Decree of Government N_0 06/CP dated 20 January 1995

Elaborating some provisions of the Labour Code on Occupational safety and health

(amended and supplemented)

The government

Pursuant to the Law on the organisation of the Government dated 30 September 1992,
Pursuant to the Labour Code dated 23 June 1994,
At the proposal of the Minister of Labour, Invalids and Social Affairs and the Minister of Health.

Decrees

Chapter I
Subjects and scope of application

Article 1. The subjects and the scope of the regulation on occupational safety and health include all organisations and individuals employing the labour force, all civil servants, public employees, and all workers, including trainees, apprentices and those are in trial period in all economic activities and sectors, in the armed forces, and in the foreign undertakings, organisations, offices and international organisations located in the territory of Vietnam.

Chapter II
Occupational safety and health

Article 2. The proven studies on measures to ensure occupational safety and health referred to in Paragraph 1, Article 96 of the Labour Code are stipulated as follows:

1. Prior to construction, expansion or transformation of the premises for the production, use, maintenance, storage and stockpiling of machinery, equipment, materials and substances requiring strict occupational safety and health measures, the investors and the employers must produce proven studies on measures to ensure occupational safety and health. The proven studies should include the following contents:

- The location, the dimension, the distance to residential areas and other buildings nearby;

- The dangerous and harmful elements, the risks of accidents in the course of operations; the preventive and remedial measures;

- The proven studies shall have to be jointly approved by the State Inspection of occupation safety or occupational health and other Government offices concerned.

2. In the course of implementation, measures for ensuring occupational safety and health as the approved proven studies should be followed.

Article 3. The observance of occupational safety and health standards referred to in Paragraph 2, Article 96 of the Labour Code is stipulated as follows:

1. The occupational safety and health standards are compulsory. The employer must, in pursuance to the national and industrial occupational safety and health standards develop a rule on occupational safety and health for each kind of machinery, equipment and material, and an occupational safety and health rule for the workplace.

2. Import of different kinds of machinery, equipment, materials and substances requiring strict occupational safety and health measures shall have to be authorised by the Ministry of Trade after consultation with and the consent of the State Inspection on occupational safety or on occupational health.

Article 4. The workplace exposed to harmful elements referred to Article 97 of the Labour Code is subject to the following regulations:

1. Such harmful elements must be checked and measured at least once a year;

2. Checking and remedial measures should be carried out immediately upon discovering abnormal events;

3. Record and follow-up should be made in accordance with regulation.

Article 5. For workplaces holding dangerous and harmful elements likely to cause occupational accidents referred to in Article 100 of the Labour Code, the following stipulations are made:

1. Appropriate technical and medical facilities such as medicine, bandage, stretcher, gas mask, ambulance car should be available

2. Arrangements are made to cope with the case of an accident.

3. An emergency first aid brigade (or squad) is on duty

4. The emergency first aid brigade (or squad) and workers should be regularly trained.

In respect of small undertakings, the employers shall rely on their own efforts or joint efforts with the nearby units and the local rescue services to cope with emergencies and accidents, but first aid arrangements should be made available on the spot.

Article 6. Workers engaged in dangerous and harmful work must be sufficiently provided with protective clothing and personal protective devices meeting the standards prescribed by the Ministry of Labour, Invalids and Social Affairs.

Article 7. The periodical medical examination and the training on occupational safety and health referred to in Article 102 of the Labour Code are elaborated as follows:

1. Workers, including trainees and apprentices, shall have periodical medical examination at least once a year; and for those who are engaged in hard or harmful work at least once every six months.

The medical examinations shall be carried out by the Public Health services.

2. Before the commencement of the job, workers, including trainees and apprentices, must be provided with guidance and training on occupational safety and health standards and regulations.

Subsequently, as it is required by the work assigned to each of them, they must be trained and provided with guidance on appropriate measures ensuring occupational safety and health, and be strictly supervised in practice.

The employment of workers who have not been specially trained on and not granted with a certificate on safety and health is strictly prohibited.

The organisation and the conduct of training courses shall be carried out under the guidance of the Ministry of Labour, Invalids and Social Affairs.

Article 8. The provision of allowances in kind referred to in Article 104 of the Labour Code is elaborated as follows:

1. The allowances in kind shall be provided in conformity with the quantity and composition determined by the Ministry of Labour, Invalids and Affairs and the Ministry of Health.
2. The allowances in kind must be delivered on spot, during the work shift.
3. The payment in cash instead of allowances in kind is prohibited.

