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On the application of the Decree of the Government of the Russian Federation No. 1206 dated July 05, 2022 "On the procedure for investigating and recording cases of occupational diseases"

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Currently, the Decree of the Government of the Russian Federation No. 967, December 15, 2000 "On approval of the Regulations on the Investigation and accounting of occupational diseases" has been in force on the territory of the Russian Federation for more than 20 years.

At the same time, the Government of the Russian Federation has prepared Resolution No. 1206 dated July 05, 2022 "On the Procedure for Investigating and Recording cases of Occupational Diseases of Employees" (hereinafter referred to as the Resolution), which will enter into force on March 1, 2023, and will be valid until March 1, 2029.

The Resolution approved the Rules for the Investigation and Accounting of Cases of Occupational Diseases of Employees (hereinafter — the Rules).

In accordance with the Rules, an investigation and accounting are carried out in relation to an occupational disease (poisoning) that occurred in an employee as a result of:

- a single (within no more than one working day, one working shift) exposure to a harmful production factor (factors) that caused a temporary or permanent professional disability and(or) his death (hereinafter referred to as acute occupational disease);
- or as a result of prolonged exposure to an employee of a harmful production factor (factors) that caused temporary or permanent disability and(or) his death (hereinafter referred to as chronic occupational disease), while performing his work duties or performing any work on behalf of the employer (his representative), as well as in the implementation of other lawful actions due to labor relations with the employer.

The Resolution states that the definitions of "medical organization" and "body of state sanitary and epidemiological control (supervision)" are established in accordance with paragraph 11, Part 1, Article 2 of Federal Law No. 323-FZ of November 21, 2011 "On the basics of protecting the health of citizens in the Russian Federation" and paragraph 2, Article 46 of the Federal Law from March 30, 1999, No. 52-FZ "On the sanitary and epidemiological welfare of the population", respectively.

Furthermore, the Resolution specifies the list of documents, the procedure for sending them and the deadlines for investigating and accounting for cases of occupational diseases of employees when establishing a preliminary diagnosis of an acute or chronic occupational disease to an employee.

The resolution defines the center of professional pathology as a specialized medical organization or a specialized structural subdivision of a medical organization in the field of professional pathology.

When establishing a preliminary diagnosis for an employee (an acute occupational disease) a medical organization is obliged to send a notification within a day about the specified preliminary diagnosis to the state sanitary and epidemiological control (supervision) bodies

in accordance with their competence at the location of the facility where the employee performed the work and to the employer in the form approved by the Ministry of Health of Russia.

The employer sends the information necessary to compile the sanitary and hygienic characteristics of the employee's working conditions to the state sanitary and epidemiological control (supervision) body within 24 hours from the day following the day of receiving the notification of the preliminary diagnosis to the employee (an acute occupational disease).

The state sanitary and epidemiological control (supervision) body, within 24 hours from the date of receipt of the notification of the establishment of a preliminary diagnosis to an employee — acute occupational disease, proceeds to clarify the circumstances and causes of the disease by conducting the necessary examinations at the workplace, laboratory-instrumental and other hygienic studies, interviewing the victim, witnesses and sending requests for the necessary information from the employer.

The state sanitary and epidemiological control (supervision) body, based on the data received, within 2 weeks from the date of receiving the notification with a preliminary diagnosis (acute occupational disease), in order to investigate the occupational disease of the employee, draws up a sanitary and hygienic characteristic of the working conditions of the employee and sends it to the medical organization that sent the notification of receiving the notification with a preliminary diagnosis.

Within a week from the date of receiving the sanitary and hygienic characteristics of the working conditions the medical organization sends the documents specified in subparagraphs "a" and "б — а" of paragraph 10 of the Rules to the center of occupational pathology for examining the connection of the disease with the profession.

For examining the connection of an acute occupational disease with a profession, an employee is sent to the center of occupational pathology by a medical organization that has established a preliminary diagnosis — an acute occupational disease, immediately after providing specialized medical care to the employee with a referral.

Sanitary and hygienic characteristics of working conditions are compiled in accordance with the established requirements in the form and in the manner approved by the Federal Service for Supervision of Consumer Rights Protection and Human Well-Being, taking into account the opinion of the Russian Tripartite Commission for the Regulation of Social and Labor Relations.

When compiling sanitary and hygienic characteristics of working conditions, the results of a special assessment of working conditions, the results of production control, as well as data from medical examinations of employees are taken into account.

When it is confirmed that an employee carried out professional activities in harmful and dangerous working conditions at previous workplaces, the contribution of

these periods of work to the occurrence of occupational disease, namely information about the health status of the employee during his work earlier in harmful and dangerous working conditions, is reflected in the sanitary and hygienic characteristics of working conditions. The methodology for assessing the contribution of periods of work in harmful and dangerous working conditions at previous workplaces is established by the Ministry of Health of the Russian Federation.

