

## THE GOVERNMENT

No: 110/2002/ND-CP

## SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - HappinessHa Noi, day 27 month 12 year 2002

DECREE No. 110/2002/ND-CP OF DECEMBER 27, 2002 AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE GOVERNMENT'S  
 DECREE No. 06/CP OF JANUARY 20, 1995 WHICH DETAILS A NUMBER OF ARTICLES OF THE LABOR CODE ON LABOR SAFETY AND  
 SANITATION

## THE GOVERNMENT

*Pursuant to the December 25, 2001 Law on Organization of the Government;*

*Pursuant to the June 23, 1994 Labor Code and April 2, 2002 Law Amending and Supplementing a  
 Number of Articles of the Labor Code;*

*At the proposal of the Minister of Labor, War Invalids and Social Affairs,*

## DECREES:

**Article 1.-** To amend and supplement a number of articles of the Government's Decree No. 06/CP of January 20, 1995 detailing a number of articles of the Labor Code on labor safety and sanitation, based on the Law Amending and Supplementing a Number of Articles of the Labor Code (hereafter called the amended and supplemented Labor Code for short) as follows:

1. To amend and supplement Clause 1 of Article 2 as follows:

"1. For the construction, expansion or renovation of works and/or establishments for production, use, preservation or storage of machines, equipment, supplies and substances which strictly require labor safety and sanitation, the investors and the employers must make feasibility reports on measures to ensure labor safety and sanitation. Such a feasibility report must include the following principal contents:

- The project location and scale, and the distance from the project or production establishment to population quarters and other projects;

- The dangerous and harmful factors and incidents which may occur in the course of operation; preventive and handling measures.

The feasibility reports on measures to ensure labor safety and sanitation must be approved by competent State agencies; the investors and the employers must send copies thereof to the local State Labor Inspectorate for monitoring and supervision as prescribed by law."

2. To amend and supplement Clause 2 of Article 3 as follows:

"2. Organizations and individuals, when using machines, equipment, supplies and substances which strictly require labor safety and sanitation and are on the list prescribed by the Ministry of Labor, War Invalids and Social Affairs and the Ministry of Health, must have them registered and expertised.

The Ministry of Labor, War Invalids and Social Affairs shall prescribe and guide the registration and expertise procedures."

3. To amend and supplement Clause 2 of Article 9 as follows:

To replace the phrase "The State Inspectorate on Labor Safety" with the phrase "The State Labor Inspectorate."

4. To amend and supplement Article 11 as follows:

"The compensation to laborers who have got labor accidents or occupational diseases as provided for in Clause 3, Article 107 of the amended and supplemented Labor Code is prescribed as follows:

1. The employers shall have to pay the following compensations to the laborers who have got labor accidents or occupational diseases:

a/ At least equal to 30 months' salary and salary allowances (if any) to the laborers whose working capacities have been reduced by 81% or higher or to the relatives of the laborers who die because of labor accidents or occupational diseases and are not at fault. Where the laborers are at fault, they shall still be given an amount of allowance being at least equal to 12 months' salary and salary allowances (if any).

b/ At least equal to 1.5 of one month's salary and salary allowances (if any) to the laborers whose working capacities have been reduced by between 5% and 10%; if the laborers suffer a reduction of between over 10% and under 81%, another amount being equal to 0.4 of one month's salary and salary allowances (if any) shall be added to every additional 1% for those laborers who are not at fault. Where the laborers are at fault, they shall be given an amount of allowance being at least equal to 40% of the prescribed compensation levels according to the above-said corresponding percentages.

c/ The salary served as basis for calculation of compensations under Items a and b, Clause 1 of Article 11 shall be the salary under labor contracts, which shall be calculated as the average of salaries of 6 consecutive months before the labor accident occurs or before the occupational disease is determined, including grade and position salary, location allowance and position allowance (if any) according to the Government's current regulations.

