

Hanoi, July 9, 2015

## LAW

### On occupational safety and health

*Pursuant to the Constitution of the Socialist Republic of Vietnam;*

*The National Assembly promulgates the Law on Occupational Safety and Health.*

### Chapter I

#### GENERAL PROVISIONS

##### **Article 1.** Scope of regulation

This Law prescribes assurance of occupational safety and health; policies and regimes for victims of occupational accidents and diseases; responsibilities and powers of organizations and individuals involved in occupational safety and health work and state management of occupational safety and health.

##### **Article 2.** Subjects of application

1. Employees working under labor contracts; employees on probation; apprentices and interns working for employers.
2. Cadres, civil servants, public employees, and persons working in the people's armed forces.
3. Persons working without labor contract.
4. Vietnamese guest workers; foreign employees working in Vietnam.
5. Employers.
6. Agencies, organizations and other individuals involved in occupational safety and health work.

The persons defined in Clauses 1, 2, 3 and 4 of this Article are below collectively referred to as employees.

##### **Article 3.** Interpretation of terms

In this Law, the terms below are construed as follows:

1. *Production and business establishment* means an enterprise, a

cooperative, a household or an organization carrying out production and business activities.

2. *Occupational safety* means measures to prevent and combat the impact of dangerous factors to ensure no illness or death happens to people during the working process.

3. *Occupational health* means measures to prevent and combat the impact of dangerous factors that may cause diseases and decrease people's health during the working process.

4. *Dangerous factor* means a factor causing unsafe situations, injuries or death to people during the working process.

5. *Hazardous factor* means a factor causing diseases or decreasing people's health during the working process.

6. *Technical incident endangering occupational safety and health* means the failure of machinery and equipment or damage of materials and substances that exceeds the allowable limit of technical safety happening during the working process and causing damage or likely to cause damage to people, property and the environment.

7. *Technical incident seriously endangering occupational safety and health* means a technical incident that greatly endangers occupational safety and health, happens on a wide scale and beyond the control of production and business establishments, agencies, organizations and localities, or is related to many production and business establishments and localities.

8. *Occupational accident* means an accident causing injury to any part or function of the body or causing death to employees, which happens during the working process and is closely related to the performance of the assigned work or task.

9. *Occupational disease* means an illness caused to employees by their hazardous working conditions.

10. *Working environment monitoring* means the collection, analysis and evaluation of data measuring factors in the working environment at the workplace in order to work out measures to minimize their harms to health and prevent and combat occupational diseases.

#### **Article 4.** State policies on occupational safety and health

1. To create favorable conditions for employers, employees and other related agencies, organizations and individuals to take measures for guaranteeing occupational safety and health during the working process; to encourage employers and employees to apply technical standards, advanced and modern management

systems, and advanced, high and environmentfriendly technologies during the working process.

2. To invest in research and application of science and technology related to occupational safety and health; to support the building of laboratories and testing facilities up to national standards to serve occupational safety and health.

3. To support the prevention of occupational accidents and diseases in the sectors and fields at high risk of occupational accident and disease; to encourage organizations to formulate and announce or apply advanced and modern occupational safety and health technical standards during the working process.

4. To support occupational safety and health training for employees without labor contract who are performing jobs subject to strict requirements for occupational safety and health.

5. To increase the number of participants in voluntary occupational accident insurance; to create a flexible payment-compensation mechanism in order to prevent, minimize and remedy risks for employees.

**Article 5.** Principles of guaranteeing occupational safety and health

1. Guaranteeing the employees' right to work in occupational safety and health conditions.

2. Guaranteeing that all occupational safety and health measures are implemented during the working process; prioritizing measures to prevent, preclude and control dangerous and hazardous factors during the working process.

3. Consulting trade unions, employers' representative organizations and occupational safety and health councils at all levels in the formulation and implementation of occupational safety and health policies, laws, programs and plans.

**Article 6.** Occupational safety and health-related rights and obligations of employees

1. An employee with labor contract has the following rights:

a/ To work in fair, safe and occupational safety and health conditions; to request the employer to ensure safe and healthy working conditions during the working process and at the workplace;

b/ To be provided with adequate information on dangerous factors and hazardous factors at the workplace and prevention and combat measures; to be trained in occupational safety and health;

c/ To be provided with labor protection, health care and examination for detection of occupational diseases; to have occupational accident and disease insurance

premiums paid by the employer; to enjoy the full regime in case he/she gets an occupational accident or disease; to have expenses for medical assessment of injuries and illnesses caused by occupational accidents and diseases paid; to take the initiative in seeking medical assessment for determination of the level of working capacity decrease and have the assessment expense paid in case the medical assessment results show that he/she is eligible for an increased allowance for occupational accidents or diseases;

d/ To request the employer to arrange an appropriate job after receiving treatment of occupational accident injuries or diseases;

dd/ To refuse to perform work or to leave the workplace while still being paid fully and not considered breaching working discipline when he/she is clearly aware of risks of occupational accidents that seriously threaten his/her life or health and immediately notify such to the direct manager for settlement; to continue working only when the direct manager and the officer in charge of occupational safety and health have already addressed these risks to ensure occupational safety and health;

e/ To file complaints, denunciations or lawsuits in accordance with law.

2. An employee with labor contract has the following obligations:

a/ To comply with occupational safety and health regulations, procedures and measures at the workplace; to comply with agreements on occupational safety and health stated in the labor contract and the collective labor agreement;

b/ To use and maintain the provided personal protective equipment and other occupational safety and health tools at the workplace;

c/ To promptly report to responsible persons any risks of technical incidents endangering occupational safety and health, occupational accidents or diseases; to proactively participate in the provision of first aid and remediation of consequences of the incidents or occupational accidents according to the incident handling and emergency rescue plan or the orders of the employer or competent state agencies.

3. An employee without labor contract has the following rights:

a/ To work in occupational safety and health conditions; to be assisted by the State, society and family to work in a safe and healthy environment;

b/ To be provided with occupational safety and health information, communication and education; to receive occupational safety and health training when doing a job subject to strict requirements for occupational safety and health;

c/ To participate in and benefit from voluntary occupational accident and disease insurance as prescribed by the Government.

Based on the socio-economic development conditions and the state budget limits in each period, the Government shall prescribe in detail the support for payment of voluntary occupational accident and disease insurance premiums;

d/ To file complaints, denunciations and lawsuits in accordance with law.

4. An employee without labor contract has the following obligations:

a/ To be responsible for occupational safety and health with regard to his/her performed work in accordance with law;

b/ To ensure occupational safety and health for related people during the working process;

c/ To inform acts that endanger occupational safety and health to the local administration for prompt stoppage.

5. Cadres, civil servants, public employees, and persons in the people's armed forces have the same occupational safety and health-related rights and obligations as those of employees prescribed in Clauses 1 and 2 of this Article, unless otherwise prescribed by legal documents exclusively applicable to them.

6. Apprentices and interns working for employers have the same occupational safety and health-related rights and obligations as those of employees prescribed in Clauses 1 and 2 of this Article.

7. Foreign employees working in Vietnam have the same occupational safety and health-related rights and obligations as those of employees prescribed in Clauses 1 and 2 of this Article; particularly, their participation in occupational accident and disease insurance must comply with the Government's regulations.

**Article 7.** Occupational safety and health-related rights and obligations of employers

1. An employer has the following rights:

a/ To request employees to comply with occupational safety and health regulations, procedures and measures at the workplace;

b/ To commend and reward employees showing good compliance with, and discipline those committing violations of, occupational safety and health regulations;

c/ To file complaints, denunciations and lawsuits in accordance with law;

d/ To mobilize employees to participate in the provision of first aid in emergency situations and remedy consequences of incidents and occupational

accidents.

2. An employer has the following obligations:

a/ To formulate, organize the implementation of, and proactively coordinate with agencies and organizations in ensuring implementation of, occupational safety and health measures for employees and related people at the workplace under his/her management; to pay occupational accident and disease insurance premiums for employees;

b/ To provide training in and guidance on occupational safety and health regulations, rules, procedures and measures; to provide adequate working equipment and tools that ensure occupational safety and health; to provide health care and medical examination for detection of occupational diseases; to provide full benefits for victims of occupational accidents and diseases;

c/ Not to ask employees to continue working or return to the workplace where there are risks of occupational accidents that seriously threaten the life or health of employees;

d/ To assign staff to supervise and examine the compliance with of occupational safety and health regulations, procedures and measures at the workplace in accordance with law;

dd/ To assign units or officers in charge of occupational safety and health; to coordinate with his/her establishment's trade union executive committee to establish a network of occupational safety and health workers; to clearly assign occupational safety and health tasks and powers;

e/ To report, investigate and compile statistics on occupational accidents and diseases, and technical incidents seriously endangering occupational safety and health; to compile statistics and make reports on occupational safety and health activities; to abide by decisions of the occupational safety and health inspectorate;

g/ To consult his/her establishment's trade union executive committee during the formulation of occupational safety and health plans, rules, procedures and measures.

**Article 8.** Rights and responsibilities of the Vietnam Fatherland Front and its member organizations and other social organizations

1. The Vietnam Fatherland Front and its member organizations and other social organizations, within the ambit of their duties and powers, have the following rights and responsibilities:

- a/ To coordinate with related agencies in organizing communication, education and training in occupational safety and health; to develop occupational safety and health services;
- b/ To provide opinions and conduct supervision and social criticism during the formulation of occupational safety and health mechanisms, policies and laws in accordance with law;
- c/ To join state management agencies in proposing solutions to improving working conditions and preventing and combating occupational accidents and diseases; to conduct scientific research;
- d/ To mobilize their members to engage in occupational safety and health activities;
- dd/ To detect and report on acts of violation of occupational safety and health regulations to competent state agencies for prompt handling.

2. Employers' representative organizations shall exercise the rights and perform the responsibilities prescribed in Clause 1 of this Article; join occupational safety and health councils as prescribed in Article 88 of this Law; encourage employers to hold dialogues at the workplace, conduct collective negotiations, reach collective labor agreements and take measures to improve working conditions in order to ensure occupational safety and health at the workplace.

**Article 9.** Occupational safety and health-related rights and responsibilities of trade unions

1. To join state agencies in formulating occupational safety and health policies and laws. To propose competent state agencies the formulation, amendment and supplementation of policies and laws concerning occupational safety and health-related rights and obligations of employees.
2. To participate and coordinate with state agencies in the inspection, monitoring and supervision of the implementation of occupational safety and health policies and laws concerning the rights and obligations of employees; to participate in the formulation, guidance and supervision of the implementation of occupational safety and health plans, rules, regulations and measures in order to improve working conditions for employees at the workplace; to participate in the investigation of occupational accidents in accordance with law.
3. To request responsible agencies, organizations, enterprises and

persons to immediately take measures to ensure occupational safety and health, implement remedial measures, including suspension of operation, upon detecting dangerous factors or hazardous factors at the workplace that may harm people's health and life during the working process.

4. To mobilize employees to abide by regulations, rules, procedures and measures to ensure occupational safety and health.
5. To represent the collective of employees to file lawsuits when the occupational safety and health-related rights of the collective of employees are violated; to represent employees to file lawsuits when the occupational safety and health-related rights of employees are violated and when being authorized by employees.
6. To study and apply science and technology and organize occupational safety and health training courses; to propose solutions to improving working conditions and preventing occupational accidents and diseases for employees.
7. To coordinate with state agencies in organizing occupational safety and health emulation movements; to organize movements for the public to participate in occupational safety and health activities; to organize and guide the operation of the network of occupational safety and health workers.
8. To implement commendation and reward for occupational safety and health work according to regulations of the Vietnam General Confederation of Labor.

**Article 10.** Occupational safety and health-related rights and responsibilities of grassroots trade unions

1. To join employers in formulating, and supervising the implementation of, occupational safety and health plans, regulations, rules, procedures and measures and in improving working conditions.
2. To represent the collective of employees in the negotiation, signing and supervision of the implementation of occupational safety and health provisions in collective labor agreements; to help employees file complaints and lawsuits when their lawful and legitimate rights and interests are violated.
3. To hold dialogues with employers to address problems related to occupational safety and health-related rights and obligations of employees and employers.
4. To join and coordinate with employers in examining occupational



safety and health activities; to supervise and request employers to observe occupational safety and health regulations; to join and coordinate with employers in investigating occupational accidents and supervising the settlement of regimes, vocational training and employment for victims of occupational accidents and diseases.

5. To propose employers and competent agencies and organizations to implement measures to ensure occupational safety and health, remedy consequences of technical incidents endangering occupational safety and health and occupational accidents and handle violations of the law on occupational safety and health.

6. To carry out communication and mobilize employees and employers to properly comply with occupational safety and health law, standards, regulations, processes and measures at the workplace; to coordinate with employers in organizing occupational safety and health training for trade union staff and employees.

7. To request responsible persons to immediately take occupational safety and health measures, including suspension of operation if necessary, when detecting risks that are likely to be harmful to employees' health and life.

8. To join the grassroots occupational accident investigation team as prescribed in Clause 1, Article 35 of this Law; to participate and coordinate with employers in the rescue and the remediation of consequences of technical incidents endangering occupational safety and health or occupational accidents. In case an employer does not fulfill his/her notification obligation as prescribed in Article 34 of this Law, the trade union shall promptly notify such to a competent state management agency prescribed in Article 35 of this Law for investigation.

