

Circular No. 08/2003/TT-BLDTBXH dated 8 April 2003 of the molisa
Providing guidelines on the implementation of provisions on convalescence and health recovery as stipulated in Decree No 01/2003/ND-CP dated 09 January of the Government

Pursuant to the provisions in Clause 3, Article 1 of Decree No. 01/2003/ND-CP dated 9 January 2003 of the Government, which amends and supplements a number of articles of the Regulations on Social Insurance attached to Decree No. 12/CP dated 26 January 1995; After receiving comments from the Ministry of Finance in Official Dispatch No. 2391 TC/HCSN dated 18 March 2003, the Ministry of the Interior in Official Dispatch No. 323/BNV-TL dated 24 February 2003, The Vietnam General Confederation of Labour in Official Dispatch No. 411/CV-TLD dated 28 March 2003, and some other ministries and industries related, the Ministry of Labour, Invalids and Social Affairs guides the implementation of provisions on convalescence and health recovery as follows:

I. WHO IS COVERED

The regulations on convalescence and health recovery covers employees involved in the compulsory social insurance scheme as stipulated in Clause 1, Article 1 of Decree No. 01/2003/ND-CP mentioned above, comprising:

1. Employees working under labour contracts of a term of full 3 months and above, and indefinite-termed labour contracts in enterprises, agencies and organizations as follows (hereinafter referred as establishments):
 - a) Enterprises established and operating under the Law on State Enterprises, including: production and trading enterprises, enterprises of public interests; and enterprises belonging to the armed forces;
 - b) Enterprises established and operating under the Enterprise Law, including: limited liability companies, joint-stock companies, partnerships and private companies;
 - c) Enterprises established and operating under the Law on Foreign Investment in Vietnam, including: joint-venture enterprises and enterprises with 100% foreign-invested capital;
 - d) Enterprises of political organizations or socio-political organizations;
 - e) Production households, individual businesses, cooperative business teams;
 - f) Administrative and non-productive agencies, political organizations, socio-political organizations, socio-political-occupational organizations, other social organizations and the armed forces; including agencies and establishments, who are entitled to carry out production, trading, and services activities, of administrative and non-productive organizations, the Party, unions and self-financed people's unions;
 - g) Semi-public, people-run and private establishments in the fields of culture, health, education and training, science, gymnastics and sports and other non-productive fields;
 - h) Medical stations in communes, precincts and towns;
 - i) Foreign agencies, organizations or international organizations located in Vietnam, except for other different regulations in international treaties in which Vietnam is a signatory or a member of supports;
 - j) Other organizations that recruit employees but are not covered in Point 1.

2. Officials, public servants and employees under the Ordinance on Officials and Public Servants.
3. Employees and cooperative members who work and are paid under labour contracts of a term of full 3 months and above in cooperatives established and operating under the Cooperative Law.
4. Employees who work under labour contracts of a term of less than 3 months but continue to work or sign new labour contracts with their establishments after their labour contracts expire.
5. Employees covered at Points 1, 2, 3 and 4 of this Section, who are sent on training, practice, or domestic missions but receive salaries or wages paid by their enterprises, agencies or organizations.

II. ENTITLEMENT CONDITIONS, DURATION AND LEVELS

1. Entitlement conditions:

Employees having fully paid contributions of social insurance premiums as stipulated shall be entitled to a leave of convalescence, health recovery when any of the three following conditions is satisfied:

- a) Having paid contributions of social insurance premiums for full 3 years and above in the establishments and are suffering from health decline;
- b) Having not yet recovered after being treated as in-patients or out-patients for sickness, occupational accidents or occupational diseases;
- c) Being female employees whose health has not recovered after maternity leaves (including cases of leaves due to miscarriage).

2. Duration of convalescence and health recovery leave:

- a) Employees meeting one of three conditions as stipulated in Point 1 shall be entitled to take a convalescence or health recovery leave of between 5 and 10 days per year (including weekends, public holidays and travelling days in cases of staying at concentrated establishments), depending on the extent of employees' health decline.
- b) The duration of convalescence or health recovery leave shall not be deducted from the employees' annual leave and the employees shall not be entitled to salaries or wages. In case the employer agrees to pay salaries or wages for employees during convalescence or health recovery leaves, the employer shall ensure the fund available for those payments.

