

DECREE OF GOVERNMENT n_o 01/2003/Nd-cp dated 09 January 2003

**On amending, supplementing some articles of the Rules on Social Insurance issued
in conjunction with the Governmental
Decree No 12/CP dated 26 January 1995**

GOVERNMENT

Pursuant to the Law on Governmental Organization dated 25 December 2001;
Pursuant to Labour Code of 1994; the Law on amending and supplementing some articles
of the Labour code dated 02 April 2002;
According to the Request of Minister of Labour, Invalids and Social Affairs.

DECREEs

Article 1: Amending, supplementing some articles of the Rules on Social Insurance
promulgated in conjunction with the Governmental Decree No. 12/CP dated 26 January
1995 based on the Law on amending and supplementing some articles of Labour Code as
follows:

1. Amending, supplementing Article 3 as follows:

“*Article 3.* Objects applied to Compulsory Social Insurance, including :

1. Employees working in accordance with the definite Term Labour Contract to 03
months upwards and Labour Contract with an indeterminate term in the following
enterprises, institutions and organizations :
 - a) Enterprise established and operate in accordance with the State Corporate Law;
 - b) Enterprise established and operate according to the Corporate Law;
 - c) Enterprise established and operate in accordance with the Law on Foreign Investment
in Vietnam;
 - d) Enterprise of political & socio-political organizations;
 - e) Private production business household and co-op teams;
 - f) Administrative, non-productive bodies, political organization, socio-political
organization, professional socio-political organization, professional social organization,
other social organization and armed forces;
 - g) Semi-public, People-founded, Private institutions belonging to industries of culture,
health, education, training, sciences, sports and other non-productive branches;
 - h) Health care station of the Commune, Precinct and Town
 - i) Foreign organization & body or international organization in Vietnam, except where an
International concluded, or acceded to, by the Socialist Republic of Vietnam provides other
wise;
 - k) Other organizations having Labours employed.
2. Cadres, Governmental staffs, Officials working according to the Ordinance on Cadre and
Governmental staff.
3. Employees, Co-op members working and enjoying wage in accordance with the Labour
Contract to 03 months upwards in Co-ops established and operating in accordance with
the Co-op Law.

4. Employees working at enterprises, bodies and organizations regulated in clause 1, clause 3 and clause 6 of this Article; working in accordance with the Labour Contract with the term under 03 months: as the Labour contract expires, if employees continue working or sign a new contract with the said enterprises, organizations and individuals, they shall have to participate in Compulsory Social Insurance.

5. Employees as regulated in clause 1,2,3,4 and clause 6 of this Article who go to study, to practice, on mission and go away for a treatment domestically and abroad, and still enjoy salary or wages shall be object to Compulsory Social Insurance.

6. Employees working and enjoying the wages in accordance with the Labour Contract to 03 months upwards in the agricultural, forestry, fishing and salty enterprises.

There will be special regulations for the employees working at the agricultural, forestry, fishing and salty enterprises who have land loaned”

2. Amending, supplementing Article 10 as follows:

“Article 10. The female worker with pregnancy or giving birth shall be entitled to the allowances for gestation and child birth when she leaves the job according to the Article 11 and 12 of this Rule.”

3. Supplementing Article 24a as follows:

“Article 24a.

1. Employees paying compulsory social insurance contributions are entitled to a rest for restore their strength and health recovering in the following cases:

a) Fully paid social insurance of 3 years upwards at enterprises, organizations, institutes where their health become declined.

b) Haven't recovered their health after the treatment of sickness, injury, at work , occupational diseases

c) Female employees with poor health condition after taking their maternity leaves.

2. Time of rest for restore the strength and health recovering shall be from 05 to 10 days per year depending on the degree of the employee's health decline.

Time of rest for restore the strength and health recovering of the employee shall not be deducted from the annual leave time and no with no pay, except for the other agreement between the employer and employee.

3. Expenditure for taking a rest for restore the strength and health recovering shall be regulated by Ministry of Labour, Invalids and Social Affairs after discussion and agreement with Ministry of Finance and Vietnam Federation of Trade Labour Unions. Vietnam Social Insurance shall organize, manage, provide and settle up the expenditure for taking a rest for restore the strength and health recovering for each enterprise, organization, institute.

4. Expenditure for taking a rest for restore the strength and health recovering covered by Social Insurance Fund shall be 0.6 % of the actual total wages fund paid for social insurance drawn from the source of 5% calculated over the actual amount of the total wage fund covering social insurance by the enterprise, organization and institute applied for 3 regimes: sickness, maternity occupational accidents and diseases. If the extracted expenditure source is not adequate to pay for a rate of taking a rest for restore the strength and health recovering as regulated, the enterprise, organization, institution shall make an supplement from the welfare fund or transfer it to the next year”

4. Amending and supplementing Article 27 as follows:

a) Amending and supplementing Item a, Clause 1, Article 27 as follows:

“a) If the employee has paid social insurance contribution for 15 years, they will enjoy 45% the average of monthly wage as base for social insurance contribution. Then, 3% will be added for female employee and 2% for male employee for each extra year paying for insurance contribution. The maximum monthly pension is equivalent to 75% of the average of their monthly wage as base for social insurance contribution.”

b) Amending and supplementing Item b, Clause 1, Article 27 as follows:

“b) For employees who enjoy the monthly pension, if the monthly pension is lower than the regulated level at clause 2 and clause 3 of Article 26, thus the pension shall be calculated as indicated in Item a, clause 1 of Article 27, but for each 01 year that the employee retires before the stipulated age defined at clause 1 and clause 2 of Article 25, 1% of pension from the average of monthly wage as base for social insurance payment will be deducted.