9. To coordinate with employers in organizing emulation movements and movements for the public to engage in occupational safety and health activities and develop safety culture at the workplace; to manage and guide the operation of the network of occupational safety and health workers.

10. In production and business establishments where there are no trade unions, the trade union of the immediate higher level shall exercise the rights and perform the responsibilities prescribed in this Article if being requested by employees in such establishments.

**Article 11.** Rights and responsibilities of the Vietnam Farmers' Association

1. To join state agencies in formulating occupational safety and health policies and laws for farmers; to propose competent state agencies the formulation, amendment and supplementation of policies and laws concerning occupational safety and health-related rights and obligations of farmers.
2. To join and coordinate with state agencies in the inspection, examination and supervision of the implementation of occupational safety and health regimes, policies and laws concerning the rights and obligations of farmers; to participate in investigating occupational accidents involving farmers.
3. To participate in occupational safety and health communication and training activities for farmers.
4. To coordinate with state agencies in improving working conditions and preventing occupational accidents and diseases for farmers.
5. To mobilize farmers to engage in the movement of ensuring occupational safety and health for farmers in accordance with law.

**Article 12.** Prohibited acts

1. Hiding or untruthfully declaring or reporting on occupational accidents and diseases; failing to implement occupational safety and health requirements and measures, which causes or is likely to cause damage to people, property and the environment; or forcing employees to work or not to leave their workplace when there are risks of occupational accidents that seriously threaten their health and life or forcing them to continue working when such risks are not addressed.
2. Shirking or delaying the payment of occupational accident and disease insurance premiums; appropriating occupational accident and disease insurance premiums and benefits; falsifying or forging dossiers in occupational accident and disease insurance; failing to pay occupational accident and accident insurance benefits to employees; managing and using the Occupational Accident and Disease Insurance Fund against the law; or illegally accessing to and exploiting the database on occupational accident and disease insurance.
3. Using machinery, equipment and supplies subject to strict

requirements for occupational safety and health which are not inspected, fail to meet applicable standards, are of unclear origin, expire, or are of inferior quality and likely to cause environmental pollution.

4. Committing fraud in occupational safety and health inspection and training, working environment monitoring or medical assessment for determination of the level of working capacity decrease in case of occupational accidents and diseases; or causing obstacles and difficulties or damage to lawful and legitimate occupational safety and health-related rights and interests of employees and employers.

5. Practicing gender-based discrimination in occupational safety and health; discrimination because employees refuse to work or leave the workplace when there are risks of occupational accidents that seriously threaten their life or health; or discrimination because of the performance of occupational safety and health work and tasks in establishments by occupational safety and health officers, occupational safety and health workers or health workers.

6. Employing employees who are not yet trained in occupational safety and health in jobs subject to strict requirements for occupational safety and health.

7. Making cash payment instead of in-kind allowance.

## **Chapter II**

### **MEASURES TO PREVENT AND CONTROL DANGEROUS FACTORS AND HAZARDOUS FACTORS FOR EMPLOYEES**

#### **Section 1**

#### **INFORMATION, COMMUNICATION, EDUCATION AND TRAINING ON OCCUPATIONAL SAFETY AND HEALTH**

**Article 13.** Information, communication and education on occupational safety and health

1. Employers shall provide employees with information, communication and education on occupational safety and health, dangerous factors, hazardous factors, and occupational safety and health measures at the workplace; and provide instructions on occupational safety and health regulations for visitors to and employees in their establishments.

2. Manufacturers shall provide information on occupational safety and health measures attached to goods and products which are likely to create

unsafe situations to users during the working process.

3. Agencies, organizations and households shall disseminate occupational safety and health knowledge and skills for their employees; and communicate on and advocate for the elimination of unhygienic backward practices and habits which are harmful and dangerous to their health and the community during the working process.

Based on specific conditions of their localities, People's Committees at all levels shall annually direct and organize information, communication and education on occupational safety and health for employees without labor contract working in their localities.

4. Mass media agencies shall regularly disseminate occupational safety and health policies, law and knowledge, integrating information on prevention of occupational accidents and diseases in other information and communication programs and activities.

**Article 14.** Training in occupational safety and health

1. Occupational safety and health managers, occupational safety and health officers, health workers and occupational safety and health workers at production and business establishments shall participate in occupational safety and health training and may obtain a certificate from the occupational safety and health training institution after passing an examination.

In case there is a change in occupational safety and health policies and laws or science and technology, these persons shall be retrained to update their occupational safety and health knowledge and skills.

2. Employers shall organize training for employees performing jobs subject to strict requirements for occupational safety and health and provide them with safety cards before assigning them to such jobs.

3. Employees without labor contract shall be trained in occupational safety and health before performing jobs subject to strict requirements for occupational safety and health and provided with safety cards.

The State shall adopt policies to support part of training fee for employees participating in the training mentioned in this Clause. The levels of support, eligible trainees and support duration shall be prescribed in detail by the Government depending on the socio-economic development conditions in each period.

4. Employers shall organize occupational safety and health training by

themselves and are responsible for the quality of such training for employees other than those specified in Clauses 1, 2 and 3 of this Article, and apprentices, interns and employees on probation prior to recruitment or assignment of jobs; and provide periodical retraining in order to equip enough knowledge and skills needed to ensure occupational safety and health during the working process and suitable to their assigned jobs.

5. The occupational safety and health training prescribed in this Article must conform to the characteristics and nature of each profession and working position and number of employees, and must not cause difficulties to production and business activities. Depending on specific conditions of each production and business establishment, employers shall take the initiative in organizing separate training in occupational safety and health or combined training in occupational safety and health and fire prevention and fighting or other contents specified by specialized laws.

6. The Minister of Labor, War Invalids and Social Affairs shall promulgate the list of jobs subject to strict requirements for occupational safety and health after consulting ministries managing related sectors or fields.

7. Occupational safety and health training institutions include public non-business units and enterprises providing occupational safety and health training service in accordance with the investment law and this Law.

In case an enterprise organizes occupational safety and health training by itself for the subjects defined in Clauses 1, 2 and 3 of this Article, it must meet the conditions applicable to occupational safety and health training institutions.

8. The Government shall prescribe in detail agencies competent to grant, conditions on physical and technical foundations, criteria for occupational safety and health trainers, the order, procedures and dossiers for granting, regranting, extending or revoking certificates of eligibility for occupational safety and health training to the institutions defined in Clause 7 of this Article; and occupational safety and health training and self-training.

## **Section 2**

### **REGULATIONS, PROCEDURES AND MEASURES FOR ENSURING OCCUPATIONAL SAFETY AND HEALTH AT THE WORKPLACE**

**Article 15.** Regulations and procedures for ensuring occupational safety

and health

Employers shall, based on occupational safety and health law, national standards and technical regulations and local technical regulations and their production, business and working conditions, formulate, issue, and organize the implementation of, regulations and procedures for ensuring occupational safety and health.

**Article 16.** Responsibilities of employers in ensuring occupational safety and health at the workplace

1. To ensure that the workplace meets the requirements on space, ventilation, dust, steam, hazardous gas, radiation, electro-magnetic fields, heat, moisture, noise, vibration, and other dangerous and hazardous factors as stated in relevant technical regulations; to periodically examine and measure these factors; ensure that there are enough proper shower rooms and toilets at the workplace as prescribed by the Minister of Health.
2. To ensure that machinery, equipment, supplies and substances are used, operated, maintained and preserved at the workplace in accordance with occupational safety and health technical regulations, or meet occupational safety and health technical standards which have been announced and applied, and in accordance with occupational safety and health regulations and procedures at the workplace.
3. To provide adequate personal protective equipment for employees performing jobs with dangerous factors and hazardous factors; to have occupational safety and health equipment at the workplace.
4. Every year or when necessary, to inspect and assess dangerous factors and hazardous factors at the workplace in order to implement technical and technological measures to exclude and minimize these factors, improve working conditions and take care of employees' health.
5. To periodically inspect and maintain machinery, equipment, supplies, substances, workshops and stores.
6. To place noticeable warning and instruction signboards in Vietnamese and popular language(s) of employees on occupational safety and health for machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health at the workplace and in places of their storage, preservation and use.
7. To provide information, communication or training to employees on

occupational safety and health regulations, rules and procedures, measures to prevent and control dangerous factors and hazardous factors at the workplace related to their assigned work or tasks.

8. To prepare and issue incident settlement and emergency rescue plans at the workplace; to handle incidents, provide emergency rescue, organize rescue forces and promptly report to responsible persons when detecting risks or upon occurrence of occupational accidents or technical incidents endangering occupational safety and health at the workplace which is beyond the control of employers.

**Article 17.** Responsibilities of employees in ensuring occupational safety and health at the workplace

1. To abide by occupational safety and health regulations, rules, procedures and requirements issued by employers or competent state agencies related to their assigned work or tasks.
2. To comply with law and grasp knowledge and skills on measures to ensure occupational safety and health at the workplace; to use and maintain the provided personal protective equipment, and occupational safety and health equipment at the workplace during the performance of the assigned work or tasks.
3. To participate in occupational safety and health training before using machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health.
4. To preclude risks directly causing unsafe occupational safety and health, and violations of occupational safety and health regulations at the workplace; to promptly report to responsible persons when detecting occupational accidents, incidents or risks of incidents or occupational accidents or diseases; to proactively participate in rendering rescue, dealing with incidents and occupational accidents according to the incident settlement and emergency rescue plan or orders of employers or competent state agencies.

**Article 18.** Control of dangerous factors and hazardous factors at the workplace

1. Employers shall evaluate and control dangerous factors and hazardous factors at the workplace in order to work out occupational safety and health technical measures and take care of employees' health; implement

decontamination and disinfection in areas where there are hazardous or infectious elements.

2. For hazardous factors with permissible contact limits set by the Minister of Health to control their harm to employees' health, employers shall conduct working environment monitoring to assess hazardous factors at least once a year. Working environment monitoring organizations must meet all required conditions on physical foundations, equipment and manpower.

3. For dangerous factors, employers shall regularly control and manage them in accordance with technical requirements to ensure occupational safety and health at the workplace and at least once a year organize inspection and assessment of these factors in accordance with law.

4. Upon the availability of results of the working environment monitoring to assess hazardous factors and results of the inspection, assessment and management of dangerous factors at the workplace, employers shall:

a/ Publicly inform such results to employees working in areas where the working environment monitoring is conducted and the inspection, assessment and management of dangerous factors are performed;

b/ Provide information at the request of trade unions and competent agencies and organizations;

c/ Apply measures to address and control dangerous factors and hazardous factors at the workplace to ensure occupational safety and health and take care of employees' health.

5. The Government shall prescribe in detail the control of dangerous factors and hazardous factors at the workplace and operation conditions on working environment monitoring organizations in conformity with the Law on Investment and the Law on Enterprises.

**Article 19.** Measures to handle technical incidents seriously endangering occupational safety and health and provide emergency rescue

1. Employers must have plans to handle technical incidents seriously endangering occupational safety and health and provide emergency rescue, and periodically organize drills in accordance with law; provide technical and medical facilities to ensure prompt rescue and first aid when technical incidents occur, seriously endangering occupational safety and health and causing occupational accidents.



2. Responsibilities for handling technical incidents seriously endangering occupational safety and health and providing emergency rescue:

a/ Employers shall immediately order the immediate stoppage of the operation of the machinery and equipment, the use of supplies and substances and working activities at the workplace which are likely to cause occupational accidents or technical incidents seriously endangering occupational safety and health; and may not force employees to continue their work or to return to their workplace if the risks of occupational accidents which seriously threaten their life or health have not been addressed; implement remedial and other measures according to the plan for handling of technical incidents seriously endangering occupational safety and health, provide emergency rescue to save people and property, ensure occupational safety and health for employees and people around the workplace, property and the environment; and promptly notify the local administration of the place where the incident or emergency rescue takes place;

b/ Upon the occurrence of a technical incident seriously endangering occupational safety and health, the employer of the production and business establishment or the locality where the incident occurs shall urgently mobilize manpower, materials and facilities to promptly respond to the incident in accordance with specialized laws;

c/ Upon the occurrence of a technical incident seriously endangering occupational safety and health which is related to various production and business establishments or localities, the employers of the establishments or the localities where the incident occurs shall respond to the incident and report it to the immediate superior agency in accordance with specialized laws.

If the incident is beyond the responding capacity of the production and business establishments or localities, it shall be urgently reported to the immediate superior agency for promptly mobilization of other production and business establishments and localities to respond to it; the mobilized production and business establishments and localities shall implement and coordinate in implementing emergency rescue measures within their capacity.

3. The Government shall detail this Article.

**Article 20.** Improvement of working conditions and building of safety

culture

1. Employers shall regularly coordinate with their establishments' trade union executive committees to involve employees in activities to improve working conditions and build safety culture at the workplace.
2. Employers shall be encouraged to apply technical standards, advanced and modern management systems, and advanced, high and environmentfriendly technologies in their production and business activities to improve working conditions and ensure occupational safety and health for employees.

