

DECREE OF GOVERNMENT N^o 110/2002/ND-CP dated 27 December 2002
**On amending and supplementing some articles of the Governmental Decree No
06/CP dated 20 January 1995 regulating in details some articles
of the Labour Code on Labour Safety and Hygiene**

GOVERNMENT

Pursuant to the Law on Governmental Organization dated 25 December 2001;
Pursuant to the Labour Code dated 23 June 1994; Law on amending and supplementing
some article of the Labour Code dated 02 April 2002;
Based on the request of the Minister of Labour, Invalids and Social Affairs;

DECREEs

Article 1. Amending, supplementing some articles of the Governmental Decree No.06/CP dated 20 January 1995 regulating in details some articles of the Labour Code on the occupational safety and health according to the amended, supplemented law on some articles of Labour Code (hereinafter generally called amended and supplemented Labour Code):

1. Amending and supplementing the clause 1, Article 2 as follows:

"1. New-building, expanding or improving works and establishments for production, use, preservation, maintenance of machines, equipment, material and substances having strict occupational safety and health requirements, the investor and employer shall make reports on feasible studies on measures to ensure occupational safety and health. In this report shall have main content as follows:

- The location and scale of the work defining clearly distance from the work site, production unit to residential zone and other works;
- Clearly declare the dangerous, harmful elements and trouble would be occurred during the operation period; solutions for prevention and settlement;

The reports on feasible studies on measures to ensure occupational safety and health shall be approved by State authorities; Investor and employer have to make copies to sent to the State Labour Inspectors" Agency at the local for their supervision and control as regulated by the law".

2. Amending, supplementing the clause 2, Article 3 as follows:

"2. When putting in use of machines, equipment, material and substances having strict occupational safety and health requirements consisting in the List stipulated by the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health, the organization, individual shall have to make registrations and appraisals.

The Ministry of Labour, Invalids and Social Affairs stipulates and instructs the registration and appraisal formalities.

3. Amending, supplementing the clause 2, Article 9 as follows:

Replacing the expression " State occupational Safety Inspectors" Committee" by the expression " State Labour Inspectors" Committee".

4. Amending, supplementing the Article 11 as follows:

"Compensation to workers who suffered from occupational accident or diseases as stipulated in the clause 3 of Article 107 of the Amended and Supplemented Labour Code is regulated as follows:

1. Employer has responsibilities to compensate to workers who have suffered from occupational accident or diseases:

a) To pay at least an amount equivalent to 30-months' wage and allowance (if available) to the worker whose working ability has been reduced by 81% or more or to the relatives of the worker who has died as result of occupational accident or disease and the death is not caused by his (her) fault. In case the accident is directly caused by the worker, his (her) relatives shall have also been subsidized an amount at least 12-months' wage and allowance (if available).

b) To pay at least an amount equivalent to 1.5-months' wage and allowance (if available) to the worker whose working ability has been reduced from 5% to 10%, if his (her) working ability has been reduced from over 10% to under 81%, then for each 1%, the compensation amount will be added 0.4-month salary and allowance (if available) in case of the death is not caused by his (her) fault. In case of the accident is caused by the fault of the worker, he (she) shall have also been subsidized an amount at least equivalent 40% of the regulated compensation level according to the above correspondent ratio.

c) The wage is applied as the base to calculate the compensation according to the item a, b of Clause 1, Article 11 is the wage specified by the Labour Contract, calculated as the average of 06 last months before the occurrence of the occupational accident or before the occupational disease is defined, including salary of rank, position, zone-allowance and title allowance (if available) according to the current regulations of the Government. In case the working time is not sufficient to calculate the contractual salary of 06 last months, the compensation paid for the occupational accident or disease shall be calculated on the salary the last month or the salary of the month when the occupational accident or disease is occurred.

2. For the case that the undertakings recruits or admits trainees or apprentices for subsequent employment in the undertaking according to regulations of clause 2, Article 23 of the Labour Code, if during the period of and vocational education and training occur occupational accident or training accident, disease, the employer has responsibilities to compensate or to subsidize them according to regulations of item a, b of clause 1, Article 11. The wage for compensation or allowance in this case shall be a minimum wage level of undertaking, unit, organization applied in the time the occupational accident or disease occurs.

For the case that wage level of vocational education and training has been agreed by Labour contract between the employer and trainees is higher than minimum wage level of enterprise, the compensation shall be calculated basing on the agreed wage level.

3. The Ministry of Labour, Invalids and Social Affairs instructs the document making and compensation procedure for the occupational accident or diseases"

5. Amending, supplementing the clause 1, Article 12 as follows:

"1. When the occupational accident occurs, the employer has to carry out necessary investigation, to make report with the participation of the representatives of Unit's Trade Union Executive Board or Provisional Trade Union Executive Board according to the

instructions of the Ministry of Labour, Invalids and Social Affairs, the Ministry of Health and Vietnam Confederation of labour."

6. Amending, supplementing the clauses 3, Article 14 as follows:

Replacing the expression " State occupational Safety Inspectors" Committee " by the expression " State Labour Inspectors" Committee".

7. Amending, supplementing the clauses 1, 2, 5 and 6, Article 19 as follows:

"1. The Ministry of Labour, Invalids and Social Affairs has responsibilities to build, submit to body with competence of promulgating or to promulgate the legal documents, policies and regimes on Labour protection occupational safety and health; to build, to promulgate and to carry out unified management of the State system of regulations on occupational safety and the standards for Labour classification on the basis of Labour conditions; give instructions to the industries, authorities in implementing the control of occupational safety and health; implementing the State Inspection on the Labour; carry out information, training on the occupational safety and health; co-operating with foreign and international organizations in the field of occupational safety".

"2. The Ministry of Health has responsibilities to build, to promulgate and to carry out unified management of the Regulations and standards on occupational health, health criteria for professions and works; to give instructions to the industries, authorities in implementing Labour hygiene and health care to the workers; to give instructions on organization of periodic examination of health, examination of health when recruiting employees, examining and finding out occupational disease; instructing on the organization of treatment and rehabilitation for the victims of occupational accident and diseases; co-operating with foreign and international organizations in the field of occupational health."

"5. Ministries and Ministerial institutions have responsibilities to build, to promulgate and to instruct the application of industrial standard and regulations system on occupational safety and health in their jurisdiction. Before promulgating standards and regulations on occupational safety and health the Ministries Industries, have to get the participation of the Ministry of Labour, Invalids and Social Affairs for the occupational safety"s standards and regulations and of the Ministry of Health for the occupational health standards and regulations".

"6. Revoke clause 6 and correcting clause 7 to the new clause 6 of Article 19 of the Governmental Decree No.06/CP promulgated on 20 January 1995 regulating in details some articles of the Labour Code on the occupational safety and health.

Article 2. This decree comes into effect from 01 January 2003.

Revoke the Decree No.162/1999/ND-CP dated 09 November 1999; amending, supplementing some articles of the Governmental Decree No. 06/CP dated 20 January 1995 regulating in details some articles of the Labour Code on the occupational safety and health.

Article 3. The Ministry of Labour, Invalids and Social Affairs co-ordinates with the Ministry of Health to instruct the execution of this Decree.

Article 4. Ministers, Heads of Ministerial Institutions, Heads of Governmental institutions; Chairmen of Provincial/city People"s Committee are responsible for implementing this Decree.

On behalf of the government
Prime minister
Phan Van Khai
(Signed)