors is regulated by an empowering provision<sup>13</sup> under which the government regulation valorizes the average earnings, which determines the calculation of compensation in connection with the increase of wages.

#### ● Compensation for pain and for weakened social capability

The Labour Code has provision for compensation for pain and lesser employability only as a lump sum.<sup>14</sup> Details are regulated in Decree No 440/2001 Coll. – compensation for pain and lower employability. The amount of compensation depends on a medical evaluation. Usually in the doctor's report an amount of points is given according the table which is attached to the decree. The value of one point is 120 CZK. In particularly exceptional cases deserving special consideration, the court may increase compensation above the set ceiling. The total amount of compensation has no upper limit.

#### ● Costs incurred related to medical treatment

These are the costs incurred by the injured employee in excess of free medical treatment. These include the increased cost of medicines, medical devices which are not covered by health insurance and are necessary for recovery. There may be a cost for a nurse, costs of travel due to the injured person going to hospital, physiotherapy costs, or even increased cost of meals associated with a special diet etc.

#### ● Compensation for material damage

This is the damage which happened to the employees' personal possessions such as damage to clothing, footwear, luggage, as well as vehicles used with the consent of the employer for a business trip. This can also include damages included in the cost of housekeeping which arise due to the fact that the victim is unable to take care of institution home without help. In determining the amount of damage to property the price of things at the time of injury is considered as well as their condition.

8 section 367 of the Labour Code

9 section 369 of the Labour Code

10 section 192 of the Labour Code

11 DANDOVÁ, E., Odškodňování pracovních úrazů. *Právo pro podnikání a zaměstnání*. 2010, 11. ISSN 1801-6014. s. 4

12 section 39 of the Act on Pension Insurance, No. 155/1995 Coll.

13 section 390(2) of the Labour Code

14 section 372 of the Labour Code

### ***Types of compensations due to an employee's death***

In the case that the employee dies as a consequence of an industrial injury or an occupational disease, the employer must provide, within the extent of institution liability, the following additional compensation<sup>15</sup>:

- **compensation connected with the employee's funeral**

Compensation is granted to those who have incurred cemetery charges, cemetery fee, the cost of a tombstone, travel expenses. These are:

- **compensation for survivors' maintenance**

This compensation is for those survivors for whom the deceased provided, or was under duty to provide for. For one person it is about 50% (with more than one person is 80%) of the employee's average earnings prior to institution death. From these amounts are deducted a pension awarded to the survivors. Any income of the survivors is not taken into account.

- **lump-sum indemnification to the survivors**

Indemnification in the form of a lump sum shall be owed to the deceased employee's spouse or dependent child<sup>16</sup> where each of them will be paid CZK 240,000. If the deceased employee's parents lived with the deceased in one household they shall be paid in total the same amount.

### **The employer's duties relating to industrial injuries and occupational diseases**

The employer with whom the employee is in employment at the time of injury is responsible for institution work injury. The employer shall investigate the causes and circumstances of the injury, with the participation of the employee and shall take measures to prevent any recurrence of industrial injuries.<sup>17</sup>

The employer shall keep a book of injuries in which all injuries will be entered, including those which did not cause any temporary incapacity for work or which caused temporary incapacity for work not exceeding three days. The employer shall draw up records of industrial injuries and keep documentation on all industrial injuries which resulted in an employee's injury due to which the employee was on sick leave for a period longer than three days or an employee's death.

The employer shall keep records of all employees whose disease has been recognized as an occupational disease having originated at the employer's workplace and apply such measures to eliminate or minimize those risky factors from which the danger of occupational diseases originates or from which a particular occupational disease arises.

The employer is obliged to record an industrial injury, and send a record of such injury to the competent agencies and institutions. The Government regulated in Decree No. 201/2010 Coll. the manner of keepings records, reporting and sending a record of an industrial injury and the list of agencies (bodies) and institutions to which and industrial injury is to be reported and to which a record of and industrial injury must be sent.

In the event of a labour dispute a record of the industrial injury is an important document. It is important that it includes information that corresponds to the actual events of the industrial injury. The record of injury primarily includes the circumstances under which the industrial injury occurred. It must be clear whether the employer complied with all obligations in the area of occupational safety and health at work. It must include all the facts that are relevant in assessing the conditions for the employer's liability for damage.

### **Employer compulsory insurance for liability for damage caused due to industrial injury and occupational diseases**

The purpose of legal insurance is to provide compensation for industrial injuries and occupational diseases, even in the case of the employer's death without a legal successor, or in case of insolvency of the employer to pay damages. The basic function is to protect victims, who should receive compensation under all circumstances.