### **Section 3**

## **LABOR PROTECTION AND HEALTH CARE FOR EMPLOYEES**

**Article 21.** Health check-up and treatment of occupational diseases for employees

1. Employers shall provide health check-up for employees at least once a year; employees performing heavy, hazardous and dangerous occupations or jobs or extremely heavy, hazardous and dangerous occupations or jobs, employees with disabilities, minor employees and elderly employees shall be provided with health check-up at least once every six months.
2. When taking health check-up under Clause 1 of this Article, female employees shall be provided with obstetric examination; people working in an environment where there are factors likely to cause occupational diseases are entitled to medical examination for detection of occupational diseases.
3. Employers shall organize health check-up for employees before assigning jobs to them and before moving them to heavier, more hazardous or more dangerous occupations or jobs or when they return to work after having treatment of occupational accident injuries or diseases, except when their health has been examined by a Medical Council to assess their working capacity decrease.
4. Employers shall provide health check-up for employees and medical examination for detection of occupational diseases at health establishments that meet professional and technical requirements and conditions.
5. Employers shall send employees who are diagnosed of occupational diseases to health establishments that meet professional and technical conditions for treatment under the treatment guidelines issued by the Minister of Health.
6. Expenses for health check-up, medical examination for detection of

occupational diseases, and treatment of occupational diseases for employees paid by employers under Clauses 1, 2, 3 and 5 of this Article shall be accounted as deductible expenses for determination of taxable incomes in accordance with the Law on Enterprise Income Tax and as regular operation expenditures in administrative agencies and non-business units that have no service activities.

**Article 22.** Heavy, hazardous and dangerous occupations or jobs

1. Heavy, hazardous and dangerous occupations or jobs and extremely heavy, hazardous and dangerous occupations or jobs shall be classified based on the specific characteristics and working conditions of each occupation or job.

2. The Minister of Labor, War Invalids and Social Affairs shall issue the list of heavy, hazardous and dangerous occupations or jobs and extremely heavy, hazardous and dangerous occupations or jobs after consulting the Ministry of Health; and establish criteria for classifying employees by working condition.

3. Employers shall sufficiently implement regulations on labor protection and health care for employees who perform heavy, hazardous and dangerous occupations or jobs and extremely heavy, hazardous and dangerous occupations or jobs in accordance with law.

**Article 23.** Personal protective equipment at work

1. Employees exposed to dangerous factors and hazardous factors at work shall be provided by their employers with adequate personal protective equipment and shall use them during the working process.

2. Employers shall implement technological and technical measures and procure equipment to exclude or minimize dangerous factors and hazardous factors and improve working conditions.

3. When providing personal protective equipment, employers shall abide by the following principles:

a/ Ensuring proper types of personal protective equipment for eligible employees, adequate quantity and proper quality according to national standards and technical regulations;

b/ Not providing money instead of personal protective equipment; neither requiring employees to buy personal protective equipment by themselves nor collecting money from them to buy personal protective

equipment;

c/ Instructing and monitoring employees in using personal protective equipment;

d/ Organizing the implementation of detoxification, disinfection and radioactive decontamination to ensure hygiene for personal protective equipment which has been used in areas at risk of intoxication, infection and radioactive contamination.

4. The Minister of Labor, War Invalids and Social Affairs shall prescribe the provision of personal protective equipment at work.

**Article 24.** In-kind allowances

1. Employees in contact with dangerous factors and hazardous factors at work shall be provided by their employers with in-kind allowances.

2. Principles of providing in-kind allowances are as follows:

a/ Helping increase the resistance and detoxification of the body;

b/ Ensuring convenience and food safety and hygiene;

c/ Being provided during the working shift or day, except special cases where employers cannot provide in-kind allowances to all eligible employees at the workplace.

3. The Minister of Labor, War Invalids and Social Affairs shall prescribe the provision of in-kind allowances.

**Article 25.** Working time under working conditions with dangerous factors and hazardous factors

1. Employers shall ensure that the duration of employees' being in contact with dangerous factors and hazardous factors is within the safety limits established in the relevant national technical regulations and relevant laws.

2. The working time of employees performing heavy, hazardous or dangerous occupations or jobs must comply with the labor law.

**Article 26.** Convalescence and health rehabilitation

Employers shall be encouraged to organize annual convalescence and health rehabilitation activities for employees performing heavy, hazardous or dangerous occupations or jobs or extremely heavy, hazardous or dangerous occupations or jobs and for employees with poor health conditions.

**Article 27.** Management of employees' health

1. Employers shall base themselves on the health standards prescribed

for each occupation or job and health check-up results to assign relevant jobs to employees.

2. Employers shall compile and manage occupational health records of employees, health records of victims of occupational diseases; inform employees of results of health check-up and medical examination for detection of occupational diseases; and annually report on the management of their employees' health to competent health state management agencies.

#### **Section 4**

### **MANAGEMENT OF MACHINERY, EQUIPMENT, SUPPLIES AND SUBSTANCES SUBJECT TO STRICT REQUIREMENTS FOR OCCUPATIONAL SAFETY AND HEALTH**

**Article 28.** Machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health

1. Machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health are those which are likely to cause occupational accidents or diseases with serious consequences to people's health and life despite appropriate transportation, storage, preservation and use for proper purposes during the working and production process as instructed by manufacturers.

2. The Minister of Labor, War Invalids and Social Affairs shall promulgate the list of machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health at the proposal of ministries as prescribed in Article 33 of this Law.

**Article 29.** Making of occupational safety and health plans when constructing, expanding or renovating works or establishments serving the production, use, preservation and storage of machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health

1. The dossiers submitted by project owners and employers to competent agencies for licensing the construction, expansion or renovation of works or establishments serving the production, use, preservation and storage of machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health must include occupational safety and health plans for the workplace and the environment.

2. An occupational safety and health plan must include the following

major contents:

- a/ Location and scale of the work or establishment;
- b/ A list and description of items in the work or establishment;
- c/ Description of dangerous factors, hazardous factors and incidents that are likely to occur during the operation process;
- d/ Specific measures to eliminate and minimize dangerous factors and hazardous factors; plan to respond to technical incidents seriously endangering occupational safety and health and emergency rescue plan.

**Article 30.** Use of machinery, equipment, supplies and substances subject to strict occupational safety and health requirements

1. Machinery, equipment and supplies subject to strict occupational safety and health requirements must be of clear origin and proper quality and within useful life, and shall be inspected as prescribed in Clause 1, Article 31 of this Law, unless otherwise prescribed by specialized laws.
2. When putting to use, stopping using or discarding the machinery, equipment, supplies and substances subject to strict occupational safety and health requirements, organizations and individuals shall declare such to specialized agencies under People's Committees of provinces or centrally run cities (below referred to as provincial level) where such products are used in accordance with the competence prescribed in Clause 1 or 2, Article 33 of this Law, unless otherwise prescribed by specialized laws.
3. While using the machinery, equipment and supplies subject to strict occupational safety and health requirements, organizations and individuals shall conduct periodical check and maintenance, compile and preserve their technical safety records in accordance with the relevant national technical regulations.
4. The use of substances subject to strict occupational safety and health requirements must comply with the chemical law and specialized laws.

**Article 31.** Inspection of machinery, equipment and supplies subject to strict requirements for occupational safety

1. Machinery, equipment and supplies subject to strict requirements for occupational safety shall be inspected before being used and periodically during the use by occupational safety inspection organizations.
2. The inspection of machinery, equipment and supplies subject to strict requirements for occupational safety must be accurate, open and transparent.

3. The Government shall prescribe in detail agencies competent to grant, conditions on physical and technical foundations, the order, procedures and dossiers for granting, re-granting, extending or revoking certificates of eligibility to occupational safety inspection organizations; criteria for inspectors to meet inspection requirements of inspected objects; and the inspection of machinery, equipment and supplies subject to strict requirements for occupational safety.

**Article 32.** Rights and obligations of occupational safety inspection organizations

1. Occupational safety inspection organizations include public nonbusiness units and enterprises providing occupational safety inspection services.

2. An occupational safety inspection organization has the following rights:

- a/ To carry out inspection activities under inspection service contracts;
- b/ To refuse to provide inspection services if they fail to meet safety conditions required for the inspection of machinery, equipment and supplies;
- c/ To file petitions, complaints or denunciations about acts obstructing inspection activities;
- d/ To request organizations and individuals who have objects to be inspected to provide documents and information to serve inspection activities.

3. An occupational safety inspection organization has the following obligations:

- a/ To provide inspection services within the scope and for the objects specified in its certificate of eligibility for inspection services;
- b/ To carry out inspection activities in accordance with the inspection process;
- c/ To take responsibility for inspection results and pay compensation in accordance with law for damage caused by inspection activities; to withdraw the issued inspection results if finding they are wrong;
- d/ Every year, to report to competent specialized management agencies as prescribed in Clauses 1 and 2, Article 33 of this Law and to the labor state management agency on inspection activities it has carried out as prescribed by law;

dd/ To preserve inspection records.

**Article 33.** Responsibilities of ministries in the state management of machinery, equipment, materials, supplies and substances subject to strict requirements for occupational safety and health

1. Ministries shall perform the state management of machinery, equipment, materials, supplies and substances subject to strict requirements for occupational safety and health, specifically as follows:

a/ The Ministry of Health shall perform the state management of machinery, equipment, materials, supplies and substances subject to strict requirements for occupational safety and health in relation to food, pharmaceuticals, vaccines, medical biologicals, cosmetics, materials for manufacturing medicines, medicines for human use, household chemicals, insecticides and disinfectants, and medical equipment;

b/ The Ministry of Agriculture and Rural Development shall perform the state management of machinery, equipment, materials, supplies and substances subject to strict requirements for occupational safety and health in relation to crops, livestock, fertilizers, animal feeds, plant protection drugs, veterinary drugs, biologicals used in agriculture, forestry, salt production, fisheries, irrigation works, and dikes;

c/ The Ministry of Transport shall perform the state management of machinery, equipment, materials, supplies and substances subject to strict requirements for occupational safety and health in relation to means of transportation, specialized loading/unloading and transportation equipment and facilities, marine exploration and exploitation equipment and facilities, and transport infrastructure facilities;

d/ The Ministry of Industry and Trade shall perform the state management of machinery, equipment, materials, supplies and substances subject to strict requirements for occupational safety and health in relation to pressure equipment, lifting equipment for exclusive industrial use, chemicals, industrial explosives, mining facilities, oil and gas exploitation equipment and facilities, except marine exploration and exploitation equipment and facilities;

dd/ The Ministry of Construction shall perform the state management of machinery, equipment, materials, supplies and substances subject to strict requirements for occupational safety and health used in construction;



e/ The Ministry of Science and Technology shall perform the state management of nuclear reactors, nuclear materials, source nuclear materials, radioactive materials, and radiation equipment;

g/ The Ministry of Information and Communications shall perform the state management of machinery and equipment used in radio and television broadcasting;

h/ The Ministry of National Defense shall perform the state management of military facilities and equipment, weapons, ammunition, materials and products serving national defense and defense works;

i/ The Ministry of Public Security shall perform the state management of fire prevention and fighting equipment; technical equipment, weapons, ammunition, materials, and support tools, except those specified at Point h of this Clause.

k/ The Ministry of Labor, War Invalids and Social Affairs shall perform the state management of personal protective equipment for employees, machinery, equipment, materials, supplies and substances subject to strict requirements for occupational safety and health other than those specified at Points a, b, c, d, dd, e, g, h and i of this Clause.

2. Based on the socio-economic development situation and state management requirements, the Ministry of Labor, War Invalids and Social Affairs shall coordinate with ministries managing relevant sectors and fields in submitting to the Government for decision the assignment of specific agencies responsible for managing new machinery equipment, supplies and substances subject to strict requirements for occupational safety and health which are not yet mentioned in Clause 1 of this Article, or machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health which are related to many ministries while it is unclear which ministry manages these machinery, equipment, supplies and substances as prescribed in Clause 1 of this Article.

3. Based on the competence of state management of machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health prescribed in Clauses 1 and 2 of this Article and the list of machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health prescribed in Clause 2, Article 28 of this Law, the ministries shall:

- a/ Draw up detailed lists of machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health under their management and send them to the Minister of Labor, War Invalids and Social Affairs for promulgation;
- b/ Issue the procedures for inspecting machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health under their management after consulting the Ministry of Labor, War Invalids and Social Affairs;
- c/ Examine inspection activities under their state management prescribed in Clauses 1 and 2 of this Article;
- d/ Annually send reports to the Ministry of Labor, War Invalids and Social Affairs on the management of machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health prescribed in Clauses 1 and 2 of this Article, unless otherwise prescribed by specialized laws.

4. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with related ministries in, reviewing the lists of machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health for revision to meet socio-economic, science and technology and management development requirements in each period.

