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TEMPLATES OF DOCUMENTS CONCERNING THE EMPLOYEE'S ILLNESS AND THE QUESTIONING OF THE PRESUMPTION OF ILLNESS OF THE EMPLOYEE BY THE EMPLOYER

1. Administrative control of the National Health Fund (CNS)

In Luxembourg, the employer can challenge the medical certificate of the employee and the presumption of his incapacity to work which results from it. To do so, he may apply to the National Health Fund (CNS). Indeed, the statutes of the CNS provide that an [administrative control](#) of persons on sick leave due to illness or accident may be carried out by the CNS both during the period when the burden of compensation remains



with the employer (*Lohnfortzahlung*) and during the period when the CNS pays the monetary sickness benefit. Thus, the fact of not being present at the time of the home inspection by the CNS agent could constitute, depending on the case, an indication to call into question the presumption of the employee's incapacity for work. It is sufficient for the employer to fill in this [form](#) online. All the fields in the form must be completed and the request must be justified. Once the CNS has received the form, the employer will receive a confirmation. The controls may be initiated either by the employer or by the service "*Enquêtes et Contrôles administratifs*" of the CNS. Cross-border employees can also be subject to an administrative control (Article 193 of the CNS's statutes).

2. The convocation to a medical re-examination

The employer may also challenge the medical certificate of the employee and the presumption of his incapacity to work by collecting contrary medical opinions. Thus, he has the possibility of calling in doctors who will carry out re-examinations of the employee in order to verify the veracity of the employee's incapacity to work. However, it is not advisable to have re-examinations carried out by two doctors working in the same medical practice with an hour's interval between the two medical examinations. Indeed, in a judgment of 19 December 2018 (ref. Fisc. n° 4201/18), the Labour Court rejected the conclusions issued by the two doctors in the circumstances described (who had concluded that the employee had to return to work on the same day) on the grounds that such a convergence of opinions raises questions as to the possibility of consultation between the two practitioners appointed by the employer.

- [Model of an invitation letter for a medical re-examination](#) (EN)
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