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Hanoi, May 15, 2016

DECREE

Detailing a number of articles of the Law on Occupational Safety and Health¹

Pursuant to the June 19, 2015 Law on Organization of the Government;

Pursuant to the June 18, 2012 Labor Code;

Pursuant to the June 25, 2015 Law on Occupational Safety and Health;

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

The Government promulgates the Decree detailing a number of articles of the Law on Occupational Safety and Health;

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree details a number of articles of the Law on Occupational Safety and Health regarding control of dangerous factors and hazardous factors at the workplace; notification, investigation, statistical work and reporting on occupational accidents and technical incidents endangering occupational safety and health and technical incidents seriously endangering occupational safety and health; occupational safety and health for particular groups of employees; occupational safety and health for production and business establishments; 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.

¹ Công Báo Nos 397-398 (21/6/2016)

2. Employees working without labor contracts;
3. Vietnamese guest workers working under contracts; foreign employees working in Vietnam.
4. Employers.
5. Other agencies, organizations and individuals involved in occupational safety and health work.

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

Chapter II

CONTROL OF DANGEROUS FACTORS AND HAZARDOUS FACTORS AT THE WORKPLACE

Article 3. Principles of control of dangerous factors and hazardous factors at the workplace

Employers shall comply with the following principles in the control of dangerous factors and hazardous factors at the workplace under Article 18 of the Law on Occupational Safety and Health:

1. To regularly monitor and supervise dangerous factors and hazardous factors at the workplace.
2. To assign persons or sections to take charge of the control of dangerous factors and hazardous factors at the workplace; for production and business establishments, to provide the control of dangerous factors and hazardous factors at each group, team and workshop.
3. To archive dossiers of control of dangerous factors and hazardous factors in accordance with the Law on Occupational Safety and Health, Articles 4, 5, 6 and 7 of this Decree and specialized laws.
4. To make public results of control of dangerous factors and hazardous factors for employees to know.
5. To work out processes for control of dangerous factors and hazardous factors at the workplace in conformity with Article 18 of the Law on Occupational Safety and Health, Articles 4, 5, 6 and 7 of this Decree and specialized laws.

Article 4. Contents of control of dangerous factors and hazardous factors at the workplace

1. Identification and assessment of dangerous factors and hazardous factors.
2. Determination of objectives of and measures for prevention and control of dangerous factors and hazardous factors.

3. Implementation and evaluation of effectiveness of measures for prevention and control of dangerous factors and hazardous factors.

Article 5. Identification and assessment of dangerous factors and hazardous factors

1. Analyzing characteristics of working conditions, relevant working processes and results of workplace inspections.

2. Conducting employee surveys on factors at the workplace which possibly cause injuries or diseases to them or affect their health.

3. Using appropriate machinery and equipment to measure and inspect dangerous factors and hazardous factors if failing to completely and accurately identify and assess them by sensory methods; making occupational safety and health dossiers for hazardous factors and occupational disease prevention according to the form provided in Appendix I to this Decree.

Article 6. Determination of objectives of and measures for prevention and control of dangerous factors and hazardous factors

1. Based on the identification and assessment of dangerous factors and hazardous factors, employers shall determine appropriate objectives of and measures for prevention and control of dangerous factors and hazardous factors at the workplace according to the following order of priority:

a/ Eliminating dangerous factors and hazardous factors right from the stages of designing workshops and selecting technologies, equipment, materials and supplies;

b/ Preventing and restricting exposure to, and mitigating harms of dangerous factors and hazardous factors by applying technical as well as organizational and administrative measures (conducting information, communication, education and training on occupational safety and health; working out internal occupational safety and health regulations and processes; implementing labor protection regimes and taking care of employees' health; managing machines, equipment, supplies and substances subject to strict requirements on occupational safety and health).

2. Clearly identifying time, places and resources for fulfillment of objectives of, and implementation of measures for, prevention and control of dangerous factors and hazardous factors.

Article 7. Implementation and evaluation of effectiveness of measures for prevention and control of dangerous factors and hazardous factors

1. Employers shall provide employees with instructions on measures for prevention and control of dangerous factors and hazardous factors at the workplace.

2. Employers shall make and implement plans on inspection and evaluation of the effectiveness of measures for prevention and control of dangerous factors and hazardous factors at least once a year; production and business establishments shall conduct inspection and evaluation at each group, team and workshop.

3. The inspection of measures for prevention and control of dangerous factors and hazardous factors at the workplace must cover the following principal contents:

a/ The status of occupational safety and health of machines, equipment, workshops, warehouses and the workplace;

b/ The use and preservation of personal protective equipment; fire prevention and fighting equipment; essential medicines, and devices for on-the-spot first aid and emergency care;

c/ The management and use of machines, equipment, supplies and substances subject to strict occupational safety and health requirements;

d/ Employees' knowledge of and capacity for responding to incidents and performing emergency rescue;

dd/ Implementation of the labor protection regime and care for employees' health;

e/ Implementation of recommendations of occupational safety and health inspection and examination teams and occupational accident investigation teams.

4. Evaluation of effectiveness of measures for prevention and control of dangerous factors and hazardous factors at the workplace must cover the following principal contents:

a/ Implementation of measures for prevention and control of dangerous factors and hazardous factors at the workplace;

b/ Results of improvement of working conditions.

Article 8. Measures for handling technical incidents seriously endangering occupational safety and health and providing emergency rescue

1. A plan on handling technical incidents seriously endangering occupational safety and health under Clause 1, Article 19 of the Law on Occupational Safety and Health must state:

a/ Forces to handle incidents on the spot and tasks of each member; supportive forces from surrounding production and business establishments;

b/ Technical equipment required under specialized laws; necessary measuring equipment used in the process of handling incidents (such equipment must be inspected and calibrated according to current regulations on measurement);

c/ Methods and order of handling incidents.

2. To approve, or send to competent agencies for approval, plans on handling technical incidents seriously endangering occupational safety and health and organize drills on a periodical basis in accordance with specialized laws.

3. To timely notify local administrations upon occurrence of technical incidents seriously endangering occupational safety and health according to Article 26 of this Decree.

Chapter III

NOTIFICATION AND INVESTIGATION OF AND REPORTING ON OCCUPATIONAL ACCIDENTS AND TECHNICAL INCIDENTS SERIOUSLY ENDANGERING OCCUPATIONAL SAFETY AND HEALTH

Article 9. Classification of occupational accidents

1. Occupational accidents causing death to employees (below referred to as fatal occupational accidents) are occupational accidents causing death to employees in one of the following cases:

a/ The employees die at the place where the accidents occur;

b/ The employees die on the way to hospital or while being given emergency treatment;

c/ The employees die during treatment or dies of recrudescence from injuries caused by the occupational accidents according to a forensic medical examination record;

d/ The missing employees are declared to be dead by court.

2. Occupational accidents causing serious injuries to employees (below referred to as serious occupational accidents) are occupational accidents causing at least one of the injuries specified in Appendix II to this Decree to employees.

3. Occupational accidents causing minor injuries to employees (below referred to as minor occupational accidents) are occupational accidents other than those prescribed in Clauses 1 and 2 of this Article.

Article 10. Time and contents of notification of occupational accidents

1. When being informed of the occurrence of a fatal occupational accident or an occupational accident causing serious injuries to 2 or more employees, the employer of the establishment where the accident occurs shall make notification according to Point b, Clause 1, Article 34 of the Law on Occupational Safety and Health as follows:

a/ To notify the accident by the fastest means (in person or via telephone, fax, official telegraph or email) to the Inspectorate of the provincial-level Labor, War Invalids and Social Affairs Department of the locality where the accident occurs; and concurrently report the accident to the public security agency of the rural district, urban district, town or provincial city (below referred to as district-level Public Security agency), in case of fatal accidents;

b/ Notification contents must comply with the form provided in Appendix III to this Decree.

2. When being informed of the occurrence of a fatal occupational accident or an occupational accident causing serious injuries to 2 or more employees in the field of radiation; oil and gas exploration and exploitation; railway, waterway, road or air transportation or in people's armed forces as prescribed at Point c, Clause 1, Article 34 of the Law on Occupational Safety and Health, in addition to making notification in accordance with specialized laws, the employer of the establishment where the accident occurs shall make notification as follows:

a/ To notify by the fastest means (in person or via telephone, fax, official telegraph or email) the accident to the Inspectorate of the provincial-level Labor, War Invalids and Social Affairs Department of the locality where the accident occurs and the competent line ministry as prescribed in Clause 2, Article 21 of this Decree, unless otherwise provided by a specialized law; and concurrently report the accident to the district-level Public Security agency, in case of fatal accidents;

b/ Notification contents must comply with the form provided in Appendix III to this Decree.

3. Upon occurrence of an occupational accident involving employees without labor contracts, the notification prescribed at Point d, Clause 1, Article 34 of the Law on Occupational Safety and Health shall be made as follows:

a/ When being informed of or detecting the death of, or serious injuries caused to, the employee(s) by the occupational accident, the family of the victim(s) or the person detecting the fact shall report it

immediately to the People's Committee of the commune, ward or township (below referred to as commune-level People's Committee) where the accident occurs;

b/ When receiving information on the occurrence of a fatal occupational accident or an occupational accident causing serious injuries to 2 or more employees, the commune-level People's Committee of the locality where the accident occurs shall report it by the fastest means (in person or by telephone, fax, official telegraph or email) to the provincial-level Labor, War Invalids and Social Affairs Department's Inspectorate and the district-level Public Security agency according to the form provided in Appendix IV to this Decree.