### **Chapter III**

## **MEASURES TO HANDLE TECHNICAL INCIDENTS ENDANGERING OCCUPATIONAL SAFETY AND HEALTH AND CAUSING OCCUPATIONAL ACCIDENTS AND DISEASES**

### **Section 1**

## **NOTIFICATION, STATISTICAL WORK, REPORTING AND INVESTIGATION OF TECHNICAL INCIDENTS ENDANGERING OCCUPATIONAL SAFETY AND HEALTH AND CAUSING OCCUPATIONAL ACCIDENTS AND DISEASES**

**Article 34.** Notification of occupational accidents and technical incidents endangering occupational safety and health

- 1. The notification of occupational accidents and technical incidents endangering occupational safety and health shall be carried out as follows:
  - a/ Upon the occurrence or facing of the risk of an occupational accident

or a technical incident endangering occupational safety and health at the workplace, the victim of the accident or the person knowing the incident shall immediately report it to the direct supervisor or employer for taking measures to timely handle the accident or incident and remedy its consequences;

b/ If an accident mentioned at Point a of this Clause causes death or serious injuries to at least 2 employees, the employer shall immediately notify it to the provincial-level labor state management agency of the place where the accident occurs. For an accident that causes death, the employer shall also notify it to the Public Security agency of the district, town or provincial city (below referred to as district level);

c/ For accidents and incidents in the fields of radiation, oil and gas exploration and exploitation, railway, waterway, road and air transportation and in people's armed forces units, employers shall notify them in accordance with specialized laws:

d/ For an occupational accident that causes death or serious injuries to employees without labor contract, the relative of the victim or the person who detects it shall immediately notify it to the People's Committee of the commune, ward or township (below referred to as commune level) where the accident occurs for taking timely handling measures.

Upon the occurrence of an accident that causes death or serious injuries to at least two employees, the commune-level People's Committee shall immediately notify it to the district-level Public Security agency and the provincial-level labor state management agency of the place where the accident occurs for taking timely handling measures.

Upon the occurrence of a technical incident endangering occupational safety and health related to employees without labor contract, the person who detects the incident shall notify it to the commune-level People's Committee of the place where the incident occurs in accordance with Articles 19 and 36 of this Law.

2. Within the scope of their responsibilities, competent agencies and organizations shall consider and deal with information on occupational accidents and technical incidents endangering occupational safety and health, inform the results of dealing with such information to agencies, organizations and individuals notifying such accidents or incidents upon request, and apply necessary measures to protect lawful and legitimate rights and interests of

informants.

**Article 35.** Investigation of occupational accidents and technical incidents endangering or seriously endangering occupational safety and health

1. Employers shall form investigation teams within their establishments to investigate occupational accidents causing minor injuries or serious injuries to an employee under their management, unless investigations have been conducted in accordance with Clause 2 or 3 of this Article or occupational accidents have been investigated by competent state agencies in accordance with specialized laws.

An establishment's occupational accident investigation team shall be composed of the employer or a representative authorized by the employer in writing as the team leader, and representatives of the establishment's trade union executive committee or representatives of employees, in case the establishment has no trade union executive committee, occupational safety and health officers, health workers and some other members as team members.

For an occupational accident that causes serious injury to an employee without a labor contract, the commune-level People's Committee of the place where the accident occurs shall make a record of the accident and report it to the district-level People's Committee of the place where the accident occurs.

2. Provincial-level labor state management agencies shall form provincial-level investigation teams to investigate occupational accidents causing deaths or serious injuries to at least two employees, including those without labor contract, except the case specified in Clause 4 of this Article; and re-investigate occupational accidents which have been investigated by the establishment's investigation team in case there are complaints and denunciations or if necessary.

A provincial-level occupational accident investigation team shall be composed of a representative of the specialized occupational safety and health inspectorate under the provincial-level state management agency as the team leader and representatives from the provincial-level Department of Health and provincial-level Labor Federation and some other members as team members.

3. The Minister of Labor, War Invalids and Social Affairs or a competent

state agency shall form a central-level investigation team to investigate occupational accidents which are considered serious or when the complexity of the investigation of such occupational accidents goes beyond the capacity of provincial-level occupational accident investigation teams; and reinvestigate occupational accidents which have been investigated by provincial-level occupational accident investigation teams.

A central-level occupational accident investigation team shall be composed of representatives of the Ministry of Labor, War Invalids and Social Affairs, the Ministry of Health and the Vietnam General Confederation of Labor, and some other members.

4. Regarding accidents and incidents specified at Point c, Clause 1, Article 34 of this Law, the investigation shall be conducted in accordance with specialized laws and labor law and in coordination with the occupational safety and health inspectorate.

5. Employers and individuals involved in occupational accidents or technical incidents endangering or seriously endangering occupational safety and health shall cooperate with investigation teams, provide all relevant information and documents, and may not refuse or obstruct the investigation process.

For an accident occurring when employees are going to or coming from the workplace, competent state agencies shall provide the investigation team with one of the following papers:

a/ Record of the scene examination and accident scene plan;

b/ Record of the traffic accident investigation;

c/ In case the paper specified at Point a or b of this Clause is not available, there must be a written certification of the accident issued by the Public Security agency of the commune, ward or township where the accident occurs at the request of the employee or his/her relatives.

6. The maximum duration of investigation of occupational accidents by establishments' investigation teams and provincial- and central-level investigation teams specified in Clauses 1, 2 and 3 of this Article shall be counted from the time of receipt of information about or notification of the occupational accident to the time of announcement of the record of occupational accident investigation, specifically as follows:

a/ Four days, for an occupational accident causing minor injuries to

employees;

b/ Seven days, for an occupational accident causing serious injuries to an employee;

c/ Twenty days, for an occupational accident causing serious injuries to at least two employees;

d/ Thirty days, for a fatal occupational accident; or 60 days, for an occupational accident requiring technical assessment or forensic examination.

For an occupational accident with signs of crime investigated by an investigation agency but then decided not to institute a criminal case, the investigation duration shall be counted from the time the investigation team receives all documents, objects and vehicles related to the accident.

For occupational accidents specified at Points b, c and d of this Clause with complicated circumstances, the investigation duration may be extended once but the extended time must not exceed the time limit prescribed at these Points, and the investigation team leader shall propose the extension and get approval from the issuer of the decision to form the investigation team.

7. During the inspection of an occupational accident prescribed in Clause 1, 2 or 3 of this Article, if detecting any signs of crime, the investigation team shall send a written report enclosed with documents, objects and vehicles (if any) to the investigation agency for consideration and institution of a criminal case in accordance with the law on criminal procedures.

The time limit for handling proposals on institution of criminal cases must comply with the law on criminal procedures; in case the investigation agency decides not to institute a criminal case, within 5 days after issuing such decision, the investigation agency shall provide and transfer related documents, objects and vehicles related to the occupational accident to the occupational accident investigation team.

8. The occupational accident investigation record shall be announced at a meeting chaired by the investigation team leader and attended by members of the investigation team, the employer or person authorized in writing by the employer, trade union representatives, victims or their relatives' representatives, people who know the accident and are involved in the accident. In case of a fatal occupational accident, the meeting shall also be attended by representatives of the Public Security agency of a level and the

People's Procuracy of the same level.

Occupational accident investigation records and minutes of the meeting to announce these records shall be sent to the agencies with representatives joining the investigation team, labor state management agency, employer of the establishment where the occupational accident occurs, and victims of the accident or their relatives.

9. Responsibility to announce occupational accident investigation records and other necessary information relating to occupational accidents is as follows:

a/ The employer shall announce information if the investigation of occupational accidents defined in Clause 1 of this Article is under his/her charge; commune-level People's Committees shall announce information if they prepare records of occupational accidents;

b/ The leader of the occupational accident investigation team or the state agency in charge of investigating occupational accidents defined in Clause 2 or 3 of this Article shall announce information;

c/ The leader of the occupational accident investigation team or the state agency in charge of investigating occupational accidents shall announce information, unless otherwise prescribed by specialized laws.

After receiving the occupational accident investigation record and minutes of the meeting to announce such record, the employer shall publicly and fully post up relevant information for employees in his/her establishment to know; for occupational accidents occurring to employees without labor contract, commune-level People's Committees shall publicly post them up for people to know;

d/ The leader of the investigation team or the state agency in charge of investigating occupational accidents and incidents defined in Clause 4 of this Article, technical incidents endangering or seriously endangering occupational safety and health shall publicly announce investigation records and other relevant necessary information after the expiry of the investigation duration, unless otherwise prescribed by specialized laws.

10. In case the investigation of occupational accidents or technical incidents endangering or seriously endangering occupational safety and health defined in this Article is conducted beyond the prescribed time limit, causing damage to lawful rights and interests of employees, employers shall

pay compensations in accordance with law.

11. The Government shall prescribe in detail the classification, notification, investigation and reporting of occupational accidents and technical incidents endangering or seriously endangering occupational safety and health and settlement of the regime for victims of occupational accidents for which criminal cases are instituted.

**Article 36.** Statistical work and reporting on occupational accidents and technical incidents seriously endangering occupational safety and health

1. Employers shall biannually and annually compile statistics and report on occupational accidents and technical incidents seriously endangering occupational safety and health occurring within their establishments to provincial-level labor state management agencies, unless otherwise prescribed by specialized laws.

2. Commune-level People's Committees shall biannually and annually compile statistics and report on occupational accidents and technical incidents seriously endangering occupational safety and health related to employees without labor contract defined at Point d, Clause 1, Article 34 of this Article to district-level People's Committees for summarization and reporting to provincial-level labor state management agencies.

3. Provincial-level labor state management agencies shall report on occupational accidents and technical incidents seriously endangering occupational safety and health which have been reported under Clauses 1 and 2 of this Article to the Ministry of Labor, War Invalids and Social Affairs, specifically:

a/ Making immediate reports on fatal occupational accidents and technical incidents seriously endangering occupational safety and health occurring in the localities;

b/ Making biannual and annual reports on occupational accidents, technical incidents seriously endangering occupational safety and health, and occupational safety activities in the localities.

4. Biannually and annually, the Ministry of Health shall compile statistics on occupational accident victims receiving medical examination and treatment at health establishments and send reports to the Ministry of Labor, War Invalids and Social Affairs for summarization.

5. The Ministry of Labor, War Invalids and Social Affairs shall organize



and guide the collection, storage, summarization, provision, publicization and assessment of data on occupational accidents and technical incidents seriously endangering occupational safety and health; and organize the building and management of a national database on occupational safety.

**Article 37.** Statistics and reporting on occupational diseases

1. All cases of occupational diseases shall be counted and reported under regulations of the Minister of Health.

The list of occupational diseases shall be issued by the Minister of Health after consulting the Ministry of Labor, War Invalids and Social Affairs, the Vietnam General Confederation of Labor, employers' representative organizations, and related social organizations, and reviewed for modification and supplementation to suit the changes in the working environment, equipment and technology.

2. Employers shall submit annual reports and statistics on the prevention and control of occupational diseases to provincial-level health state management agencies for summarization and reporting to the Ministry of Health.

3. The Ministry of Health shall send annual reports and statistics on assessment of data on occupational diseases and prevention and control of occupational diseases to the Ministry of Labor, War Invalid and Social Affairs for summarization and reporting to the Government.

4. The Ministry of Health shall organize and guide the collection, storage, summarization, provision, publicization and assessment of data on occupational diseases; organize the building and management of a database on prevention and control of occupational diseases; and organize the investigation of occupational diseases.

**Section 2**

**RESPONSIBILITIES OF EMPLOYERS TO VICTIMS OF OCCUPATIONAL ACCIDENTS AND DISEASES**

**Article 38.** Responsibilities of employers to victims of occupational accidents and diseases

An employer has the following responsibilities to victims of occupational accidents and diseases:

1. To provide timely first aid and emergency care for employees getting occupational accidents, and make advance payment for first aid, emergency

- care and medical treatment for victims of occupational accidents or diseases;
2. To pay all medical expenses for first aid, emergency care and medical treatment for victims of occupational accidents or diseases until their health conditions become stable, specifically as follows:
    - a/ Co-payment expenses and expenses which are not covered by health insurance for employees with health insurance;
    - b/ Expenses for medical assessment for determination of the level of working capacity decrease for employees whose working capacity is concluded to have decreased by under 5% and who are recommended by the employer to a Medical Assessment Council for medical assessment to determine the level of working capacity decrease;
    - c/ All medical expenses for employees without health insurance.
  3. To pay full salary to employees who get occupational accidents or diseases during their leave for medical treatment and working function rehabilitation;
  4. To compensate for employees who get occupational accidents which are not entirely due to their fault and for employees who get occupational diseases as follows:
    - a/ At least 1.5 months' salary in case the employee's working capacity decreases between 5% and 10%, plus 0.4 month's salary for every additional 1% working capacity decrease from 11% to 80%;
    - b/ At least 30 months' salary in case the employee's working capacity decreases 81% or more. For employees who die of occupational accidents or diseases, this compensation shall be paid to their relatives.
  5. To pay an allowance equaling at least 40% of the amount prescribed in Clause 4 of this Article corresponding to the level of their working capacity decrease to employees who get occupational accidents due to their fault;
  6. To recommend employees who get occupational accidents or diseases for medical assessment for determining the level of their working capacity decrease so that they can enjoy medical treatment, health recovery and working function rehabilitation in accordance with law;
  7. To provide compensation and allowance for victims of occupational accidents and diseases within 5 days after the Medical Assessment Council makes conclusions on the level of working capacity decrease or the

- occupational accident investigation team announces the occupational accident investigation record in case of fatal occupational accidents;
8. To assign appropriate work based on conclusions of the Medical Assessment Council to employees who get occupational accidents or diseases after they return to work from medical treatment and function rehabilitation;
  9. To prepare dossiers for employees to enjoy the occupational accident or disease regime from the Occupational Accident and Disease Insurance Fund as prescribed in Section 3 of this Chapter;
  10. The salary which serves as a basis for payment of compensation and allowances and salary to employees who give up their jobs due to occupational accidents or diseases specified in Clauses 3, 4 and 5 of this Article includes salary, salary-based allowances and other additional payments made in accordance with the labor law;
  11. The Minister of Labor, War Invalids and Social Affairs shall detail Clauses 3, 4 and 5 of this Article.