Chapter III
Occupational accidents and diseases

Article 9. The obligations of the employer regarding occupational accidents referred to in Article 105 of the Labour Code are elaborated as follows:

1. To promptly provide the victims on the spot with first aid and emergency aid and immediately deliver them to health establishments;
2. In case of a fatal occupational accident or an accident with several severe victims the scene of the accident should be preserved and the local office of Public Security and State Inspection in labour safety should be notified immediately.

Article 10. The obligations of employer regarding the victims of occupational diseases referred to in Article 106 of the Labour Code are elaborated as follows:

1. The victims of occupational diseases shall have treatment in special therapeutics;
2. After treatment, and depending on the category of occupational diseases, the victims shall have to undergo medical examination at least once every six months and have a special medical record.

The regulations on making record, on keeping and administering of medical dossiers shall be issued by the Ministry of Health.

Article 11.

1. The employer is responsible for paying compensation to the victims of occupational accidents and diseases in conformity with the stipulation of Paragraph 3, Article 107 of the Labour Code.

2. In the case, where a trainee or apprentice is recruited for subsequent employment in the undertaking as referred to in Paragraph 2, Article 23 of the Labour Code, and an occupational accident occurs in the course of their training or apprenticeship, the employer shall pay a compensation at least equivalent to 30 months' minimum wages to those whose ability to work has been reduced by 81 per cent or more, or to the relatives of those who have died as a result of an occupational accident which is not due to their fault. When the occupational accident is due to the fault of the trainee or the apprentice, they shall still be granted an allowance at least equivalent to 12 months' minimum wages.

Article 12. Investigation, establishing of record and statistics, and reporting on cases of occupational accidents and diseases referred to in Article 108 of the Labour Code are elaborated as follows :

1. Upon the occurrence of occupational accidents, the employer shall carry out the investigation and establish a record, with the participation of the representative of the Executive committee of the undertaking's Trade Union.

The report shall fully describe the process of the accident, the casualties, the damages, the causes, the fault and responsibilities in the accident occurrence, and shall bear the signatures of the employer and the representative of the Executive Committee of the undertaking's Trade Union.

2. All cases of occupational accidents and diseases must be declared and included in the relevant statistics and reported in conformity with the regulations issued by the Ministry of Labour, Invalids and Affairs and the Ministry of Health.

Chapter IV
Rights and obligations of the employer and the worker

Article 13. The employer is obliged:
1. To include a plan of action for ensuring occupational safety and health and for working conditions improvement into annual plan for development of production and business of the undertaking;
2. To provide the workers with sufficient personal protective devices and to carry out other measures ensuring occupational safety and health for them in conformity with laws and regulations;
3. To assign an officer to supervise the implementation of regulations, work rules and measures ensuring occupational safety and health in the undertaking; to co-ordinate with the undertaking's Trade Union in setting up and maintaining a network of worker's safety and health representatives.

4. To draw up appropriate rules and processes of occupational safety and health for different kinds of machinery, equipment and material, even in the case of change in technology, machinery, equipment, material and workplace in conformity with the national standards;

5. To undertake, education and training for the workers on standards, regulations and measures ensuring occupational safety and health;

6. To provide the workers with periodical medical examinations, in accordance with State standards and regulations;

7. To strictly observe the regulations on declaration and investigation of all the cases of occupational accidents and diseases and duly submit the mid-year and annual reports on the actual status of occupational safety and health matters in the undertaking to the local Department of Labour, Invalids and Social Affairs.

Article 14. The employer has the rights :

1. To compel the worker to observe regulations, work rules and measures ensuring occupational safety and health;

2. To accord praises and rewards to those who duly observe, and to sanction those who fail to observe regulations, work rules and measures on occupational safety and health;

3. To appeal to competent authorities for reconsideration of the decisions imposed by Safety or Health Labour Inspector, while duly observing them in practice.

Article 15. The worker has the obligations :

1. To observe regulations and rules on occupational safety and health while performing work or task assigned to him/her;

2. To use and maintain provided protective clothing and personal protective devices, and other protective equipment at the workplace, and to compensate for the losses or damage incurred;

3. To report in time to the persons in charge on the risks of industrial accidents, occupational diseases or of harmful and dangerous hazards, and to take part in the emergency aid and the activities to overcome the consequences of an accident under the directives of the employer.

Article 16. The worker has the rights :

1. To request the employer to ensure safe and healthy working conditions, to improve labour conditions, to provide sufficient personal protective devices and training, and to implement measures ensuring occupational safety and health.

2. To refuse to perform the work or leave the workplace that clearly presents an imminent and serious threat to life or health, and has the obligation to report immediately to the persons directly in charge; and to refuse to return to the workplace in question if the danger is not eliminated.