When making a preliminary diagnosis (a chronic occupational disease), medical organization sends the notification of the specified preliminary diagnosis the within 3 working days from the date of the making this preliminary diagnosis to the state sanitary and epidemiological control (supervision) body and the employer in the form approved by the Ministry of Health of the Russian Federation.

The employer sends the information necessary for drawing up the sanitary and hygienic characteristics of working conditions, provided in accordance with the form and procedure for drawing up the sanitary and hygienic characteristics of the employee's working conditions, to the state sanitary and epidemiological control (supervision) body within 7 working days from the day following the day of receipt of the notification of the establishment of a preliminary diagnosis to the employee — chronic occupational disease.

The state sanitary and epidemiological control (supervision) body, within 2 weeks from the date of receipt of the notification of the establishment of a preliminary diagnosis to the employee (a chronic occupational disease), submits to the medical organization that sent the notification of the establishment of the specified preliminary diagnosis to the employee, a sanitary and hygienic characteristic of the employee's working conditions.

A medical organization that has established a preliminary diagnosis of a chronic occupational disease, within a month from the date of receipt of the sanitary and hygienic characteristics of the employee's working conditions, is obliged to send the employee to the center of occupational pathology to conduct an examination of the connection of the disease with the profession, as well as to provide (if there are indications) medical care with the submission, together with the direction of the following documents:

- a) an extract from the medical record of a patient receiving medical care on an outpatient basis and (or) the medical record of an inpatient patient;
- b) information about the results of preliminary (when applying for a job) and periodic medical examinations;
- c) sanitary and hygienic characteristics of working conditions, as well as objections to it (if any);
- d) a copy of the employment record and (or) information on employment provided for in Article 661 of the Labor Code of the Russian Federation;
- e) epidemiological examination card (in case of infection with an infectious or parasitic disease while performing professional duties);
- f) copies of the protocols of laboratory tests performed during the implementation of production control at the workplace of the employee (if available to the employer).

The Center of Professional Pathology conducts an examination of the connection of the disease with the profession. Based on the results of the examination, the center for occupational pathology establishes a final diagnosis — an acute occupational disease or a chronic occupational disease

(which arose, including a long time after the termination of work in contact with harmful substances or production factors), draws up a medical report on the presence or absence of an occupational disease in 4 copies and within 3 working days from the date preparation of a medical report sends a notification of the establishment of a final diagnosis (acute occupational disease or chronic occupational disease), its clarification or cancellation to the body of state sanitary and epidemiological control (supervision), to the employer, to the medical organization that sent the employee, and to the Social Insurance Fund of the Russian Federation (hereinafter referred to as the insurer). One copy of the notification of the final diagnosis is stored in the medical documentation of the employee at the center for occupational pathology in accordance with the legislation on archival affairs of the Russian Federation.

The medical report within 3 working days from the date of drawing up the medical report is issued by the center of professional pathology to the employee on receipt, sent to the insurer and to the medical organization that sent the employee. One (fourth) copy of the medical report is stored in the employee's medical documentation at the center for Occupational Pathology in accordance with the legislation on archival affairs of the Russian Federation.

The established final diagnosis — acute occupational disease or chronic occupational disease can be changed or canceled by the center of occupational pathology on the basis of the results of additional studies and re-examination at the initiative of the employee, the employer (their representatives), as well as medical organizations.

In order to change or cancel the established diagnosis — acute occupational disease or chronic occupational disease, an employee, employer, medical organization (their legal representatives) may apply to the center for occupational pathology with an application for examination of the connection of the disease with the profession in a free form with the attachment of documents. The employee's application must also contain his consent to request the documentation necessary for the examination of the connection of the disease with the profession.

Based on the application (if the application is submitted to the center of professional pathology, which has not previously conducted an examination of the connection of the disease with the profession of a particular employee), the center of professional pathology, if necessary, requests copies of the documents specified in paragraphs 5, 10 and 11 of the Rules from the center of professional pathology that issued the medical report.

Consideration of particularly complex cases of occupational diseases is assigned to the center of occupational Pathology, determined by the Ministry of Health of the Russian Federation.

The notification of the final diagnosis in case of a change or cancellation of the diagnosis of an occupational disease is sent by the center of occupational pathology to the state sanitary and epidemiological control (supervision) body, the employer, the insurer and the center of occupational pathology, which established the final diagnosis of an occupational disease, within 7 working days after the decision to change or cancel the diagnosis of an occupational disease. One copy of the notification of the change or cancellation of the diagnosis of an occupational disease is stored in the medical documentation of an employee at the center for occupational pathology in accordance

with the legislation on archival affairs in the Russian Federation.