**Article 39.** Responsibilities of employers to pay compensation and allowances to employees getting occupational accidents in special cases

1. In case an employee gets an occupational accident when performing a task or following the direction of the employer outside the premises of his/her agency, enterprise, organization or cooperative, if the accident is caused by other persons or it is unable to identify who causes the accident, the employer shall pay compensation to the employee in accordance with Clause 4, Article 38 of this Law.
2. In case an employee gets an occupational accident when going to or coming back from the workplace on a reasonable route and within a reasonable time, if the accident is caused by other persons or it is unable to identify who causes the accident, the employer shall pay an allowance to the employee in accordance with Clause 5, Article 38 of this Law.
3. In case the employer has bought accident insurance for his/her employees at insurance service providers, victims of occupational accidents are entitled to compensation and allowances under the contracts signed with the insurance service providers. If the amount paid by the insurance service providers for victims of occupational accidents is lower than that defined in Clause 4 or 5, Article 38 of this Law, the employer shall pay the difference so that the total amount received by victims of occupational accidents or their

relatives at least equals the compensation or allowance prescribed in Clause 4 or 5, Article 38 of this Law.

4. If the employer does not pay occupational accident and disease insurance premiums for employees subject to compulsory social insurance as prescribed in the Law on Social Insurance, when such employees get occupational accidents or diseases, in addition to the compensation and allowances prescribed in Article 38 of this Law, the employer shall also pay them an amount equaling the compensation for occupational accidents and diseases as prescribed in Section 3 of this Chapter. The payment may be made in lump sum or on a monthly basis as agreed by involved parties; in case of disagreement, such payment shall be made as requested by employees.

5. The Minister of Labor, War Invalids and Social Affairs shall detail this Article.

**Article 40.** Cases where employees who get occupational accidents are not entitled to benefits paid by employers

1. Employees who get an occupational accident are not entitled to benefits paid by their employer as prescribed in Articles 38 and 39 of this Law in one of the following cases:

- a/ The accident is caused due to personal conflicts between the victim and the perpetrator and has no relation to the performance of work or tasks;
- b/ The accident is deliberately caused by the employee himself/herself;
- c/ The accident is caused due to the illegal use of narcotics or other addictive drugs.

2. The Minister of Labor, War Invalids and Social Affairs shall detail this Article.

### **Section 3**

## **OCCUPATIONAL ACCIDENT AND DISEASE INSURANCE REGIMES**

**Article 41.** Principles of implementation of regimes for victims of occupational accidents and diseases from the Occupational Accident and Disease Insurance Fund

1. The Occupational Accident and Disease Insurance Fund is a component of the Social Insurance Fund; the payment of premiums to, benefits from, and management and use of the Occupational Accident and Disease Insurance Fund must comply with this Law and the Law on Social

Insurance.

2. Occupational accident and disease insurance premiums shall be calculated based on employees' monthly salaries and paid by employers.
3. The levels of allowance and support for victims of occupational accidents and diseases shall be calculated based on the level of working capacity decrease, paid insurance premiums and duration of insurance premium payment to the Occupational Accident and Disease Insurance Fund.
4. The implementation of occupational accident and disease insurance shall be conducted in a simple, easy, convenient and timely manner, ensuring all interests for the insured.

**Article 42.** Use of the Occupational Accident and Disease Insurance Fund

1. Payment of expenses for medical assessment of injuries and illnesses caused by occupational accidents and diseases for eligible cases defined in Articles 45 and 46 of this Law; payment of expenses for medical assessment in case employees get on their own initiative medical assessment for determination of the level of working capacity decrease under Point b, Clause 1, and Clause 3, Article 47 of this Law with the assessment results showing that such employees are eligible for higher benefits for occupational accidents or diseases.
2. Payment of lump-sum allowance, monthly allowance and service allowance.
3. Payment of costs of assistive and orthopedic devices.
4. Payment of expenses for convalescence and health rehabilitation.
5. Payment of expenses for prevention and sharing of risks of occupational accidents and diseases.
6. Payment of expenses for victims of occupational accidents and diseases to change their occupations or jobs when they return to work.
7. Payment of expenses for management of occupational accident and disease insurance in accordance with the Law on Social Insurance.
8. Payment of health insurance premiums for persons who stop working and enjoy monthly occupational accident or disease allowances.

**Article 43.** Subjects entitled to the occupational accident or disease insurance regime

1. Subjects entitled to the occupational accident or disease insurance

regime prescribed in this Section are employees who participate in compulsory social insurance defined at Points a, b, c, d, dd, e and h, Clause 1, Article 2, and employers defined in Clause 3, Article 2, of the Law on Social Insurance.

2. In case an employee signs labor contracts with many employers, employers shall pay occupational accident and disease insurance premiums under each labor contract if the employee is subject to compulsory social insurance. If the employee gets an occupational accident or disease, he/she will be entitled to the occupational accident or disease insurance regime on the principle of premium payment and benefit enjoyment prescribed by the Government.

**Article 44.** Premium rates and sources for forming the Occupational Accident and Disease Insurance Fund

1. Every month, employers shall pay an amount equaling maximum 1% of the salary fund used as the basis for payment of social insurance premiums for employees prescribed in Article 43 of this Law into the Occupational Accident and Disease Insurance Fund.

2. The Occupational Accident and Disease Insurance Fund shall be formed from the following sources:

- a/ Employers' payments as prescribed in Clause 1 of this Article;
- b/ Profits from investment activities implemented by the Fund as prescribed in Articles 90 and 91 of the Law on Social Insurance;
- c/ Other lawful revenues.

3. Based on the balancing capacity of the Occupational Accident and Disease Insurance Fund, the Government shall prescribe in detail the rates of premium to be paid into the Fund referred to in Clause 1 of this Article.

**Article 45.** Conditions for enjoying the occupational accident regime  
Employees participating in occupational accident and disease insurance are entitled to the occupational accident regime if they fully meet the following conditions:

1. Having an accident in one of the following cases:

- a/ At the workplace and during working hours, even when they are doing personal activities at the workplace or during working hours allowed by the Labor Code and regulations of their production or business establishment, including breaks between working hours, mid-shift meals, inkind

meals, menstruation breaks, shower time, breastfeeding time, and toilet use;

b/ Outside the workplace or out of working hours while performing a task requested by the employer or a manager authorized by the employer in writing;

c/ On the way going to or coming back from the workplace along a reasonable route and within a reasonable time;

2. Having their working capacity decreased by at least 5% due to the accident prescribed in Clause 1 of this Article;

3. Employees are not entitled to the regime paid by the Occupational Accident and Disease Insurance Fund if they fall into one of the cases specified in Clause 1, Article 40 of this Law.

**Article 46.** Conditions for enjoying the occupational disease regime

1. Employees participating in occupational accident and disease insurance are entitled to the occupational disease regime if they fully meet the following conditions:

a/ Getting an occupational disease on the list of occupational diseases issued by the Minister of Health as prescribed in Clause 1, Article 37 of this Law;

b/ Having their working capacity decreased by at least 5% caused by a disease prescribed at Point a of this Clause.

2. After retiring or no longer performing the occupation or job at risk of occupational diseases on the list of occupational diseases issued by the Minister of Health as prescribed in Clause 1, Article 37 of this Law, if the employee is detected to have got an occupational disease within the prescribed time, he/she may be provided with medical assessment for consideration and provision of the regime under regulations of the Government.

**Article 47.** Assessment of the level of working capacity decrease

1. Victims of occupational accidents or diseases shall be assessed or reassessed to determine the level of their working capacity decrease in one of the following cases:

a/ After receiving treatment for injuries or illnesses for the first time, their health conditions have become stable but such injuries or illnesses still effect their health;

- b/ After receiving treatment for recurring injuries or diseases and their health conditions have become stable;
  - c/ In case of getting an injury or occupational disease which cannot be stably treated as prescribed by the Minister of Health, employees can seek medical assessment before or during the treatment process.
2. Employees may take thorough assessment to determine the level of their working capacity decrease in one of the following cases:
- a/ Getting both an occupational accident and an occupational disease;
  - b/ Getting occupational accidents repeatedly;
  - c/ Getting many occupational diseases.
3. Employees specified at Point b, Clause 1 of this Article are entitled to re-assessment of occupational accidents and diseases past 24 months after the Medical Assessment Council makes conclusions on the level of their work capacity decrease; in case employees get an occupational disease that reduces their health rapidly, the medical assessment may be conducted earlier in accordance with regulations of the Minister of Health.

**Article 48.** Lump-sum allowance

1. Employees whose working capacity is decreased between 5% and 30% are entitled to a lump-sum allowance.
2. The level of lump-sum allowance is as follows:
- a/ Employees whose working capacity is decreased by 5% are entitled to an allowance equaling five times the basic salary; for every additional 1% decrease, they are entitled to an additional amount of 0.5 time the basic salary;
  - b/ In addition to the allowance prescribed at Point a of this Clause, employees are entitled to an additional allowance calculated based on the number of years of payment of premiums into the Occupational Accident and Disease Insurance Fund; if this number is less than one year, the allowance must equal 0.5 month's salary on which the premium is based; for every additional year of payment of premiums into the Fund, they are entitled to an addition of 0.3 month's salary paid to the Fund of the month preceding the month when they get or are diagnosed of an occupational disease; in case employees get an occupational accident right in the first month of payment of premiums into the Fund or return to work after a period of leave, the salary used for calculating this allowance is the salary of that month.



3. The Minister of Labor, War Invalids and Social Affairs shall prescribe in detail the calculation of allowances for occupational accidents and diseases in case employees are entitled to another allowance level following reassessment or thorough assessment.

**Article 49. Monthly allowance**

1. Employees whose working capacity is decreased by at least 31% are entitled to a monthly allowance.

2. The level of monthly allowance is as follows:

a/ If the working capacity is decreased by 31%, the allowance must equal 30% of the basic salary; for every additional 1% working capacity decrease, employees are entitled to an addition amount of 2% of the basic salary;

b/ In addition to the allowance prescribed at Point a of this Clause, every month, employees are entitled to an additional allowance calculated based on the number of years of payment of premiums into the Occupational Accident and Disease Insurance Fund; if this number is less than one year, the allowance must equal 0.5 month's salary on which the premium is based; for every additional year of payment of premiums into the Fund, they are entitled to an additional amount of 0.3 month's salary paid to the Fund of the month preceding the month when they get an occupational accident or are diagnosed of an occupational disease; in case employees get an occupational accident right in the first month of payment of premiums into the Fund or return to work after a period of leave, the salary used for calculating this allowance is the salary of that month.

3. The suspension from or continuation of enjoyment of monthly allowance for occupational accidents and diseases and service allowance must comply with Article 64 of the Law on Social Insurance; dossiers for and the order of settlement of continued enjoyment of monthly allowance for occupational accidents and diseases must comply with Articles 113 and 114 of the Law on Social Insurance. In case of suspension from enjoyment as prescribed at Point c, Clause 1, Article 64 of the Law on Social Insurance, the social insurance agency shall notify such in writing and clearly state the reason; the decision to terminate enjoyment shall be based on conclusions and decisions of competent state agencies.

4. When beneficiaries of monthly allowance for occupational accidents

move to another place in the country and wish to receive the allowance in their new place of residence, they shall send an application to the social insurance agency that is providing the allowance to them. Within 5 days after receiving the application, the social insurance agency shall settle it; if rejecting the application, it shall reply in writing, stating the reason.

5. When beneficiaries of monthly allowance for occupational accidents or diseases move to a foreign country for residence, they shall be provided with a lump-sum allowance; the lump-sum allowance amount must equal three times the monthly allowance they are enjoying. The dossiers for and the order of settling the provision of lump-sum allowance must comply with Clauses 2 and 3, Article 109, and Clause 4, Article 110, of the Law on Social Insurance.

6. The levels of monthly allowance for occupational accidents and diseases and service allowance shall be adjusted in accordance with the Law on Social Insurance.

**Article 51. Starting time for receiving allowances**

1. The starting time for receiving the allowances prescribed in Articles 48, 49 and 52 of this Law is the month an employee completes medical treatment and is discharged from hospital or the month when the Medical Assessment Council makes conclusions, for employees who do not receive inpatient treatment; if an employee gets a thorough assessment to determine the level of working capacity decrease under Clause 2, Article 47 of this Law, the starting time for receiving allowances is the month he/she completes medical treatment and is discharged from hospital for the last occupational accident or disease or the month when the Medical Assessment Council makes conclusions, for employees who do not receive inpatient treatment. In case an employee gets an occupational accident or disease but it is impossible to determine when he/she completes medical treatment and is discharged from hospital, the starting time for receiving the occupational accident or disease allowance is the month when the Medical Assessment Council makes conclusions; in case an employee gets infected with HIV/AIDS due to an occupational accident, the starting time for receiving the allowance is the month he/she is granted a certificate of HIV/AIDS infection due to occupational accident.

2. In case an employee is recommended for assessment for

determination of the level of working capacity decrease under Point b, Clause 1, and Clause 2, Article 47 of this Law, the starting time for receiving a new allowance is the month when the Medical Assessment Council makes conclusions.

