

New legislation on occupational redeployment

An act of 24 July 2020 has modified the internal and external redeployment system as had been reformed in January 2016. Adjustments were actually needed because of excessively strict rules and problems with applying them in practice. The purpose of this act is to improve the occupational redeployment procedures, as well as the financial situation of persons who are being thus redeployed.

Here are the main changes:

A. Occupational physicians can now refer directly to the Joint Commission for external redeployment

The employer's consent is no longer required for referral to the Joint Committee.

If the employer employs at least 25 employees, the occupational physician refers the matter directly to the latter for internal or external redeployment.

If the employer employs fewer than 25 employees, the occupational physician may refer the matter to the Joint Committee only with the employee's prior consent. The employer's consent is still required for the internal redeployment of the employee.

B. Scrapping of the obligation for an employee to work in a risky position and to have 10 years' seniority in order to be eligible for occupational redeployment at the request of the occupational physician.

An employee declared unfit for his or her last position following a medical examination by an occupational physician may now be redeployed if he or she has **three years' seniority** (compared to 10 years before the Act), or if he or she has a certificate of fitness for the position issued at the time of hiring. It is no longer required that the employee occupy a risky position.

C. Lump-sum compensation for employees who are redeployed externally

When the Joint Commission decides to **redeploy** an employee **externally**, the employer must now pay the employee a **lump-sum compensation**, the amount of which varies depending on seniority:



- one month's salary after at least five years of seniority;
- two months' salary after at least ten years of seniority;
- three months' salary after at least fifteen years of seniority;
- four months' salary after twenty or more years of seniority.

If the employer employs at least 25 employees, the compensation shall be due in the event of an exemption from internal redeployment granted by the Joint Committee based on a substantiated file with proof that internal redeployment would cause serious harm to the company.

If the employer employs fewer than 25 employees, the compensation may be reimbursed by the Employment Fund, provided that the request is made within 6 months of the notification of the external redeployment decision.

D. Protection from dismissal as soon as the matter is referred to the Joint Committee.

The possibility for employees who are eligible for redeployment to request the voidance of their dismissal under the conditions stipulated in Article L. 551-2 of the Labour Code is extended **to employees during the redeployment procedure.**

These changes shall enter into force as of 1 November 2020.

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