In cases where the working duration is not long enough for calculation of the average of 6 consecutive months' salary under labor contracts, the salary of the preceding month or the salary paid at the time the labor accident occurs or the occupational disease is determined shall serve as basis for calculation of compensations or allowances for accidents or occupational diseases.

2. In cases where enterprises recruit or admit laborers for vocational training or apprenticeship for future working at the enterprises as provided for in Clause 2, Article 23 of the Labor Code, in the course of vocational training or apprenticeship, if laborers have got labor accidents or occupational diseases, the employers shall have to pay compensations or allowances to them according to the provisions at Points a and b, Clause 1 of Article 11. The salary for compensation or allowance payment in this case shall be the minimum salary level paid by the enterprises, agencies, organizations or units at the time the labor accidents occur or the occupational diseases are determined.

In cases where the vocational training or apprenticeship salary level agreed upon under contracts signed between the employers and job learners or apprentices is higher than the minimum salary level paid by the enterprises, the agreed salary level shall apply.

3. The Ministry of Labor, War Invalids and Social Affairs shall guide the compilation of dossiers and procedures for labor accident or occupational disease compensation."

5. To amend and supplement Clause 1 of Article 12 as follows:

"1. When a labor accident occurs, the employer must organize the investigation and make a record thereon, with the participation of the representative of the local Trade Union executive committee or the provisional Trade Union executive committee under the guidance of the Ministry of Labor, War Invalids and Social Affairs, the Ministry of Health and the General Labor Confederation of Vietnam."

6. To amend and supplement Clause 3 of Article 14 as follows:

To replace the phrase "labor safety and sanitation inspector" with the phrase "labor inspector."

7. To amend and supplement Clauses 1, 2, 5 and 6 of Article 19 as follows:

"1. The Ministry of Labor, War Invalids and Social Affairs shall have to elaborate and submit to the competent agencies for promulgation, or promulgate legal documents, policies and regimes on labor protection, labor safety and labor sanitation; elaborate, promulgate and uniformly manage the system of State regulations on labor safety, and criteria for labor classification according to working conditions; guide various branches and levels to inspect the labor safety and sanitation; conduct the State labor inspection; organize the information and training on labor safety and sanitation; and cooperate with foreign countries and international organizations in the field of labor safety."

"2. The Ministry of Health shall have to elaborate, promulgate and uniformly manage the legal documents, the system of labor sanitation standards and health standards for various occupations and jobs; guide various branches and levels to effect labor sanitation and health care for laborers; guide the organization of periodical medical examinations and medical examinations for labor recruitment, and medical examination for discovery of occupational diseases; guide the organization of medical treatment and functional rehabilitation for laborers who have suffered labor accidents or occupational diseases; and cooperate with foreign countries and international organizations in the field of labor sanitation."

"5. The ministries and the ministerial-level agencies shall have to elaborate, promulgate and guide the application of the system of the branch-level labor safety and sanitation standards and regulations. Before promulgating the branch-level labor safety and sanitation standards, the Labor, War Invalids and Social Affairs Ministry's participation in the elaboration of labor safety standards and regulations; or the Health Ministry's participation in the elaboration of labor sanitation standards and regulations is required."

"6. To annul Clause 6, and amend Clause 7 into new Clause 6 of Article 19 of the Government's Decree No. 06/CP of January 20, 1995 detailing a number of articles of the Labor Code on labor safety and sanitation."

**Article 2.-** This Decree takes effect as from January 1, 2003.

To annul the Government's Decree No. 162/1999/ND-CP of November 9, 1999 amending and supplementing a number of articles of the Government's Decree No. 06/CP of January 20, 1995 which details a number of articles of the Labor Code on labor safety and sanitation.

**Article 3.-** The Ministry of Labor, War Invalids and Social Affairs shall coordinate with the Ministry of Health in guiding the implementation of this Decree.

**Article 4.-** The ministers, the heads of the ministerial-level agencies, the heads of the agencies attached to the Government, and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decree.

On behalf of the Government  
Prime Minister  
*PHAN VAN KHAI*

THE GOVERNMENT

Phan Van Khai