**Article 51.** Assistive and orthopedic devices

1. Victims of occupational accidents and diseases which cause injuries to the body functions shall be provided with money for buying assistive and orthopedic devices for a period of time based on the conditions of the injuries and diseases and instructions of health, orthopedic and rehabilitation establishments to ensure professional and technical requirements and conditions.

2. The Minister of Labor, War Invalids and Social Affairs shall prescribe in detail types of assistive and orthopedic devices, the period of time and the amount of money for purchasing assistive and orthopedic devices, and dossiers for and order of implementation.

**Article 52.** Service allowance

Employees whose working capacity is decreased by at least 81% with spinal paralysis, blindness in both eyes, amputation or paralysis of two arms or legs or psychiatric diseases are entitled to a monthly service allowance equaling the basic salary in addition to the allowance prescribed in Article 49 of this Law.

**Article 53.** Allowance for employees dying of occupational accidents or diseases

Relatives of employees shall be provided with a lump-sum allowance equaling 36 times the basic salary in the month the employees die and a survivorship allowance as prescribed by the Law on Social Insurance in one of the following cases:

1. Employees die of occupational accidents or diseases during the working process;
2. Employees die during the period of first-time medical treatment of occupational accident injuries or diseases;
3. Employees die during the period of medical treatment of injuries or diseases before they receive medical assessment for determination of the level of working capacity decrease.

Dossiers for enjoyment of survivorship allowance in case employees die

of an occupational accident or disease must comply with Clause 1, Article 111 of the Law on Social Insurance.

**Article 54.** Convalescence and health rehabilitation after medical treatment of injuries and diseases

1. After completing treatment for injuries caused by occupational accidents or illnesses caused by occupational diseases, within the first 30 days after returning to work, employees whose health has not yet recovered are entitled to convalescence and health rehabilitation for between 5 days and 10 days for each time getting an occupational accident or disease.

In case an employee does not receive conclusions on the level of working capacity decrease from the Medical Assessment Council within the first 30 days after returning to work, he/she is still entitled to convalescence and health rehabilitation applicable to employees after treatment of injuries or diseases as prescribed in Clause 2 of this Article if the Medical Assessment Council concludes the employee has his/her working capacity decreased to a level eligible for the occupational accident or disease regime.

2. The specific number of days for convalescence and health rehabilitation prescribed in Clause 1 of this Article shall be decided by the employer and the establishment's trade union executive committee, or by the employer in case the establishment has no trade union. The maximum duration for convalescence and health rehabilitation is prescribed as follows:

a/ Ten days, for victims of occupational accidents or diseases whose working capacity is decreased by at least 51%;

b/ Seven days, for victims of occupational accidents or diseases whose working capacity is decreased by between 31% and 50%;

c/ Five days, for victims of occupational accidents or diseases whose working capacity is decreased by between 15% and 30%.

3. Employees prescribed in Clause 1 of this Article are entitled to a daily allowance equaling 30% of the basic salary.

**Article 55.** Support for victims of occupational accidents or diseases to change occupations when they return to work

1. In case victims of occupational accidents or diseases are assigned by the employer with new work as prescribed in Clause 8, Article 38 of this Law and the new work requires training, they are entitled to financial support to cover the training expense.

2. The financial support must not exceed 50% of the total training expense and 15 times the basic salary; this support may not be provided for more than twice per employee and shall be provided once a year only.

**Article 56.** Support for the prevention and sharing of risks of occupational accidents and diseases

1. Annually, the Occupational Accident and Disease Insurance Fund shall reserve maximum 10% of its revenue to support the prevention and sharing of risks of occupational accidents and diseases.

2. Activities related to the prevention and sharing of risks of occupational accidents and diseases to be supported include:

a/ Health check-up and medical treatment of occupational diseases;

b/ Working function rehabilitation;

c/ Re-investigation of occupational accidents and diseases at the request of the social insurance agency;

d/ Occupational safety and health training for participants in occupational accident and disease insurance and those specified in Clauses 1 and 2, Article 14 of this Law.

3. Support for activities specified at Points a and b, Clause 2 of this Article must not include expenses paid by the Health Insurance Fund in accordance with the Law on Health Insurance or expenses paid by employers as prescribed in Clause 2, Article 38 of this Law.

4. The Government shall prescribe in detail conditions for support, dossiers for and levels of financial support, duration of financial support, order and procedures for support provision, agencies competent to decide on the support, and organization of implementation of financial support policies as prescribed in Articles 55 and 56 of this Law, ensuring the balance of the Occupational Accident and Disease Insurance Fund.

**Article 57.** Dossier for enjoyment of the occupational accident regime

1. The social insurance book.

2. The hospital discharge paper or a copy of the medical record after the completion of inpatient treatment for occupational accidents.

3. The Medical Assessment Council's record of the assessment of the level of working capacity decrease.

4. The written request for enjoyment of the occupational accident regime, made according to the form issued by Vietnam Social Security after

consulting the Ministry of Labor, War Invalids and Social Affairs.

**Article 58.** Dossier for enjoyment of the occupational disease regime

1. The social insurance book.
2. The hospital discharge paper or a copy of the medical record after the completion of treatment for occupational diseases; an employee who does not get inpatient treatment at a health establishment shall submit an occupational disease examination paper.
3. The Medical Assessment Council's record of the assessment of the level of working capacity decrease; in case an employee gets infected with HIV/AIDS due to an occupational accident, he/she shall submit the certificate of HIV/AIDS infection due to occupational accident instead.
4. The written request for enjoyment of the occupational disease regime, made according to the form issued by Vietnam Social Security after consulting the Ministry of Labor, War Invalids and Social Affairs.

**Article 59.** Settlement of occupational accident and disease insurance regimes

1. Employers shall submit a complete dossier for enjoyment of the occupational accident or disease insurance regime as prescribed in Article 57 or 58 of this Law to the social insurance agency within 30 days after receiving it.
3. Within 10 days after receiving a complete dossier, the social insurance agency shall settle the occupational accident or disease insurance regime; in case of refusal, it shall reply in writing, clearly stating the reason.

**Article 60.** Settlement of convalescence and health rehabilitation allowance after occupational accident or disease

1. Employers shall make a list of employees whose health has not yet recovered after enjoying the occupational accident or disease insurance regime and submit it to the social insurance agency within 10 days after these employees' health is determined as not having recovered as prescribed in Clause 1, Article 54 of this Law.
2. Within 10 days after receiving the list, the social insurance agency shall settle the convalescence and health rehabilitation regime for employees and transfer money to their employers; in case of refusal, they shall reply in writing, clearly stating the reason.
3. Within 5 days after receiving money from the social insurance agency,

employers shall pay the allowances to the employees.

**Article 61.** Delayed settlement of the occupational accident and disease insurance regimes

1. In case settlement of the occupational accident or disease insurance regime is delayed after the time limit prescribed in Article 59, or Clause 1, Article 60, of this Law, a written explanatory document shall be issued specifying the reason.
2. In case of delayed settlement of the occupational accident or disease insurance regime and delayed payment of allowances causing damage to the lawful rights and interests of beneficiaries, compensation shall be paid in accordance with law, unless it is due to the fault of the victims or relatives of dead employees.

**Article 62.** Dossiers for and order of assessment to determine the level of working capacity decrease for settlement of occupational accident and disease insurance regimes

1. Dossiers for and order of assessment to determine the level of working capacity decrease for settlement of occupational accident and disease insurance regimes shall be prescribed by the Minister of Health.
2. The assessment to determine the level of working capacity decrease shall be conducted accurately, publicly and transparently. The Medical Assessment Council must be responsible for the accuracy of its assessment results in accordance with law.

#### **Chapter IV**

### **ASSURANCE OF OCCUPATIONAL SAFETY AND HEALTH FOR PARTICULAR GROUPS OF EMPLOYEES**

**Article 63.** Occupational safety and health for female employees, minor employees and employees with disabilities

Occupational safety and health for female employees, minor employees and employees with disabilities must comply with the Labor Code, the Law on People with Disabilities and this Law.

**Article 64.** Conditions for employment of elderly employees to perform heavy, hazardous or dangerous occupations or jobs

1. Elderly employees may be employed to perform heavy, dangerous or dangerous occupations or jobs or extremely heavy, hazardous or dangerous occupations or jobs that adversely affect their health when the following

conditions are fully met:

- a/ The elderly employee is experienced and highly skilled with at least 15 full working years; and possesses a vocational certificate or is recognized as artisan in accordance with law;
- b/ The elderly employee is physically fit to perform heavy, hazardous or dangerous occupations or jobs according to the health standards issued by the Minister of Health after consulting line ministries;
- c/ The elderly employee may be employed for no more than 5 years;
- d/ The elderly employee shall work together with at least another employee who is not elderly.
- dd/ The elderly employee works on a voluntary basis.

2. The Government shall detail this Article.

**Article 65.** Occupational safety and health in case of labor lease

1. A labor leasing enterprise has the following responsibilities:

- a/ To negotiate with the hiring party on the guarantee of lawful occupational safety and health-related rights and interests of leased employees, which must not be lower than those of the hiring party's employees who have the same qualification, perform the same jobs or perform jobs of the same value; to include these contents in the labor lease contract and perform obligations of the employer in accordance with the Labor Code and this Law;
- b/ To coordinate with the hiring party and inspect if the hiring party guarantees occupational safety and health for leased employees. To guarantee all interests of leased employees in case the hiring party fails to fully implement its commitments on occupational safety and health guarantee stated in the signed labor lease contract;
- c/ To preserve occupational safety and health dossiers related to leased employees; to make reports on occupational accidents and diseases in accordance with Articles 36 and 37 of this Law.

2. A hiring party has the following responsibilities:

- a/ To fully implement its commitments in the labor lease contract; to have no discriminative treatment in occupational safety and health between leased employees and its own employees;
- b/ When a leased employee gets an occupational accident or a technical incident endangering occupational safety and health, to promptly provide first



aid and emergency care for the victim and at the same time notify the labor leasing enterprise and notify and investigate the case as prescribed in Articles 34 and 35 of this Law;

c/ To organize occupational safety and health training for leased employees in accordance with this Law, except the case that the labor leasing enterprise has provided appropriate training for leased employees in the jobs they are assigned; to biannually and annually review occupational accidents and diseases of leased employees and send reports thereon to the labor leasing enterprise;

d/ To coordinate with the labor leasing enterprise in investigating occupational accidents; to preserve occupational safety and health dossiers related to leased employees.

3. Leased employees shall observe occupational safety and health regulations, procedures and measures issued by the hiring party.

4. The Government shall prescribe in detail occupational safety and health in case of labor lease; responsibilities of labor leasing enterprises and hiring parties for leased employees, guaranteeing lawful rights and interests of leased employees in accordance with the Labor Code and this Law.

**Article 66.** Occupational safety and health at workplaces with employees of different employers

At a workplace where there are many employees of different employers working together, project owners shall make arrangement for these employers to jointly prepare a document which clearly specifies the occupational safety and health responsibility of each employer and assign staff to coordinate in occupational safety and health examination.

**Article 67.** Occupational safety and health for Vietnamese guest workers

1. Vietnamese guest workers referred to in this Article include Vietnamese employees who are assigned by their employers to perform tasks overseas and those working overseas under contracts as defined in the Law on Vietnamese Guest Workers.

2. Employers shall comply with occupational safety and health laws of host countries and the following provisions:

a/ To fully implement occupational safety and health measures and occupational accident and disease insurance regimes, and perform their responsibilities to employees as prescribed in this Law; in case regulations of

host countries provide better benefits for employees, to apply such regulations;

b/ To coordinate with competent agencies of host countries in investigating occupational accidents and diseases occurring to employees;

c/ For fatal and serious occupational accidents, to provide dossiers and materials related to the accidents to Vietnam's provincial-level occupational safety and health inspectorates of the places where their head offices are based.

3. Vietnamese guest workers shall comply with Vietnam's laws and the laws of host countries unless otherwise prescribed by treaties to which the Socialist Republic of Vietnam is a contracting party.

**Article 68.** Occupational safety and health for domestic workers

1. Employers shall instruct domestic workers how to use machinery, equipment and utensils and implement fire and explosion prevention and fighting measures in their homes which are related to domestic work; and implement other regulations to guarantee occupational safety and health for domestic workers.

2. Domestic workers shall strictly follow instructions on use of machinery, equipment and utensils, and on fire and explosion prevention and fighting.

3. The Minister of Labor, War Invalids and Social Affairs shall detail occupational safety and health provisions applied to domestic workers.

**Article 69.** Occupational safety and health for home-based employees

1. Upon entering into written agreements with employers on home-based working, employees shall ensure occupational safety and health requirements for the work assigned to them.

2. In case an occupational accident occurs during the working process at home, the home-based employee or his/her relatives shall inform it immediately to the employer.

If the victim of the occupational accident has participated in occupational accident and disease insurance, he/she is entitled to policies and benefits applicable to victims of occupational accidents and diseases prescribed in this Law.

If the victim of the occupational accident is not subject to occupational accident and disease insurance, the employer shall provide him/her with

benefits prescribed in Clauses 1, 2, 3, 4, 5, 6, 7, 8 and 10, Article 38 of this Law.

