

REPORT

Article 22 of the Constitution of the ILO

Report for the period **1 June 2011 to 31 May 2016**, made by the **Government of Finland**

on the

Medical Examination of Young Persons (Underground Work)

Convention, 1965, No. 124

(ratification registered on 23 September 1968)

I

Mining Act (621/2011)

In connection with the amendment of the Mining Act, the mining safety permit was added as a new element. Before the amendment, a report on mining safety solutions was submitted to the Safety Technology Authority (Tukes). Now, an appealable decision is made on the matter.

Today, Mining safety is based on requirements placed on the operator's management system instead of detailed, technically-oriented regulations. The operator has a general responsibility for ensuring mining safety as well as assessing any factors that could endanger safety and, if they cannot be removed, evaluating their significance. The advance supervision of compliance with the requirements is based on the mining safety permit. The permit decision forms the basis for the mining authority's supervisory activities.

The Mining Act does not lay down any provisions on occupational safety in mines.

<http://www.finlex.fi/fi/laki/kaannokset/2011/20110621>

II

The answers for questions concerning each article are presented below.

Article 1

A mine is defined in the Mining Act (621/2011, Section 5) as follows: “3) *mine* refers to an open cast mine and an underground stope, where mining minerals are excavated, and the structures, equipment, and instruments directly connected to excavation.”

Article 2

The Government Decree on Medical Examinations in Work that Presents a Special Risk of Illness (1485/2001) lays down provisions on the employer's obligation to arrange medical examinations for employees or other persons, who engage in work that presents a special risk of illness and whose work is subject to the provisions of the Occupational Safety Act. A special risk of illness is caused

by working conditions where there is a physical, chemical or biological factor that is likely to lead to illness, undue exposure or a risk to reproductive health. Based on this Decree, young persons aged 18–20 who work underground also fall within the scope of these medical examinations.

The medical examinations referred to in the Decree consist of clinical examinations performed by a physician and other complementary assessments, examinations or parts of examinations performed under the supervision of a physician, and function tests and exposure measurements.

Wherever possible, the initial examination shall be performed prior to an employee starting work that presents a special risk of illness, and in any event no later than one month after the start of the work.

As an employee continues to work in the same conditions, a periodic examination shall be repeated normally at intervals of 1–3 years in accordance with the example list and this Decree, unless there are special reasons for performing examinations more often or the need for examinations otherwise arises from a labour protection authority order referred to in Section 7.

When an employment contract ends and the employee changes job, becomes unemployed or retires, consideration shall be given to arranging a medical examination upon the termination of the employment, in the event of possible exposure to a substance, which may include a risk of cancer. During the examination, the former employee shall receive guidance on the need for further medical examinations.

Article 3

Paragraph 1

Medical examinations that are done due to a special risk of illness caused by work are performed within the scope of occupational health care. The Occupational Health Care Act (1383/2001) determines the competence that is required for those professionals who operate within occupational health care. According to Section 3 of the Occupational Health Care Act, an occupational health care professional means a health care professional as referred to in the Act on Health Care Professionals (559/1994), who is qualified as an occupational health care specialist or other licensed physician or is qualified as a public health nurse and has the necessary training to perform occupational health care. The occupational health care professionals and experts must also be professionally independent of the employer, the employees and their representatives.

Occupational health care must be organised in accordance with good occupational health care practices. The provisions on good occupational health practices are laid down in the Government Decree on the principles of good occupational health practices, the content of occupational health care and the qualifications of professionals and experts (708/2013).

Only occupational health care specialists may work as full-time licensed physicians in occupational health care. A licensed physician working part-time in occupational health care shall have completed a minimum of fifteen credits in occupational health care studies within two years of transferring to occupational health care. A licensed public health nurse working full-time in occupational health care shall be a qualified public health nurse and shall have completed a minimum of fifteen credits in occupational health care studies within two years of transferring to occupational health care. Section 5 of the Occupational Health Care Act also contains requirements on the continuing education of occupational health care professionals.

According to Section 2 of the Health Care Professionals Act a health care professional is

(1) a person who, on the basis of this Act, has been given the right to practise a profession (*licensed professional*) or the authorisation to practise a profession (*authorised professional*); and

(2) a person who, on the basis of this Act, is entitled to use the occupational title of a health care professional as laid down by Government Decree (*professional with a protected occupational title*).

All in all, a health care professional is a person who fulfils the qualification and training requirements of the Health Care Professionals Act and who, on the basis of the Health Care Professionals Act, has received the authorisation to, for example, practise a profession (*authorised professional*). In addition, the person must fulfil the qualification and training requirements of the Occupational Health Care Act.

In Finland, Valvira confirms a person's qualifications at the time the person is granted (for example) their right to exercise their profession. Even after this, Valvira is responsible for the supervision of health care professionals.

After conducting the medical inspection, the doctor then issues a certificate to the employee that the employee delivers to their employer. The certificate states whether the person's health is suitable, unsuitable or suitable with limitations for the work, as well as what these possible limitations are.