Article 11. Decision forming an occupational accident investigation team

1. Grassroots occupational accident investigation team

a/ When being informed of the occurrence of a minor occupational accident or an occupational accident causing serious injuries to an employee under its/his/her management as prescribed in Clause 1, Article 35 of the Law on Occupational Safety and Health, the employer shall immediately issue a decision forming a grassroots occupational accident investigation team according to the form provided in Appendix V to this Decree;

b/ In case an occupational accident occurs in a place under the management of an employer but the victim is managed by another employer, the employer managing the place where the accident occurs shall form a grassroots occupational accident investigation team and, at the same time, invite the victim's employer to appoint a representative to join the investigation team.

2. Provincial occupational accident investigation team

a/ Within 2 hours after being informed of the occurrence of a fatal occupational accident or an occupational accident causing serious injuries to 2 or more persons, which falls under its investigation competence, a provincial-level Labor, War Invalids and Social Affairs Department's Inspectorate shall assign persons to come to the scene of the accident and notify such to related agencies for the latter to appoint persons to join the provincial-level occupational accident investigation team;

b/ For an occupational accident prescribed at Point b, Clause 3, Article 19 of this Decree, after receiving all dossiers and documents related to the accident, the provincial-level Labor, War Invalids and Social Affairs Department's Inspectorate shall notify such to related

agencies for the latter to appoint persons to join the provincial-level occupational accident investigation team, conduct investigation and make a record on verification of the occupational accident;

c/ Directors of provincial-level Labor, War Invalids and Social Affairs Departments shall issue decisions forming provincial-level occupational accident investigation teams at the request of provincial-level Labor, War Invalids and Social Affairs Departments' Chief Inspectors according to the form provided in Appendix VI to this Decree.

3. Central occupational accident investigation team

The formation of a central occupational accident investigation team under Clause 3, Article 35 of the Law on Occupational Safety and Health is prescribed as follows:

a/ The Minister of Labor, War Invalids and Social Affairs shall decide to form a central occupational accident investigation team, except for the occupational accidents prescribed at Point c, Clause 1, Article 34 of the Law Occupational Safety and Health;

b/ Heads of competent state agencies prescribed by specialized laws or ministers of the ministries specified in Clauses 1 and 2, Article 21 of this Decree shall form central occupational accident investigation teams to investigate occupational accidents in the fields prescribed at Point c, Clause 1, Article 34 of the Law on Occupational Safety and Health;

c/ Decisions forming central occupational accident investigation teams shall be made according to the form provided in Appendix VII to this Decree.

Article 12. Tasks of members of an occupational accident investigation team

1. The head of an occupational accident investigation team shall have the following tasks:

a/ To decide to conduct investigation, even when a member of the investigation team is absent;

b/ To assign specific tasks to each member of the investigation team;

c/ To organize discussion about results of investigation of the occupational accident; to decide and take responsibility for his/her decisions on occupational accident investigation results;

d/ To hold and chair a meeting to announce the occupational accident investigation record.

2. A member of an occupational accident investigation team shall have the following tasks:

a/ To perform tasks assigned by the head of the investigation team and join activities of the investigation team;

b/ To give and maintain his/her opinions; in case of disagreeing with decisions of the head of the investigation team, to report such to the leaders of the agency having appointed him/her to join the investigation team;

c/ Not to disclose information and documents in the process of investigation when the occupational accident investigation record has not yet been announced.

Article 13. Order and procedures for occupational accident investigation by grassroots occupational accident investigation teams

A grassroots occupational accident investigation team shall conduct investigation according to the following order and procedures:

1. Collecting traces, evidences and documents relating to the occupational accident.

2. Taking statements of the victim(s), persons witnessing the accident or persons involved in the accident according to the form provided in Appendix VIII to this Decree.

3. Requesting technical assessment or forensic medical assessment (when necessary).

4. Analyzing and making conclusions on developments and causes of the accident; conclusions on the occupational accident; and severity of violation and proposing the form of handling persons at fault in the accident; measures to overcome the accident and prevent similar occupational accidents.

5. Making an occupational accident investigation record according to the form provided in Appendix IX to this Decree.

6. To hold a meeting to announce the occupational accident investigation record and make a minutes of the meeting according to the form provided in Appendix XI to this Decree.

7. Persons attending the meeting to announce the occupational accident investigation record include:

a/ The head of the occupational accident investigation team;

b/ The employer or a person authorized in writing by the employer;

c/ Members of the occupational accident investigation team;

d/ The victim(s) or representatives of relatives of the victim(s), persons witnessing the accident or persons involved in the accident;

dd/ Representatives of the grassroots trade union executive committee or the executive committee of the immediate superior trade union, for establishments without a grassroots trade union.

8. In case an attendant to the meeting disagrees with the contents of the occupational accident investigation record, he/she shall write down his/her opinions and sign in the minutes of the record announcement meeting.

9. Within 3 working days after the date of holding a meeting to announce the occupational accident investigation record, the grassroots occupational accident investigation team shall send the record and the minutes of the record announcement meeting to the victim(s) or his/her/their relatives; the Inspectorate of the provincial-level Labor, War Invalids and Social Affairs Department of the locality where the employer of the victim(s) is headquartered; and the Inspectorate of the provincial-level Labor, War Invalids and Social Affairs Department of the locality where the accident occurs.

Article 14. Order and procedures for occupational accident investigation by provincial occupational accident investigation teams

A provincial occupational accident investigation team shall conduct investigation according to the following order and procedures:

1. Proceeding with the steps prescribed in Clauses 1, 2, 3 and 4, Article 13 of this Decree.

2. Making an occupational accident investigation record according to the form provided in Appendix X to this Decree.

3. Holding a meeting to announce the occupational accident investigation record at the establishment where the accident occurs or the office of the commune-level People's Committee of the locality where the accident occurs, and make the meeting minutes according to the form provided in Appendix XI to this Decree.

4. Persons attending the meeting to announce the occupational accident investigation record include:

a/ The head of the occupational accident investigation team;

b/ Members of the occupational accident investigation team;

c/ The employer or a person authorized in writing by the employer, in case the victim(s) work(s) under labor contracts; a representative of the commune-level People's Committee of the locality where the accident occurs, in case the victim(s) work(s) without a labor contract;

d/ The victim(s) or representatives of his/her/their relatives, persons witnessing the accident or persons involved in the accident;

dd/ Representatives of the grassroots trade union executive committee or the executive committee of the immediate superior trade union, for establishments without grassroots trade union, in case the victim(s) work(s) under labor contracts;

e/ Representatives of the Public Security agencies and People's Procuracy who have participated in the investigation, in case of fatal occupational accidents.

5. In case an attendant to the meeting disagrees with the contents of the occupational accident investigation record, he/she shall write down his/her opinions and sign in the minutes of the record announcement meeting; the employer or the person authorized by the employer shall sign and affix seal (if any) on the minutes of the record announcement meeting.

6. Within 3 working days after the date of holding a meeting to announce the occupational accident investigation record, the occupational accident investigation team shall send the record and the minutes of the record announcement meeting to agencies having appointed persons to join the investigation team, the Ministry of Labor, War Invalids and Social Affairs, the employer, and the victim(s) or his/her/their relatives.

Article 15. Order and procedures for investigation of occupational accidents by central occupational accident investigation teams

A central occupational accident investigation team shall conduct investigation according to the following order and procedures:

1. After a decision forming an occupation accident investigation team is issued, the head of the investigation team shall immediately notify thereof to related agencies for the latter to appoint persons to join the investigation of the occupational accident.

2. The investigation team shall immediately come to the accident scene, request the employer and competent agencies to provide documents, dossiers and means related to the accident and coordinate with the district- or provincial-level Public Security agency in conducting on-spot investigation in order to make a scene examination record and an injury examination record and collect traces, evidences and documents relating to the accident.

3. To proceed with the steps prescribed in Clauses 2, 3 and 4, Article 14 of this Decree.

4. An attendant to the meeting who disagrees with the contents of the occupational accident investigation record may write down his/her opinions and sign in the minutes of the record announcement meeting; the employer or the person authorized by the employer shall sign and affix seal (if any) on the minutes of the record announcement meeting.

5. Within 3 working days after the date of holding a meeting to announce the occupational accident investigation record, the central occupational accident investigation team shall send the record and the minutes of the record announcement meeting to agencies having appointed persons to join the investigation team, the employer, the victim(s) or his/her/their relatives; and to the Ministry of Labor, War Invalids and Social Affairs if the accident is investigated under Clauses 1 and 2, Article 21 of this Decree.