As the only legal liability insurance in our legal system, it is set up without signed insurance contracts. It begins on the date of the first employment relationship with the employer and continues throughout the lifetime of the employer. The existence of insurance does not affect any non-payment of premiums by the employer.

Any employer who employs at least one employee must be insured against their liability for industrial injuries or occupational disease. Statutory insurance applies only to cases of industrial injuries and diseases that occurred after 1st January 1993 and does not apply to the structural components of the state.<sup>18</sup>

Insurance covers all employers, both legal and natural persons, domestic and foreign entities employing individuals in the Czech Republic according the Labour Code. Entities implementing this insurance are the Česká pojišťovna, a. s., where the employers are insured who had their insurance with them on 31. 12. 1992. Other employers are insured by Kooperativa pojišťovna, a. s. Although these commercial insurance companies are selected, insurance is not profitable, since any excess thereof

<sup>15</sup> section 375 of the Labour Code

<sup>16</sup> by course of the Act on the State Social Support, No. 117/1995 Coll.

<sup>17</sup> section 105 of the Labour Code

<sup>18</sup> section 205(d) of the Labour Code No. 65/1965 Coll., effective



shall be drafted into the state budget by 30<sup>th</sup> June of the current year. However, if property damage arises, the insurance company must be reimbursed from the state budget by the same date.

The employer is obliged to pay the premium which is calculated on a basis that is same as the assessment basis for health insurance. The basis for calculating the premium is the sum of assessed base over the past quarter of a year of all employees who were employed in that period. To calculate the premium the employer uses a rate which is appropriate according to the prevailing activity in the basic course of business of the employer. The premium rate is from 2.8 % to 50.4 % from the assessed base. They are graded according to the degree of danger of working activity.<sup>19</sup>

Penalties for failure to pay accident insurance premiums are high, 10% of the amount due for each month. In the case of short-term contracts for a specific time insurance is not paid.<sup>20</sup>

If the agreed sum for damages is given to the insurance company by the employer, s/he has the right to pay the damages to the employee under certain given conditions. In some cases the insurance company has the right to ask the employer for reimbursement up to indemnification. This is in cases where a serious breach of duty by the employer resulted in the damage occurred. If the employer should die and the rights and obligations do not switch through legal relations to another employer, the injured employee (survivor) has the right to directly from the insurance company to be compensated to the same extent which the employer was obliged to pay.

Liability for industrial injuries and occupational diseases is regulated by statutory insurance from the first January 1993 until the new legislation on accident insurance of employees takes effect.

### **The new act on accident insurance of employees<sup>21</sup>**

Removal of the shortcomings of current legislation which regulate the compulsory insurance was possible to allow by free competition of all insurance companies operating on the Czech insurance market (demonopolization) or establishing a separate public accidents insurance company<sup>22</sup>, where the insurance would be provided through a State legal entity. The government, however, decided to create separate accident insurance as part of social insurance. Accident insurance of employees is defined as social insurance in cases of injury to employees in an industrial injury or occupational disease.

The handling of insurance is being given to the holders of the existing social security system (health and pension insurance), namely the Czech Social Security Administration and the district social security administrations<sup>23</sup>. In insurance are involved all individuals who are in employment relationships, and new employees of government departments and civil servants in service under the Civil Service Act. It does not apply to professional soldiers and members of security forces, who will be compensated according to special regulations.

Accident insurance begins on the day when the employee started to work and ends on the date of termination of employment. The new law defines more precisely the concept of an industrial injury. And also there is a new definition of occupational disease. The list of occupational diseases is given in Annex 1 of the new law. For the purposes of application the law defines the concepts of pain and lower employability, which is not defined in any other legislation.

### **Types of pecuniary social benefits**

#### ***Injury allowance***

This lump-sum payment is similar to compensation for loss of earnings during the period of incapacity. It is due to the employee from the first day of temporary incapacity to its termination. Injury allowance compensates for wages or salary and sickness benefit. The amount of injury allowance for compensation of wages or salary shall be determined as the difference between the sum of daily calculated income for the provisional calendar days of sick leave and wage compensation for the period in which the employee is entitled be paid wages. The daily amount of injury allowance is calculated as the difference between the daily accounting base and the full daily amount of sickness benefit. As an accounting basis for calculation is taken daily assessed base of the staff set for sickness insurance before the onset of injury reduced by 23% (calculated daily income).

#### ***Injury settlement***

This lump sum benefit is given in case of the extent of damage being between 10% and a maximum of 33%. It is awarded on the basis of assessing the extent of injury from the date of injury. The amount is determined as a percentage of the extent of injury multiplied 24 times by the monthly basic earnings. The calculated base means calculated income of employee for thirty days (calculated monthly basis).

19 annex to the Decree No. 125/1993 Coll.