Paragraph 2

The guidebook "Medical Examinations in Occupational Health Care" contains detailed instructions on medical examinations. According to the instructions, medical examinations for mining work (for those who are exposed to rock dust) contain the following:

- **Initial medical examination**

Special attention must be paid to the state of the respiratory organs, especially the lungs. The initial examination includes:

- anamnesis
- status
- lung radiography (PA and side image), as well as
- spirometry.

- **Periodic medical examinations**

Periodic medical examinations are performed every three years. Their content is the same as that of the initial medical examination. An AP image is sufficient for the lung x-ray.

- **Medical examination upon the end of employment**

Due to the risk of cancer presented to those who are exposed to quartz, when an employment contract ends and the employee changes workplaces, becomes unemployed or retires, consideration must be given to arranging a medical examination upon the termination of employment, unless an examination has been conducted within the previous year. Occupational health care must guide those employees whose employment relationship is coming to an end as well as those who are retiring or becoming unemployed to seek medical examinations at a suitable location.

Paragraph 3

According to Finnish legislation and practice, occupational health care and its medical examinations are free of charge to employees.

Article 4

1. During their inspection visits, occupational safety and health inspectors supervise that the employer has arranged the medical examinations necessitated by their employees' work. The employer must also have a list of the employees who have participated in a medical examination. Occupational health care provides a statement on performed medical examinations to the employer.

If the employer has neglected to arrange medical examinations for employees working in jobs that present a special risk of illness, an inspector issues an improvement notice to the employer. During follow-up inspections, the inspector checks that the guidelines and recommendations have been followed. If the employer does not follow the recommendation, the inspector transfers the matter to the occupational safety and health authority. The occupational safety and health authority can issue a binding administrative decision.

An employer or his representative who deliberately or through carelessness fails to observe what is provided in Section 4(1) on arranging occupational health care services or does not comply with an occupational safety and health authority decision on the nature of the duty to arrange the services shall be sentenced to pay a fine for *neglecting to arrange occupational health care services*.

The penalty for violating occupational safety regulations, for causing a defect or fault to occur that contravenes the occupational safety regulations or enabling the prolonging of a situation that contravenes occupational safety regulations is prescribed in [Chapter 47, Section 1, of the Penal Code \(39/1889\)](#).

III-IV

Nothing to report.

V

The Central Organization of Finnish Trade Unions (SAK) has commented on the previous report stating that, in their opinion, Finnish legislation is narrower in scope than the ILO Convention since the Young Workers' Act (998/1993) only covers those who are under the age of 18. According to SAK, Finnish legislation also does not unambiguously require yearly medical examinations.

The Government Decree on Medical Examinations in Work that Presents a Special Risk of Illness (1485/2001) also covers those workers mentioned in the ILO Convention who are 18–21 years old. According to the Decree, wherever possible, the initial examination shall be performed prior to the start of work that presents a special risk of illness, and in any event no later than one month after the start of the work. As an employee continues to work in the same conditions, a periodic examination shall be repeated normally at intervals of 1–3 years in accordance with the example list and this Decree, unless there are special reasons for performing examinations more often or the need for examinations otherwise arises from a labour protection authority order referred to in Section 7.

VI

A copy of this report has been sent to the following labour market organisations:

1. The Confederation of Finnish Industries (EK)
2. The Central Organization of Finnish Trade Unions (SAK)
3. The Finnish Confederation of Salaried Employees (STTK)
4. The Confederation of Unions for Academic Professionals in Finland (Akava)
5. The Commission for Local Authority Employers (KT)
6. The State Employer's Office (VTML)

7. The Federation of Finnish Enterprises
8. The Commission for Church Employers

Statements of the labour market organisations

*The Central Organization of Finnish Trade Unions (SAK,)
The Finnish Confederation of Salaried Employees (STTK) and
The Confederation of Unions for Academic Professionals in Finland (Akava)*

We refer to a previous statement by the SAK in 2011 report which includes inter alia a following note:

“According to Article 2 of the Convention, young people are persons under the age of 21. In accordance with the Convention, they must undergo a medical inspection related to suitability for work, with periodic follow-up inspections performed no less often than at twelve-month intervals. In Finland, the scope of application of the Young Workers’ Act (998/1993) covers people aged under 18. In this regard, the scope of application of the ILO Convention is more extensive than Finnish legislation.

In Finland, the Young Workers’ Act requires a medical inspection to be made prior to the commencement of employment, or within one month of commencement, corresponding to the content of the Convention. However, follow-up inspections are not stipulated in this Act. Work in mines must be considered work that presents a special risk of illness. Insofar as work that presents a special risk of illness is concerned, the Young Workers’ Act (998/1993) states that the provisions of the Occupational Health Care Act and those determined on the basis of this Act must be complied with. The Government Decree on Medical Examinations in Work that Presents Special Risk of Illness (1485/2001), issued under the Occupational Health Care Act (1383/2001), does not unambiguously call for follow-up inspections at yearly intervals. Therefore, follow-up inspections are not necessarily included in Finnish legislation in accordance with the ILO Convention.”