Article 16. Dossiers of occupational accidents

1. Employers shall make dossiers of occupational accidents. A dossier must comprise the originals or copies of the following documents:

a/ Scene examination record (if any);

b/ Scene diagram;

c/ Photos of the scene and victim(s);

d/ Postmortem or injury examination record, except cases in which the victim is declared missing by court;

dd/ Technical assessment or forensic medical assessment record or judicial assessment conclusion (if any);

e/ Records of statements of the victim, person(s) witnessing or involved in the accident;

g/ Occupational accident investigation record;

h/ Minutes of the meeting announcing the occupational accident investigation record;

i/ Injury certificate issued by the medical establishment providing treatment to the victim (if any);

k/ Hospital discharge paper issued by the medical establishment providing treatment to the victim (if any).

2. In case the occupational accident has more than one victim, the employer shall make one dossier for each victim.

3. Archival of dossiers of occupational accidents

a/ Employers shall archive occupational accident dossiers in accordance with Clause 8, Article 18 of this Decree.

b/ Agencies forming provincial and central occupational accident investigation teams shall archive occupational accident dossiers in accordance with the law on archives.

Article 17. Re-investigation of occupational accidents upon receipt of complaints or denunciations

1. Within 90 days after an occupational accident investigation record is announced, if there are any lawful complaints or denunciations, the occupational accident shall be re-investigated as follows:

a/ Within 10 working days after receiving a written complaint or denunciation, the agency having formed the occupational accident investigation team shall consider and settle such complaint or denunciation in accordance with the order, procedures and competence prescribed in the Law on Complaints and the Law on Denunciations;

b/ In case the complainant or denouncer disagrees with the reply of the responsible agency or organization prescribed at Point a of this Clause and further lodges a complaint or denunciation, the agency competent to conduct investigation prescribed in Clause 2 or 3, Article 35 of the Law on Occupational Safety and Health shall form an occupational accident investigation team to re-investigate the occupational accident and at the same time notify in writing the re-investigation results to the complainant or denouncer; in case of refusal to conduct re-investigation, it shall clearly state the reason;

c/ Establishments where accidents occur and grassroots occupational accident investigation teams shall provide all documents, objects and means related to the accidents to provincial occupational accident re-investigation teams;

d/ Provincial-level occupational accident investigation teams shall provide all documents, objects and means related to the accidents to central-level occupational accident re-investigation teams;

dd/ Conclusions of central occupational accident re-investigation teams are final.

2. The record on investigation of an occupational accident shall cease to be legally valid when the record on re-investigation of such accident is announced.

Article 18. Responsibilities of the employer of an establishment where an occupational accident occurs

1. To provide first aid and emergency care to the victim(s).

2. To notify the occupational accident according to Article 10 of this Decree.

3. In case of fatal or serious occupational accidents, to maintain the accident scene according to the following principles:

a/ In case of necessity to provide emergency care to the victim(s) or to prevent risks or damage possibly occurring to other persons, leading to changes of the accident scene, the employer shall draw a scene diagram, make a record and take photos and videos of the scene (if possible);

b/ It is allowed to destroy the accident scene and bury corpses (if any) only after all investigation steps prescribed in this Decree are completed and it is so agreed in writing by the provincial occupational accident investigation team or public security agency.

4. To immediately provide documents, objects and means related to the accident at the request of a superior occupational accident investigation team and take responsibility before law for such documents, objects and means.

5. To create conditions for employees involved in the accident to provide information to the occupational accident investigation team when requested.

6. To form a grassroots occupational accident investigation team to investigate occupational accidents under its/his/her competence as prescribed in Clause 1, Article 35 of the Law on Occupational Safety and Health, and Clause 1, Article 11 of this Decree.

7. To fully notify information relating to the occupational accident to all employees under its/his/her management.

8. To finalize an occupational accident dossier for each victim and archive it:

a/ For 15 years, for fatal occupational accidents; or

b/ Until the victim retires, for other occupational accidents.

9. To pay expenses for investigation of the occupational accident, including those for re-investigation of the occupational accident under Point a, Clause 1, Article 27 of this Decree, except case of re-investigation of the occupational accident at the request of a social insurance agency.

10. To take measures to overcome and settle consequences of the occupational accident; to draw experiences; implement, and report on results of implementation of, recommendations stated in the occupational

accident investigation record; and to handle persons at fault in the occupational accident.

Article 19. Notification and investigation of and reporting on occupational accidents involving Vietnamese guest workers

1. In addition to observing the law of host country, the employer and Vietnamese guest workers shall notify, investigate and report on the occupational accident in accordance with this Article upon occurrence of an occupational accident involving Vietnamese guest workers in the following cases:

a/ The workers involved in the accident work under contracts on sending workers abroad signed with enterprises that win or undertake contracts or organizations or individuals that make offshore investment and send workers abroad to work in accordance with the Law on Vietnamese Guest Workers;

b/ The workers involved in the accident work under contracts on sending workers abroad in the form of skill-improvement internship signed with enterprises sending workers abroad in the form of skill-improvement internship in accordance with the Law on Vietnamese Guest Workers;

c/ The workers involved in the accident are Vietnamese workers assigned by the employer to attend conferences or seminars, short-term training courses or study tours in foreign countries in accordance with Vietnam's law.

2. The notification of occupational accidents for the cases prescribed in Clause 1 of this Article is prescribed as follows:

a/ Upon occurrence of an occupational accident, the victim(s) or Vietnamese guest workers who work together with the victim(s) and know the event shall immediately report it to the employer;

b/ Upon occurrence of an occupational accident causing death to a Vietnamese guest worker or serious injuries to 2 or more Vietnamese guest workers, within 5 working days after receiving information about the accident, to notify it by the fastest means (in person or by telephone, fax, official telegraph or email) to the Inspectorate of the provincial-level Labor, War Invalids and Social Affairs Department of the locality where the employer is headquartered; notification contents must comply with the form provided in Appendix III to this Decree.

3. The investigation and verification of the cases prescribed in Clause 1 of this Article are prescribed as follows:

a/ Vietnamese workers who get an accident while performing tasks assigned by their employer at a reasonable time and place are entitled to the compensation and allowance regimes prescribed in Articles 38 and 39 of the Law on Occupational Safety and Health.

b/ For occupational accidents causing death to a Vietnamese guest worker or causing serious injuries to 2 or more Vietnamese guest workers, within 5 working days after the investigation finishes, the employer shall provide dossiers and documents relating to the occupational accident prescribed in Clause 4 of this Article to the Inspectorate of the provincial-level Labor, War Invalids and Social Affairs Department of the locality where the employer is headquartered for the latter to consider and make an occupational accident verification record according to the form provided in Appendix X to this Decree.

4. The employer shall make and archive dossiers and documents related to the occupational accident, including:

a/ Decision sending workers abroad;

b/ Certified translation and copy of the scene examination record made by a competent foreign agency;

c/ Translation and a copy of the scene diagram made by a competent foreign agency; photos of the scene and victim(s);

d/ Certified translation and copy of the postmortem or injury examination record;

dd/ Certified translation of the record on the taking of statements of the victim(s) and person(s) witnessing or involved in the accident (if any);

e/ Certified translation and copy of the accident certificate issued by a competent foreign agency;

g/ Certified translation and copy of the injury certificate issued by a foreign medical establishment, or injury certificate issued by a Vietnamese medical establishment;

h/ Certified translation and copy of the hospital discharge paper issued by a foreign medical establishment, or the hospital discharge paper issued by a Vietnamese medical establishments, in case of treatment in Vietnam.

Article 20. Coordination in investigation of fatal occupational accidents and occupational accidents showing signs of crime

1. The coordination in investigation of a fatal occupational accident is as follows:

a/ When detecting or receiving information about a fatal occupational accident, a provincial occupational accident investigation team shall coordinate with an investigation police agency competent to conduct initial investigation in performing the following jobs: examining the scene, examining corpse(s), taking statements, and collecting relevant dossiers and documents; and at the same time, notify the accident to the People's Procuracy of the same level for the latter to supervise the scene and postmortem examination;

b/ The agency that comes to the accident scene earlier shall notify the agency that comes to the scene later (the investigation police agency shall notify the provincial occupational accident investigation team via the provincial-level Labor, War Invalids and Social Affairs Department's Inspectorate). After making notification, if the provincial occupational accident investigation team fails to come to the accident scene in time, the investigation police agency shall examine the scene and corpse(s), take statements and collect relevant dossiers and documents in accordance with law and shall notify the provincial occupational accident investigation team of the jobs it has performed under the scope of coordination prescribed at Point a of this Clause.

c/ At the request of the investigation police agency or People's Procuracy, the provincial occupational accident investigation team shall provide technical information and documents on occupational safety and health and information and documents serving the investigation and handling of the occupational accident;

d/ After making a scene examination record and postmortem examination record, the investigation police agency shall provide copies of such records to the provincial occupational accident investigation team;

dd/ Within 10 working days after the coordinated initial investigation ends, the provincial occupational accident investigation team shall send to the investigation police agency and People's Procuracy that have participated in the investigation an official letter stating its viewpoints on the causes of the accident, faults of related persons and on whether the accident is an occupational accident or not;

e/ Within 10 working days after receiving the official letter of the provincial occupational accident investigation team, the investigation police agency shall issue a written reply stating whether the accident is an occupational accident or not or has not yet been identified;

g/ In case the investigation police agency determines that the accident is an occupational accident, the provincial occupational accident investigation team shall conduct investigation and make conclusion

according to Article 14 of this Decree and notify results to the investigation police agency and People's Procuracy of the same level;

h/ In case the investigation police agency has not yet determined that the accident is an occupational accident, the provincial occupational accident investigation team shall suspend the investigation pending conclusions of the investigation police agency.