3. Employers shall check the occupational safety and health conditions at the workplace of home-based employees; implement commitments in the agreements with the home-based employees; and include occupational accidents occurring to home-based employees in the general report on occupational accidents as prescribed in Article 36 of this Law.

**Article 70.** Occupational safety and health for pupils, students, apprentices, interns and employees on probation

1. Education and vocational training institutions shall ensure occupational safety and health conditions for pupils, students and apprentices during the practice and vocational training as for employees prescribed in Articles 15, 16, 18, 19, 20, 23, 24 and 25, and Clause 1, Article 27, of this Law.

2. Employers shall implement occupational safety and health regulations for apprentices, interns and employees on probation as for employees prescribed in this Law, including those who get occupational accidents.

3. During the practice, apprenticeship or internship, pupils, students, apprentices and interns shall comply with occupational safety and health regulations of their education or vocational training institutions.

A pupil or student who gets an occupational accident during the time of practice is entitled to support under regulations of the Government.

## **Chapter V**

### **ASSURANCE OF OCCUPATIONAL SAFETY AND HEALTH IN PRODUCTION AND BUSINESS ESTABLISHMENTS**

**Article 71.** Practice of occupational safety and health in production and business establishments

1. When organizing occupational safety and health, production and business establishments shall comply with occupational safety and health provisions in Chapters I, II, III and IV of this Law and provisions of this Chapter.

2. The management boards of economic zones, industrial parks, export processing zones or hi-tech parks shall direct the practice of occupational safety and health in production and business establishments under their management; and coordinate in the organization of occupational safety and

health inspection activities and report on the practice of occupational safety and health to labor state management agencies, unless otherwise prescribed by specialized laws.

3. Based on the size and characteristics of work, risks of occupational accidents and diseases, and working conditions, the Government shall prescribe in detail the application of occupational safety and health provisions of this Law to other establishments and management boards of economic zones, industrial parks, export processing zones and hi-tech parks referred to in Clause 2 of this Article as suitable to their working conditions, organizational structure, apparatus, functions and tasks, and in accordance with other relevant specialized laws.

**Article 72. Occupational safety and health units**

1. Based on the size and characteristics of work, risks of occupational accidents and diseases, and working conditions, employers shall assign occupational safety and health officers or establish an occupational safety and health unit at their establishments.

The Government shall detail this Clause.

2. Occupational safety and health officers or the occupational safety and health unit shall assist and advise the employer in the implementation of occupational safety and health in the production and business establishment, with the following major tasks:

- a/ Formulating regulations, procedures and measures to ensure occupational safety and health and prevent and fight fires and explosions;
- b/ Making, and monitoring the implementation of, annual plans on occupational safety and health; assessing risks and making emergency rescue plans;
- c/ Managing and monitoring the notification and inspection of machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health;
- d/ Organizing occupational safety and health information, communication and training activities; organizing first aid and emergency care, and prevention and control of occupational diseases for employees;
- dd/ Organizing occupational safety and health self-examination; investigating in accordance with law occupational accidents and technical incidents endangering occupational safety and health;

e/ Assuming the prime responsibility for, and coordinating with the health unit in, monitoring and controlling dangerous factors and hazardous factors;

g/ Summarizing, and requesting the employer to deal with, recommendations on occupational safety and health of inspection teams, examination teams and employees;

h/ Coordinating with the establishment's trade union executive committee in guiding the performance of tasks of occupational safety and health workers;

i/ Organizing emulation, commendation and reward, disciplining, statistical work and reporting on occupational safety and health.

3. Occupational safety and health officers and occupational safety and health units have the following rights:

a/ To request the heads of production units to order work suspension, or to temporarily suspend work in emergency circumstances if detecting risks of occupational accidents in order to implement occupational safety and health measures and at the same time report it to the employer;

b/ To stop the operation of machinery and equipment that fail to meet safety requirements or have expired;

c/ To be sent by the employer to training and refresher courses to improve occupational safety and health knowledge and skills in accordance with law.

4. Occupational safety and health officers must have technical knowledge, skills and good understanding of practical production and business activities of their establishment.

5. In case a production and business establishment cannot arrange occupational safety and health officers or form an occupational safety and health unit as prescribed in Clauses 1 and 4 of this Article, it shall hire a qualified organization as prescribed by law to perform occupational safety and health tasks prescribed in Clause 2 of this Article.

#### **Article 73.** Health units

1. Based on the size and characteristics of work, risks of occupational accidents and diseases, and working conditions, employers shall assign health workers or form a health unit responsible for taking care of and managing employees' health.

The Government shall detail this Clause.

2. Health workers or health units shall assist and advise employers in managing, and directly manage, employees' health with the following major tasks:

a/ Preparing plans and facilities for first aid and emergency care, essential drugs, and scenarios of emergency rescue for victims of occupational accidents; organizing training in first aid and emergency care for employees in their establishments;

b/ Planning and organizing health check-up, medical examination to detect occupational diseases, medical assessment to determine the level of working capacity decrease for employees getting occupational accidents and diseases, convalescence and working function rehabilitation, and counseling on measures to prevent and control occupational diseases; and proposing assignment of jobs suitable to employees' health;

c/ Providing medical examination and treatment of common diseases at their establishments and rendering first aid and emergency care for victims of occupational accidents and technical incidents endangering occupational safety and health under regulations;

d/ Communicating and disseminating information on occupational safety and health, prevention and control of occupational diseases, and health improvement at the workplace; examining the observance of sanitation regulations, organize prevention and control of epidemics, ensure food safety and hygiene for employees in their establishments; and organizing provision of in-kind allowances under regulations;

dd/ Collecting and managing information on occupational safety and health at the workplace; organizing working environment monitoring to assess hazardous factors; and managing health records of employees and victims of occupational diseases (if any);

e/ Coordinating with the occupational safety and health unit in performing relevant tasks prescribed in Clause 2, Article 72 of this Law.

3. Health workers and health units have the following rights:

a/ To require heads of production units to order work suspension, or decide to temporarily suspend work in emergency circumstances when detecting signs of violation or risks that are likely to cause harm, diseases and illnesses to employees and at the same time report on the situation to the

employer; to manage medical equipment and facilities, drugs to serve first aid and emergency care at the workplace; to guide employees in their establishments on first aid and emergency care;

b/ To stop the use of substances that fail to meet occupational safety and health requirements;

c/ To be sent by the employer to meetings and seminars with local health agencies or health agencies of ministries and sectors to improve professional knowledge and coordination.

4. Health workers at the establishment must possess health qualifications and certificates of occupational health.

5. In case an establishment cannot arrange health workers or form a health unit as prescribed in Clauses 1 and 4 of this Article, it shall sign a contract with a qualified health establishment as prescribed by the Minister of Health to provide health care for its employees as prescribed in Clause 2 of this Article.

**Article 74. Occupational safety and health workers**

1. Each production group in production and business establishments must have at least one part-time occupational safety and health worker during the working hours. The employer shall issue a decision on the establishment and regulations on the operation of the network of occupational safety and health workers after consulting the establishment's trade union executive committee, if any;

2. An occupational safety and health worker must be a direct employee who possesses occupational safety and health knowledge and techniques, is voluntary and exemplary in observing occupational safety and health regulations and is elected by employees in his/her group.

3. Occupational safety and health workers shall work under the management and guidance of the establishment's trade union executive committee in accordance with the regulations on the operation of the network of occupational safety and health workers; coordinate technically with occupational safety and health officers or occupational safety and health management unit, health workers or health unit at their establishment in the performance of their tasks.

4. Occupational safety and health workers have the following obligations:

a/ To urge, remind and instruct every person in groups, teams and workshops to strictly obey occupational safety and health regulations, preserve safety devices and personal protective equipment; to remind the heads of groups, teams and workshops to obey occupational safety and health regulations;

b/ To supervise the implementation of occupational safety and health standards, procedures and regulations, detect wrongdoings and violations related to occupational safety and health, and unsafe and unhygienic machinery, equipment, supplies, substances and workplace;

c/ To participate in the making of occupational safety and health plans and the instruction of safe working measures to new employees in the group;

d/ To propose the head of the group or supervisors to fully implement regulations on labor protection and occupational safety and health measures, timely deal with unsafe and unhygienic machinery, equipment, supplies, substances and workplace;

dd/ To report to trade unions or labor inspectorates upon the detection of occupational safety and health violations at the workplace or unsafe machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health which have been reported to the employer but have not been dealt with.

5. Occupational safety and health workers have the following rights:

a/ To be provided with adequate information on measures used by the employer to ensure occupational safety and health at the workplace;

b/ To spend part of their working hours to perform tasks of occupational safety and health workers while still getting paid for the time of performance of these tasks and enjoying a responsibility allowance.

The level of responsibility allowance shall be agreed by the employer and the establishment's trade union executive committee, and shall be stated in the regulations on the operation of the network of occupational safety and health workers;

c/ To request employees in the group to stop working for implementing occupational safety and health measures if seeing imminent risks that are likely to cause incidents or occupational accidents, and take responsibility for such request;

d/ To participate in training and refresher courses to improve their



professional knowledge and working methods.

**Article 75.** Establishment's occupational safety and health council

1. Based on the size and characteristics of work, risks of occupational accidents and diseases, and working conditions, employers shall establish occupational safety and health councils in their establishments.

The Government shall detail this Clause.

2. The occupational safety and health council has the following tasks and powers:

- a/ To advise and coordinate with the employer in formulating regulations, procedures, plans and measures to ensure occupational safety and health at the production and business establishment;
- b/ To organize annual dialogues at the workplace between employees and the employer to share information, increase understanding, promote equal and safe working conditions for employees; to improve the effectiveness of the implementation of occupational safety and health policies and laws in the production and business establishment;
- c/ To examine the implementation of occupational safety and health activities in the production and business establishment;
- d/ To request the employer to implement remedies if finding risks of unsafe and unhygienic problems.

3. The occupational safety and health council shall be composed of:

- a/ A representative of the employer as the council president;
- b/ A representative of the establishment's trade union executive committee, or a representative of the collective of employees in the establishment where there is no trade union, as the council's vice president;
- c/ Occupational safety and health officer of the production and business establishment as the standing member cum secretary of the council;
- d/ Health workers in the establishment;
- dd/ Other related members.

The council must ensure a certain percentage of female members in accordance with the gender equality principle and the practical situation of the establishment.

**Article 76.** Occupational safety and health plan

1. Employers shall make, and organize the implementation of, annual occupational safety and health plans. For unexpected activities arising in the

year, appropriate activities shall be added to the occupational safety and health plan.

2. An occupational safety and health plan shall be made based on opinions of the establishment's trade union executive committee and on the following grounds:

a/ Assessment of occupational safety and health risks at the workplace; the control of dangerous factors and hazardous factors and the emergency rescue plans;

b/ Implementation results of occupational safety and health activities in the previous year;

c/ Production and business tasks, orientation and plan and the situation of employees of the plan year;

d/ Recommendations of employees, trade unions, inspection teams and examination teams.

3. An occupational safety and health plan must include the following major contents:

a/ Technical measures on occupational safety and fire and explosion prevention and fighting;

b/ Technical measures on occupational health, prevention and control of hazardous factors, and improvement of working conditions;

c/ Provision of personal protective equipment for employees;

d/ Health care for employees;

dd/ Information, communication, education and training on occupational safety and health.

**Article 77.** Assessment of occupational safety and health risks

1. Assessment of occupational safety and health risks means the analysis and identification of risks and harms of dangerous factors and hazardous factors at the workplace in order to proactively prevent occupational accidents and diseases and improve the working conditions.

2. Employers shall organize risk assessment and guide employees to self-assess occupational safety and health risks before starting working, during the working process in a regular manner, and when necessary.

3. In sectors and occupations with high risks of occupational accidents and diseases, the assessment of occupational safety and health risks shall be made compulsory and included in the work regulations and working

procedures.

4. The Minister of Labor, War Invalids and Social Affairs shall detail Clauses 2 and 3 of this Article after consulting the Minister of Health.

**Article 78.** Emergency rescue plan

1. Based on the risks of occupational accidents and diseases at the workplace and the law, employers shall make emergency rescue plans at the workplace.

2. An emergency rescue plan must comprise the following major contents:

a/ Plan on evacuation of employees out of dangerous areas;

b/ First aid and emergency care measures for victims;

c/ Measures to prevent and overcome consequences caused by incidents;

d/ Rescue equipment and facilities;

dd/ On-site rescue force; plan on coordination with external forces; and drill plan.

3. The order, procedures and competence to approve emergency rescue plans must comply with law.

**Article 79.** Organization of emergency rescue force

1. In a workplace with dangerous factors and hazardous factors that are likely to cause occupational accidents, the employer shall organize a parttime or full-time emergency rescue force in accordance with regulations and provide training in first aid and emergency care for employees.

2. The emergency rescue force shall be provided with technical and medical equipment to ensure timely rescue, first aid, emergency care, and provided with training.

3. The Minister of Health shall prescribe in detail the organization of, equipment and training for, emergency rescue force at the workplace.

**Article 80.** Self-examination of occupational safety and health

1. Employers shall plan and organize the implementation of periodical and irregular self-examination of occupational safety and health in their establishments.

2. Contents, form and duration of the self-examination must ensure effectiveness and be suitable for the characteristics of work, risks of occupational accidents and diseases, and working conditions of the establishment.