For the male employees at the age of 55 years to under 60 years and female employees at the age of 50 years to under 55 years who have the time with insurance fee paid is of or more than 30 years, having aspiration for retirement, they shall be entitled to the pension calculated as indicated at Item a, clause 1, Article 27, but their pension will not be deducted 1% from the average of monthly wage as base for social insurance contribution for each early retirement year”.

b) Amending and supplementing clause 2, Article 27 as follows:

“2. In addition to their monthly pension, female employees with more than 25 years of insurance contribution, male employees with more than 30 years of insurance contribution, upon retiring, will be entitled to lump sum allowance calculated as follows: from the 26th year upwards for woman and from the 31st upwards for man, they will receive a half of the average monthly wage as base for social insurance contribution for each year of insurance contribution but the maximum is 5 months”

5. Amending and supplementing Article 28 as follows:

“Article 28.

1. The following cases will be entitled to lump sum allowance for social insurance, each year of social insurance contribution shall be calculated equivalent to one month of the average monthly wage as base for social insurance contribution:

a) The employees retires at their retirement age or their working capacity is declined at 61% or more due to sickness, occupational accidents and diseases but the time of paying for social insurance is not adequate to be entitled to the monthly retiring regime as defined at Article 25 and Article 26 of this Rules;

b) Those who legally establish their permanent settlement abroad.

2. The employees stop working before their retirement age but the time of paying for social insurance is adequate as regulated at Article 25, clause 2 and clause 3 Article 26 of this Rules should wait till their retirement time to be entitled the monthly retiring regime or make reservation about the time of social insurance payment until they can continue their payment of social insurance.

3. The employees stop working before their retirement age and the time of paying for social insurance isn't enough as regulated at Article 25 and Article 26 of this Rules may be granted a social insurance book and may make reservation about the time of social insurance payment until they can continue their social insurance payment, including those named in the list of enterprise, organization and institute who are waiting for job before 01 January 1995 but haven't received any lump sum allowance.”

6. Supplementing to the end of clause 1 of Article 29 as follows:

“For those who have paid insurance contribution for more than 15 years according to different level of wage stipulated for hard, harmful or especially hard and harmful job in the wage scale and pay roll stipulated by the Government and then has been transferred to other work that payment insurance contribution of lower wage, when they retire, the average of the wage as base for calculation of pension will be based on the wage scale of the 5 latest years of doing hard and harmful work.”

7. Supplementing Article 35a as follows:

“*Article 35a.* The calculation of time paying insurance contribution to apply the regime is regulated as follows: Time of insurance payment from 3 month to 6 months will be calculated a half (1/2) of year; over 6 months will be calculated as one year”.

8. Supplementing clause 5 to Article 36 as follows:

“5. The fund’s profits ”.

9. Supplementing Article 36a as follows:

“*Article 36a.* The time of upnatal and postnatal leave of femalworker as regulated at clause 1 and clause 2 Article 12 and time she leave work for nuring the new born child as indicated at Article 13 of this rules will be considered as time to enjoy social insurance benefit. During the period of leaving job, the employees and employer shall not have to pay social insurance contribution, this premium shall be born by social insurance fund.”

Article 2. This Decree will come into effect since 01 January 2003

To revoke the Decree No. 93/1998/ND-CP dated 12 November 1998 of the Government on amending, supplementing some articles of the Rules on Social Insurance issued in conjunction with the Governmental Decree No. 12/CP dated 26 January 1995 and the Decision No. 37/QD-TTg dated 21 March 2001 of the Prime Minister regulating the regime of restore the strength and health recovering for the employee.

The Social insurance benefit shall not be re-calculated for there who were entitled to it before this Decree becomes effective .

Article 3. Minister of Labour, Invalids and Social Affairs is responsible for instructing the implementation of this Decree after discussing with Ministry of Finance, Ministry of the Interior and Vietnam General Confederation of Labour.

Article 4. Minister of the Interior is responsible for giving instructions for implementing social insurance scheme to the local officials at commune, precinct, town and worker of the health care station of the commune, precinct, town as regulated at clause 1 Article 1 of this Decree after cunsutation with Ministry of Labour, Invalids and Social Affairs and Ministry of Finance.

Article 5. Ministers, Heads of Ministerial Institutions, Heads of Governmental Bodies, Chairman of the people’s committee of the provinces, cities belonging to central management are responsible for implementing this Decree/.

**On behalf of the Government
Prime Minister**

Phan Van Khai
(Signed)