3. To complain or to expose to the competent authorities any act of the employer breaching the provisions of law and regulations or failing to implement duly his/her obligation on occupational safety and health committed in labour contracts or in collective agreements.

Chapter V
Responsibilities of State bodies

Article 17. The establishment of A National Program on labour protection, occupational safety and health referred to in Paragraph 2, Article 95 of the Labour Code is elaborated as follows :

1. The Ministry of Labour, Invalids and Social Affairs and the Ministry of Health in collaboration with the ministries and branches concerned, shall develop a Nation Program on labour protection, occupational safety and health, and submit it to the Government for approval and for inclusion into plans for economic and social development ;

2. Every year, based on the approved National Programs on labour protection, occupational safety and health, the Ministry of Labour, Invalids and Social Affairs in collaboration with the State Planning Committee and the Ministry of Finance draw up a budget for the Program to be included in the State budget.

Article 18. The Prime Minister shall establish a National Board on occupational safety and health which acts as an advisory body for the Prime Minister and a co-ordinator of activities of all branches and levels in occupational safety and health affairs. The composition of the Board shall be decided by the Prime Minister.

Article 19. The State administration of occupational safety and health referred to in Articles 180 and 181 of the Labour Code is elaborated as follows :

1. The Ministry of Labour, Invalids and Social Affairs is responsible for formulating legislation and policies on labour protection, occupational safety and health and submitting them to competent authorities for promulgation, or by itself; for determining, publishing and uniformly administering the system of State standards on occupational safety, the criteria for work classification based on working conditions; for providing instruction to implementation in all branches and at all levels; for carrying out occupational safety inspection; for organising an information system and a training system on occupational safety and health; for carrying out the international co-operation with foreign countries and international organisations in occupational safety field;

2. The Ministry of Health is responsible for determining, publishing and uniformly administering the system of standards on occupational health, the health conditions for professions and work; for providing instruction to implementation in all branches and at all levels; for carrying out occupational health inspection; for organising medical examinations and treatment for occupational diseases; for carrying out the international co-operation with the foreign countries and with international organisations in the occupational health field;

3. The Ministry of Science, Technology and Environment is responsible for uniformly administering scientific and technical research and application in occupation safety and health; for developing standards of personal labour protective devices; and in co-operation with the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health to develop, to stipulate, to uniformly administrate the systems of State technical standards of occupational safety and health;

4. The Ministry of Education and Training is responsible for providing instructions for the inclusion of occupational safety and health topic in the curricula of universities, colleges, technical, vocational schools and schools for administration;

5. Other Ministries and branches shall develop a system of industrial occupational safety and health standards, provided that there is agreement accorded in writing from the Ministry of Labour, Invalids and Social affairs and the Ministry of Health;

6. The State administration of occupational safety and health in the fields of: radiation work, oil and gas prospecting and exploitation, transportation by rail, water, road or air, and in the establishments of the armed force, shall be assumed by the respective ministries, in collaboration with the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health;

7. People's Committees of provinces and cities under the Central Government shall carry out the State administration of occupational safety and health within their respective localities, set forth the targets in ensuring occupational safety and health in the improvement of working conditions, for inclusion in the plan for economic, social development and in the budget plan of respective localities.

Chapter VI
Responsibilities of Trade unions

Article 20. The Vietnam General Confederation of Labour shall participate in drawing up a National Program on labour protection, occupational safety and health; in development of scientific research programs and legislation, policies and regulations on labour protection and occupational safety and heath.

Article 21.

1. Trade Unions' organisations, in collaboration with respective offices of labour, invalids and social affairs, and of health, take part in the control and supervision of the State administration and the implementation of laws and regulations on occupational safety and health, participate in the investigation of occupational accidents.

2. Trade Unions' organisation in undertakings is responsible for educating and mobilising the workers to strictly observe regulations and rules on occupational safety and health; for organising workers' movement for ensuring occupational safety and health in undertakings; for setting up and maintaining a network of workers' safety and health representatives.

Chapter VII
Implementation provisions

Article 22. The present Government Decree shall take effect on 1 January 1995. All previous occupational safety and health provisions contrary to the Labour Code and to this Decree are hereby repealed.

Article 23. The Minister of Labour, Invalids and Social Affairs and the Minister of Health shall be responsible for providing guidance for the implementation of this Decree .

Article 24 .- The Ministers, the Heads of agencies equivalent to ministries and Head of Government offices, the Chairpersons of People's Committee of provinces and cities under the Central Government are responsible for the enforcement of this Decree.

On behalf of the Government
Prime minister

Vo Van Kiet
(Signed)