3. The Minister of Labor, War Invalids and Social Affairs shall detail this Article after consulting the Minister of Health.

**Article 81.** Statistical work and reporting on occupational safety and health

1. Every year, employers shall perform statistical work and make reports on occupational safety and health at the workplace as follows:

a/ Sending occupational safety and health reports to provincial-level labor state management agencies and health state management agencies, unless otherwise prescribed by specialized laws;

b/ Compiling statistics and making reports on occupational accidents and diseases and technical incidents seriously endangering occupational safety and health in accordance with Articles 36 and 37 of this Law.

2. The Minister of Labor, War Invalids and Social Affairs shall detail Point a, Clause 1 of this Article after consulting the Minister of Health.

## **Chapter VI**

### **STATE MANAGEMENT OF OCCUPATIONAL SAFETY AND HEALTH**

**Article 82.** Contents of state management of occupational safety and health

1. Promulgating, and organizing the implementation of, legal documents on occupational safety and health; and formulating, promulgating or announcing national occupational safety and health standards and technical regulations and local occupational safety and health technical regulations according to assigned management competence.

2. Conducting communication, dissemination and education of the occupational safety and health law.

3. Monitoring, compiling statistics and providing information on occupational accidents and diseases; formulating national occupational safety and health programs and records.

4. Managing the organization and operation of occupational safety and health service organizations.

5. Organizing and conducting research and application of science and technology in occupational safety and health.

6. Inspecting, examining, settling complaints and denunciations related to occupational safety and health, and handling violations of the occupational

safety and health law.

7. Organizing training in occupational safety and health.

8. Implementing international cooperation on occupational safety and health.

**Article 83.** State management responsibilities for occupational safety and health

1. The Government shall perform the uniform state management of occupational safety and health.

2. The Ministry of Labor, War Invalids and Social Affairs shall take responsibility before the Government for performing the uniform state management of occupational safety and health.

3. Ministries and ministerial-level agencies shall, within the scope of their respective tasks and powers, perform the state management of occupational safety and health.

4. People's Committees at all levels shall, within the scope of their respective tasks and powers, perform the state management of occupational safety and health.

**Article 84.** State management responsibilities for occupational safety and health of the Minister of Labor, War Invalids and Social Affairs

1. To assume the prime responsibility for formulating and submitting to competent state agencies for promulgation or promulgate according to his/her competence occupational safety and health laws, policies, plans and national programs, and organizing the implementation thereof; to compile national occupational safety and health records.

2. To issue the list of machinery, equipment, supplies and substances subject to strict requirements for occupational safety and health as prescribed in Clause 2, Article 28 of this Law; to assume the prime responsibility for performing the state management of occupational safety and health training activities and inspection of machinery, equipment and supplies subject to strict requirements for occupational safety.

3. To formulate, or participate according to his/her competence in the formulation of, national occupational safety and health standards and technical regulations as prescribed in Article 87 of this Law.

4. To monitor, summarize and provide occupational safety and health information; compile occupational safety and health statistics in accordance

with the statistics law.

5. To assume the prime responsibility for conducting communication, dissemination and education of the occupational safety and health law; to prevent technical incidents endangering occupational safety and health, occupational accidents and diseases.
6. To submit to the Government for decision solutions in necessary cases to protect the legitimate rights and interests of employees related to occupational accident and disease insurance.
7. To inspect, examine, and handle violations of the occupational safety and health law; to investigate, and coordinate in the investigation of, occupational accidents and technical incidents endangering occupational safety and health; to propose the Ministry of Public Security and the Supreme People's Procuracy to investigate and handle occupational accidents with signs of crime.
8. To implement international cooperation on occupational safety and health.

**Article 85.** State management responsibilities for occupational safety and health of the Minister of Health

1. To formulate and submit to competent state agencies for promulgation, or promulgate according to his/her competence legal documents on working environment monitoring; assessment, control and management of hazardous factors at the workplace; and management and organization of working environment monitoring.
2. To formulate national occupational safety and health standards and technical regulations applicable to occupational health factors in the working environment; to give opinions on occupational health contents according to his/her competence as prescribed in Clause 5, Article 87 of this Law.
3. To guide according to his/her competence the management of occupational health and prevention and control of occupational diseases.
4. To guide the provision of health check-up and medical examination to detect occupational diseases, assessment to determine the level of working capacity decrease, treatment and functional rehabilitation for victims of occupational accidents and diseases; to manage health records of employees.
5. To coordinate with the Ministry of Labor, War Invalids and Social Affairs in developing training contents on occupational health; to

- communicate, disseminate and educate about the occupational health law.
6. To draw up, issue and periodically review, revise and modify the list of occupational diseases as prescribed in Clause 1, Article 37 of this Law; to organize assessment of occupational diseases; to formulate and promulgate health standards for each occupation and job after consulting related ministries and sectors.
  7. To monitor, summarize and provide occupational safety and health information; to compile statistics and build a database on occupational diseases; to manage employees' health at the workplace.
  8. To coordinate with the Ministry of Labor, War Invalids and Social Affairs in establishing evaluation criteria for the list of heavy, hazardous and dangerous occupations and jobs and extremely heavy, hazardous and dangerous occupations and jobs.
  9. To coordinate with the Ministry of Labor, War Invalids and Social Affairs in inspecting and examining the observance of the occupational safety and health law in accordance with law.
  10. To send to the Ministry of Labor, War Invalids and Social Affairs annual reports on the implementation of occupational safety and health policies and laws under their management.

**Article 86.** State management responsibilities for occupational safety and health of People's Committees at all levels

1. To formulate and submit to competent state agencies for promulgation or promulgate according to their competence legal documents and local technical regulations.
2. To manage occupational safety and health in the localities; to formulate, and organize the implementation of, occupational safety and health policies and laws in the localities.
3. To send annual reports on the implementation of occupational safety and health policies and laws in the localities to the People's Councils of the same level or prepare extraordinary reports at the request of competent state agencies in accordance with law.
4. To annually arrange resources suitable to their practical local conditions for communication, dissemination and education on the occupational safety and health law in the localities; to prioritize communication, dissemination and education on the occupational safety and

health law for employees without labor contract in the localities.

5. To inspect, examine, and handle violations of the occupational safety and health law in the localities according to their competence.

**Article 87.** Responsibility to formulate and announce national occupational safety and health standards and formulate and promulgate national occupational safety and health technical regulations

1. The Ministry of Science and Technology shall approve the plan for formulating national occupational safety and health standards and announce national occupational safety and health standards.

2. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with related ministries and ministerial-level agencies in, making plans for formulating national occupational safety and health technical regulations.

3. Ministries and ministerial-level agencies shall assume the prime responsibility for formulating national occupational safety and health standards and formulating and promulgating national occupational safety and health technical regulations under their management as assigned by the Government after reaching agreement with the Ministry of Labor, War Invalids and Social Affairs; in case of disagreement, the agencies in charge of formulating national standards and technical regulations shall report it to the Prime Minister for consideration and decision.

The appraisal of national occupational safety and health standards and technical regulations shall be conducted by the Ministry of Science and Technology in accordance with the Law on Standards and Technical Regulations.

4. The Ministry of Labor, War Invalids and Social Affairs shall formulate national occupational safety and health standards and promulgate national occupational safety and health technical regulations under its management as prescribed in Clause 3 of this Article; coordinate with ministries and ministerial-level agencies in submitting to the Prime Minister for decision the assignment of responsibilities for formulating national occupational safety and health standards and formulating and promulgating national occupational safety and health technical regulations which are new or related to the management of multiple ministries and ministerial-level agencies.



5. The Ministry of Health shall formulate national occupational safety and health standards and promulgate national occupational safety and health technical regulations under its management as prescribed in Article 85 of this Law; and provide its opinions on occupational health contents of national occupational safety and health standards and technical regulations formulated by other ministries and ministerial-level agencies.

**Article 88.** National Occupational Safety and Health Council,  
provincial-level Occupational Safety and Health Councils

1. The National Occupational Safety and Health Council is an advisory body assisting the Government in the formulation, amendment and supplementation of occupational safety and health policies and laws. The Council shall be established by the Prime Minister with members being representatives of the Ministry of Labor, War Invalids and Social Affairs, the Ministry of Health, the Vietnam General Confederation of Labor, the Vietnam Farmers' Association, employers' representative organizations and related ministries and sectors, and a number of occupational safety and health specialists and scientists.

2. Provincial-level Occupational Safety and Health Councils are advisory bodies assisting provincial-level People's Committees in organizing the implementation of occupational safety and health policies and laws in the localities. Such a council shall be established by the chairperson of the provincial-level People's Committee with members being representatives of the provincial-level Department of Labor, War Invalids and Social Affairs, the Department of Health, the Confederation of Labor, the Farmers' Association, a number of enterprises, agencies and organizations, and a number of occupational safety and health specialists and scientists in the locality.

3. Occupational Safety and Health Councils shall organize annual dialogues for sharing information, increasing understanding among employers, employees, trade unions, employers' representative organizations and state agencies to promote equal and safe working conditions for employees, and improve the effectiveness of the formulation and implementation of occupational safety and health policies and laws.

4. The Government shall prescribe in detail the establishment, functions, tasks, organization and operation of the National Occupational Safety and

Health Council and provincial-level Occupational Safety and Health Councils.

**Article 89.** Occupational safety and health inspectorates

1. Occupational safety and health inspectorates are specialized inspectorates of central- and provincial-level labor state management agencies.
2. Occupational safety and health inspection in the fields of radiation, oil and gas exploration and exploitation, railway, waterway, land and air transportation and in people's armed forces units shall be conducted by state management agencies of such fields in coordination with occupational safety and health inspectorates.
3. The Government shall prescribe in detail the organization and operation of occupational safety and health inspectorates referred to in Clause 1 of this Article and interdisciplinary coordination mechanism referred to in Clause 2 of this Article.

**Article 90.** Handling of violations of occupational safety and health law

1. Violators of the occupational safety and health law shall, depending on the nature and seriousness of their violations, be administratively handled or examined for penal liability; if causing any damage, they shall pay compensation and remedy consequences in accordance with law.
2. Persons who take advantage of their positions and powers to violate this Law or infringe upon the interests of the State, the lawful rights and interests of organizations and individuals shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability; if causing any damage, they shall pay compensation in accordance with law.
3. Employers who shirk or delay the payment of occupational accident and disease insurance premiums, or appropriate occupational accident and disease insurance premiums and benefits as prescribed in Clause 2, Article 12 of this Law for 30 or more days shall, in addition to fully paying the unpaid or late paid premiums and being handled in accordance with law, pay an interest at the rate doubling the average interest rate of the investment of the Social Insurance Fund in the preceding year on the amount of the unpaid premiums and the late payment duration; if an employer fails to comply with this provision, at the request of competent persons, banks, other credit institutions or the state treasury shall deduct an amount from his/her deposit

account to pay the amount not yet paid or late paid and interest thereon to the account of the social insurance agency.

4. The Government shall prescribe in detail acts of administrative violation in the field of occupational safety and health prescribed in this Law, and forms and levels of sanctioning applied to these acts.

**Article 91.** Mechanism of coordination in occupational safety and health

1. Coordination in occupational safety and health shall be conducted as follows:

a/ The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with other ministries, ministerial level agencies, government-attached agencies and provincial-level People's Committees in, implementing coordination activities specified in Clause 2 of this Article under its responsibilities;

b/ Occupational safety and health state management agencies at all levels shall coordinate with political organizations, socio-political organizations, socio-politico-professional organizations, socio-professional organizations and other organizations in occupational safety and health activities in relevant fields.

2. Contents of coordination in occupational safety and health include:

a/ Formulation of occupational safety and health policies and laws; formulation of occupational safety and health standards and technical regulations;

b/ Formulation of national occupational safety and health programs and records;

c/ Investigation of occupational accidents; accidents and technical incidents endangering occupational safety and health; and policies and regimes for victims of occupational accidents and diseases;

d/ Occupational safety and health information, communication, education, training, statistical work and reporting; inspection of machinery, equipment and supplies subject to strict requirements for occupational safety and health;

dd/ Occupational safety and health inspection, examination and supervision; and handling of violations of the occupational safety and health law;

e/ Commendation and reward related to occupational safety and health;

g/ Research and application of occupational safety and health science and technology.

3. The Government shall detail this Article.

## **Chapter VII**

### **IMPLEMENTATION PROVISIONS**

#### **Article 92. Effect**

1. This Law takes effect on July 1, 2016.

2. The provisions on occupational accident and disease insurance in Section 3, Chapter III; Clause 4, Article 84; Point b, Clause 1, and Point a, Clause 2, Article 86; and Articles 104, 105, 106, 107, 116 and 117 of Law No. 58/2014/QH13 on Social Insurance cease to be effective on the date this Law takes effect.

3. Institutions providing technical inspection of occupational safety and institutions providing training in occupational safety and health before this Law takes effect may continue to operate until their certificates of eligibility for operation expire.

#### **Article 93. Detailing provision**

The Government and competent state agencies shall detail the articles and clauses of this Law as assigned.

*This Law was passed on June 25, 2015, by the XIIIth National Assembly of the Socialist Republic of Vietnam at its 9th session.-*

*Chairman of the National Assembly*  
NGUYEN SINH HUNG