20 MIKYŠKA, M., *Odškodňování pracovních úrazů a nemocí z povolání*. Olomouc: ANAG, 2010. ISBN 978-80-7263-569-6 s. 327

21 Act No. 266/2006 Coll., on Accident Insurance of Employees

22 KOUDA, J., RYŠKOVÁ, S.: Horký úrazový zákon. *Ekonom* 2006, 2, s. 59-61. ISSN 1210-0714 s. 59

23 Důvodová zpráva k vládnímu návrhu zákona o úrazovém pojištění zaměstnanců č. 1156 k zákonu č. 266/2006 Sb., s. 116

### ***Injury annuity***

Entitlement to the injury annuity arises if the rate of long-term harm is at least 33%. Mostly it occurs right after a temporary inability to work and is paid for a maximum of 65 years or until institution retirement. This benefit is graded according to the limitation of work and life-relevant functions and is valorized in the same way as pensions.

### ***Compensation for pain***

Pain means physical and mental suffering caused by impairment of health by industrial injury or occupational disease. Suffering compensation is awarded on the basis of medical opinion, in which the physician will determine the number of points, which is then multiplied by the value of one point, i.e. CZK 120. This value can be increased. This is a lump sum benefit.

### ***Contribution for lesser employability***

Lower employability means the negative impact of damage to health from an industrial injury or occupational disease and its consequences, which are constant for the social capability of the employee, particularly in meeting their life, work, educational and social needs. This lump sum can be applied repeatedly.

### ***Compensation for costs related to medical treatment***

This is purposefully incurred costs which are not covered by public health insurance. For example payment for medicines, medical devices, spa treatment, a special diet, etc. It is paid as a lump sum.

### ***Compensation for funeral expenses***

Compensation for funeral expenses is paid as a lump sum to the person who incurred the costs (who paid for the funeral) after deduction of the death benefit and the maximum of this compensation is 10 times the death benefit.

### ***Lump – sum compensation for remaining relatives***

A remaining spouse or dependent child is entitled to this compensation. If there is not such person, then the parents of employees are entitled to it. Compensation is 240,000.CZK per person.

### ***Injury payments for a remaining relative***

Injury payments for remaining relatives are for these surviving (usually a spouse, children) whom the deceased employee was maintaining. The purpose is to maintain the standard of living of the survivors as it was before the death of an employee. The amount of money is up to 40% of the monthly income of employees. This rent is valorized. It is paid monthly.

### ***Physiotherapy in accident insurance***

This is a brand new optional benefit, which aims to restore the quality of life of employees and return him/her to work. However, it is not a substitute for medical physiotherapy in the public health insurance.

### ***Prevention***

Prevention in accident insurance has been newly instituted in this insurance. The insurance authority will be aimed at preventive measures in activities that are not possible to be done by individual employers. This entails information on the prevention of damage in various forms such as education and training, publications, exhibitions and conferences. Measures for prevention will be assigned by the Czech Social Security Administration to specific projects, aimed at improving safety and health at work.

### ***Premiums***

Premiums are paid by employers and are paid to the state budget. The employer is the only one who pays the insurance premium. Institution obligation is to pay the premiums and submit the insurance institution with an overview of the assessment base of employees.<sup>24</sup> The assessment base for calculating premiums is determined entirely consistently with the employee's income for social security. Payment of premiums and penalties are governed by the same manner as is the case for social insurance. A new element in insurance is the system of premium increases and discounts on insurance premiums, which work as an economic tool for motivating employers to improve the safety and health at work. Due to a high or serious injury rate of insurance the authority may apply an additional motivational tool, surcharges because of the poor state of work safety for the employer.

Entitlements to the above benefits apply to an employee or beneficiary on the form prescribed by the District Social Security Administration, which may be in electronic form. The assessment of injury is based on notification by the employer of an industrial injury or occupational disease and the health condition documented by results of medical examinations.

The competent insurance authority shall have the right of recourse against the person who caused an injury to an employee, and also against employers who illegally operated a business which resulted in injury. Regressive income is awarded to the state budget. The Act provides for proceedings relating to payments, and finally deals with the rights and obligations of workers and employers. General courts decide disputes between the employee and the employer in cases of injury and causes of health damage and reasons for liberation.

<sup>24</sup> Rates of premiums are determined in annex of the Act No. 266/2006 Coll.