2. The coordination in investigation of an occupational accident showing signs of crime is as follows:

a/ In the course of investigating an occupational accident according to the competence prescribed in Clauses 1, 2 and 3, Article 35 of the Law on Occupational Safety and Health, and Articles 13, 14, 15, 17, 19, 21 and 22 of this Decree, if detecting signs of crime, the occupational accident investigation team shall send a petition enclosed with the originals of relevant documents, and hand over related objects and means (if any) to an investigation police agency, for consideration and institution of a criminal case in accordance with law; and at the same time, send the petition to the People's Procuracy of the same level;

b/ The investigation police agency shall settle the petition for institution of a criminal case and notify settlement results in accordance with law.

3. Responsibilities of the investigation police agency in case of non-institution of a criminal case against the occupational accident are prescribed as follows:

a/ Within 24 hours after issuing a decision on non-institution of a criminal case against the occupational accident, the investigation police agency shall send such decision and relevant documents to the People's Procuracy of the same level;

b/ Within 3 days after receiving from the People's Procuracy a document stating its agreement with the decision on non-institution of a criminal case against the occupational accident, the investigation police agency shall send the decision and hand over related documents, objects and means to the occupational accident investigation team, in the case prescribed at Point a, Clause 2 of this Article, or to an agency competent to form an occupational accident investigation team as prescribed in Clause 1, 2 or 3, Article 35 of the Law on Occupational Safety and Health and Article 21 of this Decree.

4. Responsibilities of the investigation police agency in case of deciding to institute a criminal case against the occupational accident are prescribed as follows:

a/ Within 24 hours after issuing a decision on institution of a criminal case against the occupational accident, the investigation police agency shall send that decision, enclosed with relevant documents, to the People's Procuracy of the same level; and send a copy of the decision to the provincial-level Labor, War Invalids and Social Affairs Department concerned;

b/ Within 2 days after investigation conclusions are made, the investigation police agency shall send the conclusions to the People's Procuracy of the same level and the provincial-level Labor, War Invalids and Social Affairs Department concerned;

c/ Within 3 days after receiving from the People's Procuracy a document stating its agreement to suspend the investigation, the investigation police agency shall hand over documents, objects and means related to the case to the occupational accident investigation team, in the case prescribed at Point a, Clause 2 of this Article, or to an agency competent to form an occupational accident investigation team as prescribed in Clause 1, 2 or 3, Article 35 of the Law on Occupational Safety and Health, and Article 21 of this Decree.

5. The handover of documents, objects and means related to the occupational accident prescribed at Point a, Clause 2; Point b, Clause 3; or Point c, Clause 4 of this Article shall be recorded in a minutes. To-be-handed over documents, objects and means include:

a/ Scene examination record;

c/ Scene diagram;

d/ Photos of the scene and victim(s) (if any);

dd/ Body trace examination record; postmortem examination record (if any);

e/ Records of statements of the victim(s), witness(es) and persons with interests and obligations related to the occupational accident;

g/ Judicial assessment results (if any);

h/ Objects and means related to the occupational accident, which are allowed to be handed over in accordance with law, enclosed with seizure or temporary seizure records.

6. Annually, provincial-level Public Security agencies shall notify provincial-level Labor, War Invalids and Social Affairs Departments of occupational accidents showing signs of crime subject to institution of criminal cases, not subject to institution of criminal cases, entitled to suspension of investigation or subject to prosecution.

7. Provincial-level Labor, War Invalids and Social Affairs Departments, provincial-level Public Security agencies and provincial-level People's Procuracies shall work out regulations on coordination in investigation of fatal occupational accidents and other occupational accidents showing signs of crime.

Article 21. Investigation of occupational accidents in particular fields

Investigation of occupational accidents in the fields of radiation; oil and gas exploration and exploitation; railway, waterway, road and air transportation and in people's armed forces must comply with the following regulations:

1. Investigation must comply with specialized laws.

2. For fatal occupational accidents and occupational accidents causing serious injuries to 2 or more employees of which the investigation has not yet been provided in specialized laws, agencies shall conduct investigation according to their competence as prescribed below:

a/ The Ministry of Science and Technology shall form occupational accident investigation teams to investigate occupational accidents in the field of radiation;

b/ The Ministry of Transport shall form occupational accident investigation teams to investigate occupational accidents occurring in railway, waterway, road or air vehicles; and offshore oil and gas exploration and exploitation equipment;

c/ The Ministry of Industry and Trade shall form occupational accident investigation teams to investigate occupational accidents in the field of oil and gas exploration and exploitation, except those occurring in offshore oil and gas exploration and exploitation equipment;

d/ The Ministry of National Defense and the Ministry of Public Security shall form occupational accident investigation teams to investigate occupational accidents in people's armed forces under their management;

dd/ Occupational accident investigation teams defined at Points a, b, c and d of this Clause shall coordinate with the Inspectorates of provincial-level Labor, War Invalids and Social Affairs Departments of the localities where the accidents occur or the Ministry of Labor, War Invalids and Social Affairs' Inspectorate in conducting investigation; investigation order and procedures must comply with Article 15 of this Decree.

3. For minor occupational accidents or occupational accidents causing serious injuries to one employee of which the investigation has not yet been provided in specialized laws, employers shall conduct investigation according to Clause 1, Article 11, and Article 13 of this Decree.

4. Occupational accident investigation records shall be made according to the form provided in Appendix IX or X to this Decree.

Article 22. Investigation of occupational accidents causing injuries to one employee, which later turns into fatal occupational accidents

The coordination in investigation of an occupational accident causing injuries to an employee who later dies during treatment or dies due to recrudescence from injuries caused by such accident is prescribed as follows:

1. The grassroots occupational accident investigation team shall hand over all documents related to the accident, which is under investigation, to a provincial occupational accident investigation team;

2. In case the grassroots occupational accident investigation team has not yet commenced or completed the investigation, the provincial occupational accident investigation team shall further conduct investigation according to the order and procedures for investigation of fatal occupational accidents prescribed in Article 14 of this Decree;

3. In case the grassroots occupational accident investigation team has completed the investigation, the provincial occupational accident investigation team shall examine the dossier of the occupational accident and evaluate investigation results of the grassroots occupational accident investigation team; when considering it necessary, the provincial occupational accident investigation team shall conduct re-investigation and make an occupational accident investigation record according to Article 17 of this Decree.

Article 23. Investigation of traffic accidents related to work

In case an employee gets a traffic accident while performing his/her jobs or tasks or on the way from his/her residence place to the workplace or vice versa, a competent occupational accident investigation team prescribed in Clause 1, 2, 3 or 4, Article 35 of the Law on Occupational Safety and Health; Article 11 or 21 of this Decree shall conduct verification and make an occupational accident investigation record based on one of the following documents:

1. Dossier on handling of the traffic accident, made by a traffic police agency;

2. Certification of victim of the accident, made by a commune-level police agency of the locality where the accident occurs;

3. Certification of victim of the accident, made by the local administration of the locality where the accident occurs.

Article 24. Time of reporting on occupational accidents and forms of reports

The reporting on occupational accidents prescribed in Article 36 of the Law on Occupational Safety and Health shall be conducted as follows:

1. Employers shall make reports on the situation of occupational accidents according to the form provided Appendix XII to this Circular and submit directly or send such reports by fax, post or email to provincial-level Labor, War Invalids and Social Affairs Departments of the localities where they are headquartered before July 5, for biannual reports, and January 10 of the subsequent year, for annual reports.

2. Commune-level People's Committees shall make reports on occupational accidents and technical incidents seriously endangering occupational safety and health related to employees without labor contracts in their localities under Clause 2, Article 36 of the Law on Occupational Safety and Health according to the form provided Appendix XVI to this Circular and send such reports to district-level People's Committees before July 5, for biannual reports, and January 5 of the subsequent year, for annual reports.

3. District-level People's Committees shall make reports on occupational accidents and technical incidents seriously endangering occupational safety and health related to employees without labor contracts in their localities according to the form provided Appendix XVI to this Circular and send such reports to provincial-level Labor, War Invalids and Social Affairs Departments before July 10, for biannual reports, and January 10 of the subsequent year, for annual reports.

4. Reporting responsibilities of provincial-level Labor, War Invalids and Social Affairs Departments:

a/ To make initial reports on fatal occupational accidents and occupational accidents causing serious injuries to 2 or more employees to the Ministry of Labor, War Invalids and Social Affairs according to the form provided in Appendix XIII to this Decree;

b/ To make biannual and annual reports on the situation of occupational accidents occurring in their localities according to the forms provided in Appendix XIV and Appendix XV to this Decree and send such reports to the Ministry of Labor, War Invalids and Social

Affairs (the Occupational Safety Department) and provincial-level Statistics Offices before July 15, for biannual reports, and January 25 of the subsequent year, for annual reports.