3. Payment levels applied for a convalescence or health recovery leave:

A level of VND80,000 per day shall apply to an employee taking a convalescence or health recovery leave at a concentrated establishment, covering expenses for meals, accommodation, travel and usual medicine.

A level of VND50,000/day shall apply to an employee take a convalescence or health recovery leave at home, and a female employee who has not recovered after the maternity leave.

Besides the levels specified above, establishments are encouraged to use welfare funds to support employees during their convalescence or health recovery leaves.

III. IMPLEMENTATION ORGANIZATION

1. Responsibilities of establishments:

a) In order to ensure fairness and rationale in implementing the regulations concerned, based on the requirements as stipulated in Point 1, Section II mentioned above, the head of an establishment shall coordinate with the establishment's executive board of the trade union or the provisional trade union in considering and deciding employees qualified for convalescence or health recovery leaves as follows:

- Identifying employees who have paid contributions of social insurance premiums for full 3 years and above and are suffering from health decline and need to take a convalescence or health recovery leave based on records of health checks annually organized at the establishment.

- Identifying employees who have been treated for sickness, occupational accidents or diseases but health has not been recovered and need to take a convalescence or health recovery leave based on medical records or suggestions of health care establishments.

- For female employees whose health has not recovered after a maternity (or miscarriage) leave, the head of an establishments shall coordinate with the executive board of the establishment's trade union (or the provisional trade union) and the women's affair board (if any) for consideration and decision.

After employees eligible for convalescence or health recovery leaves are identified, the head of the establishment shall form a list and coordinate with the executive board of the trade union (or the provisional trade union) to organize convalescence leaves for employees at their home or (concentrated) establishments subject to employees' conditions and desire.

b) The budget funding convalescence or health recovery leaves shall not exceed 0.6% of an establishment's total salary fund actually paid for social insurance contributions per annum, and shall be extracted from the source of 5% of the total salary fund actually paid for social insurance contributions covering sicknesses, maternity, occupational accidents as well as occupational diseases. In case an establishment does not spend all expenses extracted, the remainder shall be transferred to the subsequent year; excess expenses shall not be funded; and deficient expenses for convalescence or health recovery leaves as stipulated shall be funded from the welfare fund or transferred for the implementation in the subsequent year.

c) Annually, establishments shall be responsible to work with social insurance agencies to balance the budget funding for convalescence or health recovery leaves in accordance with current regulations.

2. Responsibilities of social insurance agencies

a) The Vietnam Social Insurance shall provide guidelines for social insurance agencies of provinces and cities under the Center, the Social Insurance of the Army, the Police and Cipher to advance expenses right from the first quarter of a planned year so that establishments can take the initiative in organizing convalescence or health recovery leaves for employees.

b) The Vietnam Social Insurance shall organize the administration, allocation and balancing expenses of convalescence or health recovery for establishments.

c) Annually, the Vietnam Social Insurance shall collect, analyze information and report the situation of the implementation of convalescence or health recovery regulations in a general report on the implementation of social insurance regulations sent to the Ministry of Labour,

Invalids and Social Affairs, the Ministry of Finance and the Vietnam General Confederation of Labour.

3. The Ministry of Labour, Invalids and Social Affairs shall coordinate with the Ministry of Finance and Vietnam General Confederation of Labour in inspecting and supervising the implementation of convalescence or health recovery regulations.

IV. IMPLEMENTATION PROVISIONS

1. This Circular comes into effect 15 days after being published on the Official Gazette.

2. Circular No. 11/2001/BLDTBXH - TT dated 11 June 2001 of the Ministry of Labour, Invalids and Social Affairs on the implementation of convalescence and health recovery regulations for employees involved in the compulsory social insurance scheme is repealed. Any problems that arise during the implementation should be reported to the Ministry of Labour, Invalids and Social Affairs for consideration and solutions.

**MINISTRY OF LABOUR, INVALIDS
AND SOCIAL AFFAIRS MINISTER**

**Nguyen Thi Hang
(Signed)**