## DISCUSSION

The system of commercial system of employer liability for industrial injuries and occupational disease worked quite well, its balance is in surplus. It would be enough just to meet the stipulation of the European Commission and to demonopolize the insurance. But there is no one to pay obligations incurred in the period before the introduction of compulsory statutory insurance of employers, because insurance companies do not form technical provision and they are unwilling to meet the old requirements from their own resources. Establishing a separate accident and insurance company, as a public institution would probably take too long. Therefore, the Czech Social Security Administration was eventually entrusted with the compulsory accident insurance, which also carries other kinds of social insurance. Hopefully it will be managed with fewer insurance costs, since they have already trained staff and are also taking from the current two commercial insurance companies all obligations arising from the remaining insurance and finance will be in continuous mode, i.e. without reserve. It will reduce the burden on employers' agendas, because employers will no longer determine the amount of compensation and make their payment, they will provide assistance only to the district administrations of social security which will pay the benefits.

It is logical that a change in insurance benefits, and the handover of its management to the Czech Social Security Administration sparked large protests by commercial insurers, who claim that social benefits will be lower, which would harm people who should be paid benefits. Insurance benefits will be calculated according to different principle than before, but on average should remain the same. The

Act establishes principles for determining equitable compensation that is not based on income, but according to the severity of injury.

## CONCLUSION

The current concept of employer liability for damage caused by industrial injury and occupational diseases is characterized by reparative function. Its purpose is to fully pay the workers' compensation. The purpose of the regulation in the Labour Code is only to guarantee the injured employee adequate financial compensation, not to facilitate institution return to work.

The transition to the concept of accident insurance for employees leaves behind the existing Labour Code of strict employer liability. Single payments, which may be allocated under the new law on accident insurance of employees, roughly correspond to the demands recognized in similar circumstances to the injured employee under the Labour Code. But they will not cover 100% of the damage because they will not refer to the damage any longer. They will only provide partial compensation to mitigate the impact of social events. The question remains whether the situation of victims compared to the current situation will be worse. I believe that employees will be paid a lower payment, particularly in cases where the injury is not too serious. The amount of the surcharge is actually adjusted to the net income. The method of assessing percentages of injury will be determined only by implementing the legislation. The new element is the introduction of post-traumatic rehabilitation, but adequate rehabilitation facilities have not yet been built up. To what extent the new act will be able to be fulfilled has yet to be seen.

## SUMMARY

The current system of compensation for industrial injuries and occupational diseases is focused mainly on the earnings of the injured employee. The amount of compensation corresponds to the average employee's earnings and does not take into consideration the damage to the employee. The current system of statutory insurance of the employer does not aim to improve prevention and to contribute to rehabilitation. It does not allow insurance companies to deal with the prevention of industrial injuries and occupational diseases and to finance them with a proportion of premiums collected.

The new Act on Accident Insurance of employees includes a new insurance regulation for employee insurance due to industrial injuries and occupational diseases. It constitutes a fundamental paradigm shift that transfers the responsibility for the implementation of accident insurance to the state. It changes the nature of insurance, and introduces elements that are commonly found in the system of accident insurance in most European countries.

The biggest breakthrough in the current system of compensation in the form of damages is its replacement with the system of allowances. This change is not a radical difference between the amount of past compensation and accident insurance benefits, but allows an objective amount of benefits. The allowance system is designed to include incentives to motivate employees to go back to work.

It leaves behind the current system of compensation for industrial injuries and occupational diseases, repealing the strict liability of employers for damages in these cases. The introduced allowance system maintains the current situation where an employee does not have to prove the fault of the employer. Any disputes will apply to the facts, whether the injury is an industrial injury, the causal relations and determination of impairment scope of health damage. An employee's position does not worsen, because in the same way as before he does not bear the burden of proof, and I believe that the legal certainty of entitlement to benefits will increase.

The aim of the act, in particular, is for repeated allowances to encourage employees to return to work and limit the abuse of insurance. The Act strengthens the legal certainty for employees and their employers, and creates long-term financial stability of insurance with reasonable conditions.

The current liability regime for damage to health resulting from industrial injury or occupational disease will be removed from the Labour Code and the replacement of the accident insurance of employees; will come into effect on 1<sup>st</sup> January 2013.

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- Důvodová zpráva k vládnímu návrhu zákona o úrazovém pojištění zaměstnanců č. 1156 k zákonu č. 256/2006 Sb.
- Zákon č. 262/2006 Sb., zákoník práce.
- Zákon č. 266/2006 Sb., o úrazovém pojištění zaměstnanců.
- Vyhl. č. 125/1993 Sb., kterou se stanoví podmínky a sazby zákonného pojištění odpovědnosti zaměstnavatele za škodu při pracovním úrazu nebo nemoci z povolání.
- Vyhl. č. 440/2001 Sb., o odškodnění bolestného a ztížení společenského uplatnění.
- Nař. vl. č. 290/1995 Sb., které stanoví seznam nemocí z povolání.
- Nař. vl. č. 201/2010 Sb., o způsobu evidence úrazu, hlášení a zasílání záznamů o úrazu.

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