5. Agencies in charge of investigating occupational accidents in particular fields prescribed in Clause 4, Article 35 of the Law on Occupational Safety and Health and Article 21 of this Decree shall make reports on occupational accidents falling under their competence according to the form provided in Appendix XVII to this Decree and send such reports to the Ministry of Labor, War Invalids and Social Affairs before July 15, for biannual reports, and January 25 of the subsequent year, for annual reports.

Article 25. Provision of information on occupational accident victims who are examined and treated at medical examination and treatment establishments

1. Medical examination and treatment establishments shall make statistics of occupational accident victims who are examined and treated at their establishments according to the form provided in Appendix XVIII to this Decree and send such reports to provincial-level Labor, War Invalids and Social Affairs Departments before July 5, for biannual reports, or January 10 of the subsequent year, for annual reports.

2. Provincial-level Health Departments shall make reports on occupational accident victims who are examined and treated in their localities according to the form provided in Appendix XIX to this Decree and send such reports to the Ministry of Health before July 15, for biannual reports, or January 25 of the subsequent year, for annual reports.

3. The Ministry of Health shall make reports on occupational accident victims who are examined and treated at medical examination and treatment establishments according to Appendix XX to this Circular and send such reports to the Ministry of Labor, War Invalids and Social Affairs before July 31, for biannual reports, or February 15 of the subsequent year, for annual reports.

Article 26. Notification of, investigation into and reporting on technical incidents endangering or seriously endangering occupational safety and health

1. When occurring an incident which causes human death or serious injuries to 2 or more employees who are not under its management, or in which there are victims being its employees but fatalities and injuries are unknown yet, the employer of the establishment in which the incident occurs shall, by the fastest way, notify it according to the form provided

in Appendix III to this Decree to the Inspectorate of the provincial-level Labor, War Invalids and Social Affairs Department of the locality where the incident occurs and to the district-level public security agency if there is a dead victim.

2. In addition to the notification prescribed in Clause 1 of this Article, technical incidents endangering occupational safety and health and technical incidents seriously endangering occupational safety and health shall be notified, investigated, statistically recorded and reported in accordance with specialized laws.

3. Technical incidents seriously endangering occupational safety and health the notification of which is not prescribed by specialized laws shall be notified as follows:

a/ The person detecting or receiving news on the occurrence of a technical incident seriously endangering occupational safety and health shall immediately notify such to the employer of the establishment or the commune-level People's Committee of the locality where the incident occurs. The employer or the commune-level People's Committee shall immediately report it to the district-level People's Committee of the locality where the incident occurs;

b/ For a technical incident seriously endangering occupational safety and health which affects many production and business establishments or many localities, the employer or the locality where the incident occurs shall immediately report it to the district-level People's Committee and provincial-level People's Committee.

4. After investigating a technical incident seriously endangering occupational safety and health in accordance with specialized laws, the competent state agency in charge of the investigation shall send the investigation results, or investigation conclusions or record to the provincial-level Labor, War Invalids and Social Affairs Department of the locality where the incident occurs, the Ministry of Labor, War Invalids and Social Affairs and related agencies.

Article 27. Costs for investigation of occupational accidents

1. Costs for investigation of occupational accidents for employees working under labor contracts are as follows:

a/ The employer shall pay the costs for re-setting up the scene; taking, printing and enlarging photos of the scene and victims; soliciting technical assessment or forensic medical assessment (when necessary); postmortem examination; printing documents related to the occupational accident; vehicles for traveling at the place of occurring the occupational accident in the course of investigating the occupational accident; and

holding a meeting to disclose the record of occupational accident investigation;

b/ The agency competent to investigate the occupational accident and agencies sending persons to investigate the occupational accident shall pay work allowances to members of the occupational accident investigation team in accordance with law;

c/ The employer's costs for occupational accident investigation shall be accounted into production and business costs and regarded as reasonable costs for calculation and payment of enterprise income tax in accordance with the Enterprise Income Tax Law. For an employer which is a non-business unit, costs for occupational accident investigation may be accounted into non-business service costs and rates and regarded as reasonable costs for tax calculation and payment. For an employer which is an administrative agency, funds for occupational accident investigation shall be allocated in its current expenditures for operations.

2. Reasonable costs related to investigation of an occupational accident for employees working without labor contracts shall be paid by the commune-level People's Committee and the state agency competent to investigate the occupational accident and accounted into their current expenditures for operations.

Article 28. Settlement of occupational accident regimes for employees for occupational accidents for which decisions instituting criminal cases have been issued

The settlement of occupational accident regimes for an employee involved in an occupational accident for which a decision instituting a criminal case has been issued under Clause 11, Article 35 of the Law on Occupational Safety and Health is prescribed as follows:

1. In case the investigation time limit expires while the investigation police agency fails to determine the person causing the accident or the criminal case is suspended, the employer and the social insurance agency shall fully perform all responsibilities toward the employee getting the accident in accordance with the Law on Occupational Safety and Health as for the case of occupational accidents occurring not wholly at the fault of employees;

2. In case the investigation police agency issues a decision laying charge on the accused who is not the employee getting the accident, the employer and social insurance agency shall still fully perform all responsibilities toward the victim in accordance with the Law on Occupational Safety and Health as for the case of occupational accidents occurring not wholly at the fault of employees.

Chapter IV

OCCUPATIONAL SAFETY AND HEALTH FOR ELDERLY EMPLOYEES, LEASED EMPLOYEES, EMPLOYEES BEING PUPILS, STUDENTS AND PERSONS WORKING IN THE FIELDS OF ARTS AND PHYSICAL TRAINING AND SPORTS

Article 29. Conditions for employment of elderly employees to perform heavy, hazardous or dangerous occupations or jobs

1. An elderly employee may only be employed to perform heavy, dangerous or dangerous occupations or jobs that adversely affect his/her health when the following conditions are fully met:

a/ The elderly employee is experienced with at least 15 full working years, including at least 10 consecutive working years prior to the time of concluding the labor contract;

b/ The elderly employee is highly skilled and possesses a vocational certificate or is recognized as an artisan in accordance with law; the employer shall organize examination or test before signing the labor contract;

c/ The elderly employee is physically fit according to health standards issued by the Minister of Health after consulting line ministries corresponding to heavy, hazardous or dangerous occupations or jobs; and has periodical health check-up at least twice a year held by the employer;

d/ The elderly employee is employed for no more than 5 years;

dd/ The elderly employee works together with at least another employee who is not elderly when starting work in the same workplace;

e/ The elderly employee submits an application to work on a voluntary basis for the employer to consider before signing the labor contract.

2. An employer having the need to employ elderly employees to perform heavy, hazardous or dangerous occupations or jobs shall send to a competent line ministry a plan with the following basic contents:

a/ Titles of occupations or jobs together with descriptions of characteristics and working conditions of occupations or jobs to be performed by elderly employees;

b/ Proposal and assessment of each specific condition for employing elderly employees prescribed in Clause 1 of this Article.

3. Line ministries shall prescribe titles of heavy, hazardous and dangerous occupations and jobs eligible for employment of elderly

employees and specific conditions in sectors and fields under their management.

4. The employment of elderly employees to perform particularly heavy, hazardous or dangerous occupations or jobs must comply with Clauses 1, 2 and 3 of this Article as for elderly employees performing heavy, hazardous or dangerous occupations or jobs.

Article 30. Occupational safety and health in case of labor lease between labor leasing enterprises and hiring parties

1. An employee leasing contract between a labor leasing enterprise and a hiring party prescribed at Point a, Clause 1, Article 65 of the Law on Occupational Safety and Health must cover the following principal contents:

a/ Health check-up prior to arrangement of working posts; periodical health check-up, examination of occupational diseases;

b/ Training in occupational safety and health;

c/ Personal protective equipment in work;

d/ Notification, investigation, statistics and reporting on occupational accidents and occupational diseases;

dd/ Regimes for leased employees getting occupational accidents and occupational diseases;

e/ Coordination with and examination of the hiring party in guaranteeing occupational safety and health for leased employees.

2. Contents on occupational safety and health of a labor leasing contract must adhere to the following principles:

a/ Rights and benefits must not be lower than those under the labor contract signed between the labor leasing enterprise and the leased employee;

b/ Contents to guarantee occupational safety and health for the leased employee must not be lower than those for employees of the hiring party under the same working conditions.

Article 31. Responsibilities of a labor leasing enterprise toward leased employees

A labor leasing enterprise's responsibilities to guarantee occupational safety and health under Clause 1, Article 65 of the Law on Occupational Safety and Health are prescribed as follows:

1. To guarantee all rights and interests of leased employees within the employer's responsibilities prescribed by the Law on Occupational

Safety and Health. In case the hiring party fails to commit or fails to fully realize commitments to guaranteeing occupational safety and health under the signed labor lease contract, to take responsibility for guaranteeing all rights and interests of leased employees.

2. To coordinate with the hiring party in investigating occupational accidents causing minor or serious injuries to a leased employee under the competence of grassroots occupational accident investigation teams; to implement regimes for employees getting occupational accidents and occupational diseases prescribed in Clauses 2, 3, 4, 5, 6, 7, 8, 9 and 10, Article 38, and Article 39 of the Law on Occupational Safety and Health.

3. To keep 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 the Law on Occupational Safety and Health and Article 24 of this Decree.