In case of cancellation of the medical report on the presence (absence) of an occupational disease, the act on the case of an occupational disease is recognized by the state sanitary and epidemiological control (supervision) body as invalid on the basis of the notification received on the cancellation of the diagnosis of an occupational disease.

The employer, within 10 working days from the date of receipt of the notification of the final diagnosis, forms a commission headed by the head (deputy head) of the state sanitary and epidemiological control (supervision) body.

The commission consists of a representative of the employer, a labor protection specialist or a person appointed by the employer responsible for organizing work on labor protection, a representative of the center for occupational pathology who established the final diagnosis — acute occupational disease or chronic occupational disease, a representative of the elected body of the primary trade union organization or other representative body authorized by employees (if any) and the insurer (by agreement). The commission also includes, with their consent, representatives of employers at the former places of work of the employee in harmful and dangerous working conditions, whose contribution to the occurrence of occupational disease is reflected in the sanitary and hygienic characteristics of working conditions.

Other specialists may take part in the investigation, and the number of commission members should be odd.

A member of the commission (including the chairman of the commission) must be replaced by the organization (body) that sent this member of the commission to participate in the investigation, within a period not exceeding 3 working days after the decision to replace this member of the commission, including at the suggestion of the chairman of the commission, in the following cases:

- a) evasion without valid reasons from participation in the work of the commission upon confirmation of proper informing of the commission member about the work of the commission;
- b) inability to perform their duties due to temporary disability or death;
- c) dismissal (dismissal from office).

Documents confirming the replacement of a member of the commission (including the chairman of the commission), indicating the reason for the decision, are attached to the investigation materials.

The Commission is obliged to complete the investigation within 30 working days from the date of its creation.

The employer is obliged to ensure the working conditions of the commission and the completion of the investigation within the time period established by these Rules.

An occupational disease that has arisen in an employee sent to work for another employer is investigated by a commission formed in the organization where the specified case of occupational disease occurred. The commission includes a representative of the employer who sent the employee. The non-arrival or untimely arrival of the said authorized representative is not a reason for changing the terms of the investigation.

An occupational disease that has arisen in an employee while performing part-time work is investigated and taken into account at the place where the part-time work was performed.

The investigation of employees who, at the time of the investigation, do not have contact with a harmful production factor that caused an occupational disease, including non-workers, is carried out at the place of previous work with a harmful production factor that caused this occupational disease. If the employer has been liquidated (ceased operations) by the time of the investigation, the organization of the investigation is carried out by the state sanitary and epidemiological control (supervision) body that carries out the appropriate control (supervision).

In the course of the investigation, the commission interviews persons who worked with the employee and other persons, and also receives the necessary information from the employer and the sick employee.

The results of the employee's explanations, interviews of persons who worked with him, and other persons are drawn up in the form of a protocol.

To decide on the results of the investigation, a list of documents is submitted, including:

- medical report;
- notification of the final diagnosis;
- medical reports based on the results of mandatory preliminary and periodic medical examinations;
- other materials at the discretion of the commission, including an extract from the medical record of a patient receiving medical care on an outpatient basis, in the medical organization to which he is attached for medical care.

Documents may also be submitted in the form of an electronic document in accordance with the legislation of the Russian Federation.

The Commission also has the right to request laboratory-instrumental and hygienic studies.

If necessary, when working with archival documents and materials, as well as when conducting laboratory, instrumental and hygienic studies, the investigation period may be extended, but not more than 30 working days.

If the commission finds that the gross negligence of the employee contributed to the occurrence or increase of harm caused to his health, taking into account the reasoned opinion of the elected body of the primary trade union organization or other representative body authorized by the employees (conclusion), the commission determines the degree of the employee's guilt (in percent).

If during the clarifying of the circumstances and causes of the disease, it is proved that the employee carried out professional activities in harmful and dangerous working conditions at previous places of work, the commission determines the contribution of these periods of work to the occurrence of occupational disease (as a percentage).

Meetings of the commission can be held both in person and with the use of means of remote interaction. Following the results of the meeting, a protocol is drawn up, which is signed by the chairman of the commission and attached to the investigation materials.

Based on the results of the investigation, the commission draws up an act, which is signed by the members of the commission and approved by its chairman.

In case of disagreements that have arisen between the members of the commission (including the chairman of the commission) during the investigation, the decision is made by a majority vote of the members of the commission (including the chairman of the commission) with the registration in any form of the minutes of the commission meeting, which is

attached to the investigation materials. At the same time, members of the commission, including the chairman of the commission, who disagree with the decision taken, sign an act (minutes of the commission meeting if the act is not drawn up) with a statement of their reasoned dissenting opinion, which is attached to the investigation materials.