4. To notify leased employees of contents to guarantee occupational safety and health under the labor lease contract; to assign persons to regularly supervise, coordinate and examine the labor hiring party in guaranteeing occupational safety and health for leased employees.

5. To fully realize other commitments on occupational safety and health within the labor leasing enterprise's responsibilities stated in the labor lease contract.

Article 32. Labor hiring party's responsibilities to guarantee occupational safety and health toward leased employees

A labor hiring party's responsibilities for occupational safety and health under Clause 2, Article 65 of the Law on Occupational Safety and Health are prescribed as follows:

1. To perform the employer's responsibilities and powers for occupational safety and health prescribed in Article 7 of the Law on Occupational Safety and Health and this Decree; to have no discriminative treatment in occupational safety and health between leased employees and its own employees.

2. To implement regimes on furnishment of personal protective equipment in work and health check-up and examination to detect occupational diseases for leased employees in accordance with Articles 21 and 23 of the Law on Occupational Safety and Health.

3. To notify and guide leased employees in working rules, dangerous factors and hazardous factors and measures to guarantee occupational safety and health at the workplace.

4. To organize training in occupational safety and health for leased employees in accordance with Article 14 of the Law on Occupational Safety and Health. In case the labor leasing enterprise has organized training for leased employees, to provide additional training in contents suitable with the actual working conditions at the workplace of leased employees as for its own employees.

5. When a leased employee gets an occupational accident or a technical incident endangering occupational safety and health:

a/ To promptly provide first aid and emergency care for the victim;

b/ To make notification in accordance with Article 34 of the Law on Occupational Safety and Health, and Clause 1, Article 10 of this Decree;

c/ To establish a grassroots occupational accident investigation team, for accidents within its competence prescribed in Clause 1, Article 11 of this Decree; to assume the prime responsibility for, and coordinate with the labor hiring party in, investigating occupational accidents; to implement regimes for the victim as committed under the labor lease contract.

6. When detecting a leased employee getting an occupational disease, to promptly notify such to the labor leasing enterprise to implement regimes for such employee as committed under the labor lease contract.

7. To review the situation of occupational accidents and diseases of leased employees for making periodical reports in accordance with Articles 36 and 37 of the Law on Occupational Safety and Health and Article 24 of this Decree.

8. To keep, copy and send occupational safety and health dossiers related to leased employees to the labor leasing enterprise.

Article 33. Support of vocational education or training establishments for pupils and students getting occupational accidents during the time of practice

Vocational education or training establishments' responsibilities to support pupils and students getting occupational accidents during the time of practice under Clause 3, Article 70 of the Law on Occupational Safety and Health are prescribed as follows:

1. To promptly provide first aid and emergency care for the victims.

2. To pay health expenses from first aid and emergency care to stable treatment for the victims as follows:

a/ To advance and pay the jointly paid expenses and expenses outside the health insurance-covered list for pupils and students participating in health insurance;

b/ To pay all health expenses for pupils and students not participating in health insurance.

3. To make recommendation for pupils and students getting occupational accidents to receive health assessment to determine the level of bodily injury at the Health Assessment Council and pay expenses for examination and assessment of the level of bodily injury.

4. To provide lump-sum support in cash for pupils and students getting occupational accidents at the levels below:

a/ At least equal to 0.6 time the basic salary if getting working capacity deficiency of between 5% and 10%; after that for each increase of 1% in working capacity deficiency, to provide an additional support equal to 0.16 time the basic salary if getting working capacity deficiency of between 11% and 80%;

b/ At least equal to 12 times the basic salary for pupils and students getting working capacity deficiency of 81% or higher or for the next of skin of pupils and students dying of occupational accidents;

c/ To provide support for pupils and students getting occupational accidents within 5 days after the Health Assessment Council issues its conclusion on the level of working capacity deficiency or after a death notice is issued in case of dying of accident.

5. The dossier and procedures for pupils and students getting occupational accidents to receive support of vocational education or training establishments under Clauses 2, 3 and 4 of this Article are as for those for employees getting occupational accidents to receive allowances from employers.

6. For pupils and students being employees sent to training by employers, vocational education or training establishments shall:

a/ Fulfill the responsibilities towards pupils and students prescribed in Clause 1 of this Article;

b/ Coordinate with employers in notifying, investigating and reporting on occupational accidents in accordance with the Law on Occupational Safety and Health and this Decree.

Article 34. Occupational safety and health for employees working in the fields of arts, physical training and sports

1. The guarantee of occupational safety and health, making and implementation of policies and regimes on occupational accidents and

occupational diseases for employees working in the fields of arts, physical training and sports must suit the nature of their occupations based on the following basic specific elements:

a/ Age, time of working, course of occupational learning and practice;

b/ Time and place of practice, training, competition and performance;

c/ Salary, pays, social insurance;

d/ Other objective conditions such as weather or audience.

2. Pursuant to Clause 1 of this Article, the Minister of Culture, Sports and Tourism shall prescribe occupational safety and health for employees working in the fields of arts, physical training and sports after reaching agreement with the Minister of Labor, War Invalids and Social Affairs.

Chapter V

OCCUPATIONAL SAFETY AND HEALTH FOR PRODUCTION AND BUSINESS ESTABLISHMENTS

Article 35. Responsibilities of management boards of economic zones, industrial parks, export processing zones and hi-tech zones for occupational safety and health

Responsibilities of management boards of economic zones, industrial parks, export processing zones and hi-tech zones for occupational safety and health under Clause 2, Article 71 of the Law on Occupational Safety and Health are prescribed as follows:

1. To disseminate, popularize and urge production and business establishments under their management to implement the law on occupational safety and health.

2. To examine production and business establishments under their management in practicing occupational safety and health, unless otherwise prescribed by specialized laws.

3. To coordinate with occupational safety and health examination and inspection teams and occupational accident investigation teams upon request.

4. To review and report on the work of occupational safety and health and the situation of occupational accidents and occupational diseases in production and business establishments under their management to provincial-level Labor, War Invalids and Social Affairs Departments when so authorized in accordance with law.

Article 36. Organization of occupational safety and health units

The organization of occupational safety and health units under Clause 1, Article 72 of the Law on Occupational Safety and Health is prescribed as follows:

1. For production and business establishments operating in coke mining and production, production of refined oil products, chemicals, metals, metal-based products and nonmetallic mineral-based products, work construction, building and repair of seagoing ships, and electricity production, transmission and distribution, employers shall organize occupational safety and health units meeting the following minimum requirements:

a/ A production and business establishment employing under 50 employees shall assign at least 1 occupational safety and health officer working on a part-time basis;

b/ A production and business establishment employing between 50 and under 300 employees shall assign at least 1 occupational safety and health officer working on a full-time basis;

c/ A production and business establishment employing between 300 and under 1,000 employees shall assign at least 2 occupational safety and health officers working on a full-time basis;

d/ A production and business establishment employing over 1,000 employees shall establish an occupational safety and health unit or assign at least 3 occupational safety and health officers working on a full-time basis.

2. For production and business establishments operating in the fields, sectors and trades other than those prescribed in Clause 1 of this Article, employers shall organize occupational safety and health units meeting the following minimum requirements:

a/ A production and business establishment employing under 300 employees shall assign at least 1 occupational safety and health officer working on a part-time basis;

b/ A production and business establishment employing between 300 and under 1,000 employees shall assign at least 1 occupational safety and health officer working on a full-time basis;

c/ A production and business establishment employing over 1,000 employees shall establish a occupational safety and health unit or assign at least 2 occupational safety and health officers working on a full-time basis.

3. An occupational safety and health officer working on a full-time basis prescribed in Clause 1 or 2 of this Article must satisfy one of the following conditions:

a/ Holding a tertiary degree in a technical discipline; having worked in the field of production and business of the establishment for at least 1 year;

b/ Holding a collegial degree in a technical discipline; having worked in the field of production and business of the establishment for at least 3 years;

c/ Holding a professional secondary degree in a technical discipline or directly performing technical jobs; having worked in the field of production and business of the establishment for 5 years.

4. An occupational safety and health officer working on a part-time basis prescribed in Clause 1 or 2 of this Article must satisfy one of the following conditions:

a/ Holding a tertiary degree in a technical discipline;

b/ Holding a collegial degree in a technical discipline; having worked in the field of production and business of the establishment for at least 1 year;

c/ Holding a professional secondary degree in a technical discipline or directly performing technical jobs; having worked in the field of production and business of the establishment for 3 years.

Article 37. Organization of health units

The organization of health units under Clause 1, Article 73 of the Law on Occupational Safety and Health is prescribed as follows:

1. For production and business establishments operating in processing and preservation of aquatic products and aquatic product-based products, mining, production of textile, garment, leather and footwear products, production of coke, chemicals, and rubber- and plastic-based products, scrap recycling, environmental sanitation, metal production, building and repair of seagoing ships, production of building materials, employers shall organize health units meeting the following minimum requirements:

a/ A production and business establishment employing under 300 employees must have at least 1 health worker holding professional secondary degree;

b/ A production and business establishment employing between 300 and under 500 employees must have at least 1 medical doctor/physician and 1 health worker holding professional secondary degree;

c/ A production and business establishment employing between 500 and under 1,000 employees must have at least 1 medical doctor and for each work shift must have 1 health worker holding professional secondary degree;

d/ A production and business establishment employing over 1,000 employees shall establish a health establishment organized in a form compliant with the law on medical examination and treatment.

2. For production and business establishments operating in the fields, sectors and trades other than those prescribed in Clause 1 of this Article, employers shall organize health units at the establishments meeting the following minimum requirements:

a/ A production and business establishment employing under 500 employees must have at least 1 health worker holding professional secondary degree;

b/ A production and business establishment employing between 500 and under 1,000 employees must have at least 1 physician and 1 health worker holding professional secondary degree;

c/ A production and business establishment employing over 1,000 employees must have 1 medical doctor and another health worker.

3. A health worker at an establishment prescribed in Clause 1 or 2 of this Article must fully satisfy the following conditions:

a/ Holding a professional degree in health, including medical doctor, preventive health doctor, bachelor of science in nursing, physician, professional secondary nurse, midwife;

b/ Possessing a professional certificate of occupational health.

4. An employer shall notify information on its grassroots health workers according to the form provided in Appendix XXI to this Decree to the provincial-level Health Department of the locality where its head office is based.

5. A production and business establishments that fails to assign health workers or establish a health unit under Clauses 1, 2 and 3 of this Article shall:

a/ Sign a contract with a qualified medical examination and treatment establishment to provide sufficient health workers as prescribed in Clauses 1, 2 and 3 of this Article who must be present on time at the production and business establishment in cases of emergency within 30 minutes for plain areas, towns and cities, and 60 minutes for mountainous, deep-lying and remote areas;

b/ Notify information on the medical examination and treatment establishment according to the form provided in Appendix XXII to this Decree to the provincial-level Health Department of the locality where its head office is based.

Article 38. Organization of grassroots occupational safety and health councils

The organization of grassroots occupational safety and health councils under Clause 1, Article 75 of the Law on Occupational Safety and Health is prescribed as follows:

1. An employer shall establish a grassroots occupational safety and health council in the following cases:

a/ The production and business establishment operates in a field, sector or trade prescribed in Clause 1, Article 36 of this Decree and employs 300 employees or more;

b/ The production and business establishment operates in a field, sector or trade other than that prescribed at Point a of this Clause and employs 1,000 employees or more;

c/ The establishment is a state economic group or state corporation.

2. Production and business establishments other than those prescribed in Clause 1 of this Article shall establish an occupational safety and health council if finding it necessary and having all conditions for the council to operate.

Chapter VI

STATE MANAGEMENT OF OCCUPATIONAL SAFETY AND HEALTH

Section 1

ELABORATION OF NATIONAL STANDARDS AND ELABORATION AND PROMULGATION OF NATIONAL REGULATIONS ON OCCUPATIONAL SAFETY AND HEALTH

Article 39. Responsibility for elaborating and promulgating national technical regulations on occupational safety and health

To assign the elaboration and promulgation of national technical regulations on occupational safety and health of ministries under Clause 3, Article 87 of the Law on Occupational Safety and Health as follows:

1. The Ministry of Health

a/ Occupational safety and health for occupational health elements in the working environment, except radioactive and radiative elements prescribed at Point a, Clause 6 of this Article;

b/ Occupational safety for health equipment with strict requirements on occupational safety.

2. The Ministry of Agriculture and Rural Development

a/ Occupational safety and health (except machinery, equipment and supplies with strict requirements on occupational safety) for agricultural, forest and aquatic products, salt; cattle, poultry, livestock; agricultural, forest and aquatic supplies; fertilizers; products in the culture, harvest, processing, preservation and transportation of agricultural, forest and aquatic products and salt; additives and chemicals used in agriculture, forestry and aquaculture; pesticides and veterinary drugs; irrigation works and dykes;

b/ Occupational safety for machinery, equipment and supplies with strict requirements on occupational safety in the groups of machinery, equipment and supplies for agricultural, forest, salt and aquatic production.

3. The Ministry of Transport

a/ Occupational safety and health (except machinery, equipment and supplies with strict requirements on occupational safety) for all types of means of transport, loading, unloading and construction vehicles and equipment used in transport (except vehicles used for defense and security and fishing ships); technical facilities and equipment used in transport; vehicles and equipment for exploration and exploitation at sea;

b/ Occupational safety for machinery, equipment and supplies with strict requirements on occupational safety in the following groups of machinery and equipment: vehicles subject to inspection as prescribed by the law on transport; loading, unloading and construction vehicles and equipment used in transport; vehicles and equipment for exploration and exploitation at sea.

4. The Ministry of Industry and Trade

a/ Occupational safety and health (except machinery, equipment and supplies with strict requirements on occupational safety) for engineering and metallurgy; electricity production, transmission and distribution; new energy, renewable energy; coal exploitation; exploitation, processing, transportation, distribution and storage of oil and gas and oil and gas products, except vehicles and equipment for exploration and exploitation at sea;

b/ Occupational safety for machinery, equipment and supplies with strict requirements on occupational safety in the following groups of machinery, equipment and supplies: industrial explosive materials; pressure equipment, specialized industrial lifting equipment; mining and oil and gas facilities and equipment, except vehicles and equipment for exploration and exploitation at sea;

c/ Occupational safety and health for chemicals (including pharmaceuticals), except the cases prescribed at Point a, Clause 1, and Point c, Clause 10 of this Article.

5. The Ministry of Construction

a/ Occupational safety and health for adoption of technical measures and organization of work construction;

b/ Occupational safety for machinery, equipment and supplies with strict requirements on occupational safety used in construction.

6. The Ministry of Science and Technology

a/ Occupational safety and health for nuclear reactors, nuclear materials, source nuclear materials, radioactive substances, radiative equipment;

b/ Appraisal of draft national technical regulations on occupational safety and health as prescribed by the Law on Standards and Technical Regulations.

7. The Ministry of Information and Communications

a/ Occupational safety and health (except machinery and equipment with strict requirements on occupational safety) for telecommunication works; telecommunication and electronic networks and information technology;

b/ Occupational safety for machinery and equipment with strict requirements on occupational safety in the groups of telecommunication machinery and equipment; and radio transmitters and transceivers;

c/ Occupational safety and health for radio frequencies in the working environment, except the case prescribed at Point a, Clause 1 of this Article.

8. The Ministry of National Defense

a/ Occupational safety and health for military equipment and facilities, arms and ammunition, products for national defense; national defense works other than national state secrets;

b/ Occupational safety for machinery, equipment and supplies with strict requirements on occupational safety for defense and military use.

9. The Ministry of Public Security

a/ Occupational safety and health for technical equipment and facilities, arms and ammunition and materials, supporting tools, explosive materials and other products other than national state secrets used for the people's police, except the case prescribed at Point a, Clause 8 of this Article;

b/ Occupational safety for fire fighting machinery and equipment with strict requirements on occupational safety.

10. The Ministry of Labor, War Invalids and Social Affairs

a/ Occupational safety and health for personal protective equipment for employees; technical utilities and equipment at vocational training establishments; products, goods, services, processes and environments not prescribed at Point a Clause 1, Point a Clause 2, Point a Clause 3, Point a Clause 4, Point a Clause 5, Point a Clause 6, Point a Clause 7, Point a Clause 8, and Point a Clause 9 of this Article, except products, goods, services, processes and environments not assigned by the Prime Minister under Point d of this Clause;

b/ Occupational safety for machinery, equipment and supplies with strict requirements on occupational safety, except machinery, equipment and supplies prescribed at Point b Clause 1, Point b Clause 2, Point b Clause 3, Point b Clause 4, Point b Clause 5, Point a Clause 6, Point b Clause 7, Point b Clause 8, and Point b Clause 9 of this Article, and except machinery, equipment and supplies with strict requirements on occupational safety not assigned by the Prime Minister under Point d of this Clause;

c/ Occupational safety and health for employees involved in chemical operations; management of chemicals use at vocational training establishments;

d/ To assume the prime responsibility for, and coordinate with ministries and ministerial-level agencies in, proposing the Prime Minister to assign the responsibility to elaborate and promulgate national technical regulations on occupational safety and health for new products, goods, services and environments or involving the management of various ministries and ministerial-level agencies arising in the course of administration and management.

11. In the course of drafting national technical regulations on occupational safety and health, ministries and ministerial-level agencies shall publicly collect opinions of related organizations and persons and consult the Ministry of Labor, War Invalids and Social Affairs and the

Ministry of Health before sending them to the Ministry of Science and Technology for appraisal.

12. The elaboration of national technical regulations on occupational safety and health must ensure unity and consistency within the entire system.

13. Notifying agencies and points for questions and answers on technical trade barriers of ministries shall provide information on legal documents related to measuring and quality standard activities in occupational safety and health to the Ministry of Science and Technology to ensure the fulfillment of the transparency obligation within WTO and other free trade agreements to which Vietnam is a contracting party.

Article 40. Elaboration of national standards on occupational safety and health

1. Ministries and heads of ministerial-level agencies shall draft national standards on occupational safety and health within the sectors and fields under their assigned management.

2. Organizations and individuals may give their recommendations and comments on master plans and plans for elaboration of national standards on occupational safety and health; give comments on draft national standards; assume the prime responsibility for compiling or participate in the compilation of draft national standards on occupational safety and health for submission to the Ministry of Science and Technology for appraisal and announcement.