If a member of the commission, including the chairman of the commission, refuses to sign or approve the documents required for the investigation, the commission shall draw up and sign the minutes of the commission meeting in any form, indicating the reason for the refusal of the commission member, including the chairman of the commission, from signing or approving the relevant documents. A copy of the protocol is sent by the chairman of the commission to the organization (body) whose representative is the person participating in the work of the commission.

If the commission came to the conclusion that the employee's illness is not related to the impact of a harmful production factor (factors) at the workplace, and(or) was received by the employee not in the performance of labor duties under the profession (position) defined by the terms of the employment contract, in this case, the act is not drawn up, but the relevant minutes of the commission meeting are drawn up according to the form established by the Ministry of Health of the Russian Federation, a copy of which is sent by the chairman of the commission to the organizations (bodies) whose representatives participated in the work of the commission.

The persons taking part in the investigation bear the responsibility provided for by the legislation of the Russian Federation for the disclosure of confidential information, personal data concerning the state of health obtained as a result of the investigation.

The employer is obliged to issue an organizational and administrative document on specific measures to prevent occupational diseases on the basis of this act within a month from the date of drawing up the act by the commission.

The act is a document confirming the professional nature of the disease that has arisen in an employee as a result of exposure to a harmful production factor (factors) at his workplace.

The report is drawn up within 3 working days after the expiration of the investigation period in 5 copies intended for the employee, the employer, the state sanitary and epidemiological control (supervision) body, the center for occupational pathology and the insurer.

A copy of the conclusion of the elected body of the primary trade union organization or other representative body authorized by employees on the degree of guilt of the employee when establishing the fact of gross negligence is attached to the act.

In the case of establishing the contribution of professional activity in harmful and dangerous working conditions for previous places of work to the occurrence of occupational disease, the percentage of the contribution of these places of work to the occurrence of occupational disease is indicated in the act.

The act, together with the investigation materials, is stored in the state sanitary and epidemiological control (supervision) body and at the employer in accordance with the legislation on archival affairs in the Russian Federation.

Disagreements on the issues of establishing the diagnosis of an occupational disease and its investigation

can be considered in a pre-trial procedure or appealed in court.

In a pre-trial procedure, disagreements may be considered within the competence in accordance with the powers established by the legislation of the Russian Federation on the basis of statements by an employee, an employer, a state sanitary and epidemiological control (supervision) body and an insurer:

- a) by a state sanitary and epidemiological control (supervision) body;
- b) the center of professional pathology provided for by paragraph four of paragraph 13 of these Rules - the center of professional pathology determined by the Ministry of Health of the Russian Federation;
- c) by the federal labor inspectorate;
- d) the insurer.

Disagreements are considered by the authorities within a period not exceeding 30 calendar days.

Information interaction in order to investigate and record cases of occupational diseases of employees can be carried out in electronic form in accordance with the legislation of the Russian Federation.

The publication of the Decree of the Government of the Russian Federation No. 1206 dated July 05, 2022 "On the procedure for investigating and accounting for cases of occupational diseases of employees" will require the development of a methodology for assessing the contribution of periods of work in harmful and dangerous working conditions at previous places of work, as well as updating the following regulatory legal acts:

- Order of the Ministry of Health of the Russian Federation No. 29n dated January 28, 2021 "On Approval of the Procedure for Mandatory Preliminary and Periodic Medical Examinations of Employees Provided for in Part Four of Article 213 of the Labor Code of the Russian Federation, the List of Medical Contraindications to Work with Harmful and(or) Dangerous Production Factors, as well as Work in which mandatory Preliminary and periodic medical examinations";
- Order of the Ministry of Health of the Russian Federation No. 282n dated May 05, 2016 "On Approval of the Procedure for conducting an examination of professional suitability and the form of a medical opinion on the suitability or unfitness to perform certain types of work";
- Order of the Ministry of Health of the Russian Federation No. 36n dated January 31, 2019 "On approval of the Procedure for conducting an examination of the connection of the disease with the profession and the form of a medical opinion on the presence or absence of an occupational disease";
- Order of the Ministry of Health of the Russian Federation No. 911n dated November 13, 2012 "On approval of the procedure for providing medical care for acute and chronic occupational diseases";
- Order of the Ministry of Health of the Russian Federation No. 176 dated May 28, 2001 "On improving the system of investigation and accounting of occupational diseases in the Russian Federation";
- Order of the Ministry of Health of the Russian Federation No. 417n dated April 27, 2012 "On approval of the list of occupational diseases".