Section 2

NATIONAL COUNCIL FOR OCCUPATIONAL SAFETY AND HEALTH, PROVINCIAL-LEVEL COUNCILS FOR OCCUPATIONAL SAFETY AND HEALTH

Article 41. The national council for occupational safety and health

The establishment, functions, tasks, organization and operation of the national council for occupational safety and health under Article 88 of the Law on Occupational Safety and Health is prescribed as follows:

1. The Prime Minister shall decide on the establishment of the national council for occupational safety and health at the proposal of the Minister of Labor, War Invalids and Social Affairs.

2. The national council for occupational safety and health is the organization advising the Government in making and revising policies and law on occupational safety and health.

3. The national council for occupational safety and health is composed of:

a/ The chairperson being the Minister of Labor, War Invalids and Social Affairs;

b/ Vice chairpersons being a Deputy Minister of Labor, War Invalids and Social Affairs; a Deputy Minister of Health; and a vice chairperson of the Vietnam General Confederation of Labor;

c/ Members being representatives of leaders of the Ministries of Science and Technology, Public Security, National Defense, Home Affairs, Industry and Trade, Construction, Transport, and Agriculture and Rural Development; Vietnam Cooperative Alliance, Vietnam Farmers Association, Vietnam Chamber of Commerce and Industry and a number of agencies, organizations, specialists and scientists as decided by the Prime Minister.

4. The national council for occupational safety and health shall operate in accordance with the following provisions:

a/ The Council shall annually organize dialogues to share information and increase understanding between employers, employees, trade unions, organizations representing employers and state agencies in making and revising policies and law on occupational safety and health;

b/ The chairperson of the national council for occupational safety and health shall provide the working regulation for the Council and its standing body and secretariat;

c/ The chairperson of the Council may consult specialists, scientists and researchers or invite them to meetings of the Council;

d/ Funds for the operation of the national council for occupational safety and health (excluding salaries and salary-based allowances of the Council members) shall come from the central budget and be incorporated and allocated in the annual budget estimates of the Ministry of Labor, War Invalids and Social Affairs.

Article 42. Provincial-level councils for occupational safety and health

The establishment, functions, tasks, organization and operation of the provincial-level council for occupational safety and health under Article 88 of the Law on Occupational Safety and Health is prescribed as follows:

1. The chairperson of the provincial-level People's Committee shall decide on the establishment of the provincial-level council for

occupational safety and health at the proposal of the director of the provincial-level Labor, War Invalids and Social Affairs Department.

2. The provincial-level council for occupational safety and health is the organization advising the provincial-level People's Committee in organizing the implementation of policies and law on occupational safety and health in the locality with the following principal contents:

a/ Directing and administering measures for implementation of guidelines and policies of the Party and law of the State on occupational safety and health in the locality;

b/ Development of local programs for occupational safety and health for incorporation into socio-economic development plans;

c/ Policies to support employees working without labor contracts in the locality.

3. The provincial-level council for occupational safety and health is composed of:

a/ The chairperson being a vice chairperson of the provincial-level People's Committee or the director of the provincial-level Labor, War Invalids and Social Affairs Department;

b/ Vice chairpersons being the director or a deputy director of the provincial-level Labor, War Invalids and Social Affairs Department; representatives of leaders of the provincial-level Health Department and the provincial-level Confederation of Labor;

c/ Members being representatives of leaders of the provincial-level Departments of Industry and Trade, Construction, Agriculture and Rural Development, Transport, and Science and Technology; leaders of the provincial-level Social Insurance, Vietnam Cooperative Alliance and Vietnam Farmers Association, and a number of enterprises, agencies, organizations, specialists and scientists as decided by the chairperson of the provincial-level People's Committee.

4. Activities of the provincial-level council for occupational safety and health must cover the following basic contents:

a/ The Council shall annually organize dialogues to share information and increase understanding between employers, employees, trade unions, organizations representing employers and state agencies in organizing the implementation of policies and law on occupational safety and health in the locality;

b/ The chairperson of the provincial-level council for occupational safety and health shall provide the working regulation for the Council and its assisting apparatus and secretariat;

c/ The chairperson of the Council may consult specialists, scientists and researchers or invite them to meetings of the Council;

d/ Funds for the operation of the provincial-level council for occupational safety and health (excluding salaries and salary-based allowances of the Council members) shall come from the local budget as decentralized under the law on state budget.

Section 3

COORDINATION IN INSPECTION AND EXAMINATION OF OCCUPATIONAL SAFETY AND HEALTH

Article 43. Coordination in inspection and examination of occupational safety and health

1. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with ministries, ministerial-level agencies and government-attached agencies in, inspecting, examining and supervising occupational safety and health; and handling according to competence violations of the law on occupational safety and health.

2. State management agencies in charge of radiation, oil and gas exploration and exploitation, and railway, waterway, road, air transport vehicles and units of the armed forces shall notify their plans on inspection of occupational safety and health in these fields to the Ministry of Labor, War Invalids and Social Affairs and provincial-level Labor, War Invalids and Social Affairs Departments of the localities where inspection is conducted for coordinated implementation.

3. The occupational safety and health inspectorate of the Ministry of Labor, War Invalids and Social Affairs shall conduct irregular inspection of occupational safety and health in the fields prescribed in Clause 2 of this Article in the following cases:

a/ As directed by the Prime Minister;

b/ When detecting risks endangering occupational safety and health causing accidents or seriously affecting employees' health;

c/ As requested by line ministries.

4. When examining occupational safety and health within the scope, tasks and powers of their state management, ministries and ministerial-level agencies shall invite representatives of the Ministry of Labor, War Invalids and Social Affairs; and send examination results and recommendations to the occupational safety and health inspectorate of the Ministry of Labor, War Invalids and Social Affairs.

5. The occupational safety and health inspectorate of the Ministry of Labor, War Invalids and Social Affairs shall process and settle examination results and recommendations on occupational safety and health of ministries and ministerial-level agencies according to its competence; and notify the results to the agencies sending the recommendations.

6. Provincial-level People's Committees shall prescribe the coordination between provincial-level departments, sections and sectors of their localities in inspection and examination of occupational safety and health in their localities.

Section 4

DEVELOPMENT OF THE NATIONAL PROGRAM FOR AND RECORD OF OCCUPATIONAL SAFETY AND HEALTH

Article 44. Development of the national program for occupational safety and health

1. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with ministries, ministerial-level agencies, government-attached agencies, provincial-level People's Committees and related agencies in, developing the national program for occupational safety and health for every five-year period and submitting it to the Prime Minister for approval.

2. The development of the national program for occupational safety and health must consult the Vietnam General Confederation of Labor, organizations representing employers, ministries and ministerial-level agencies.

Article 45. Coordination in making the national record, organization of public information on occupational safety and health

1. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with ministries, ministerial-level agencies, provincial-level People's Committees, political organizations, socio-political organizations, socio-professional organizations and related agencies in, making, annually updating and periodically announcing the national record on occupational safety and health at most once every 5 years. The national record of occupational safety and health shall be updated annually and must contain at least the following information:

a/ Guidelines and policies of the Party and State for occupational safety and health;

b/ System of legal documents on occupational safety and health;

c/ Organizational apparatus for the state management of occupational safety and health; system of research and training agencies for occupational safety and health;

d/ Mechanism for coordination between state management agencies, trade unions, organizations representing employers and related organizations;

dd/ National- and provincial-level programs and events on occupational safety and health;

e/ Inspection, examination and public information activities. Dissemination of the law on occupational safety and health;

g/ Service activities in occupational safety and health;

h/ Datas on occupational accidents, occupational diseases and technical incidents endangering occupational safety and health.

2. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with ministries, ministerial-level agencies, government-attached agencies and provincial-level People's Committees in, organizing public information activities for occupational safety and health.

Section 5

SCIENTIFIC AND TECHNICAL RESEARCH AND APPLICATION FOR OCCUPATIONAL SAFETY AND HEALTH

Article 46. Scientific and technical research and application for occupational safety and health

1. The Ministry of Science and Technology shall perform the uniform management of scientific and technical research and application for occupational safety and health.

2. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with the Ministry of Science and Technology and related agencies in, studying and proposing the building of experiment and testing laboratories up to national standards to serve occupational safety and health work.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 47. Effect

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

2. Provisions of Articles 9, 10, 11, 12, 13 and 14 of the Government's Decree No. 45/2013/ND-CP of May 10, 2013, detailing a

number of articles of the Labor Code regarding working time, rest time and occupational safety and occupational health, and Points a, b and c, Clause 6, Article 34 of the Government's Decree No. 59/2015/ND-CP of June 18, 2015, on management of construction investment projects cease to be effective on the effective date of this Decree.

Article 48. Implementation responsibility

1. The Minister of Labor, War Invalids and Social Affairs shall guide the implementation of this Decree.

2. Ministers and heads of ministerial-level agencies shall guide the implementation of articles and clauses as assigned in this Decree and measures to perform the state management of occupational safety and health within their scope, tasks and powers.

3. Ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairpersons of provincial-level People's Committees shall implement this Decree.-

On behalf of the Government

Prime Minister

NGUYEN XUAN PHUC