

## **New points in Law on Social Insurance 2014**

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At the 8th session of National Assembly XIII, on November 20th, 2014 the National Assembly passed the Law on Social Insurance. On December 4th, 2014, the President signed the disclosure statement and the Law on Social Insurance 2014 will be taking effect from 1st January 2016, including 9 Chapters and 25 Articles.

Compared with the current Law on Social Insurance, the Law on Social Insurance 2014 has some new points as follows:

### **STRUCTURE OF THE LAW**

The current Law consists of 11 chapters and 141 articles. The upcoming Law on Social Insurance is built in the current Law with a removal of 01 chapter on unemployment insurance; an integration of Chapter IX: Complaints and denunciations of social insurance and Chapter X: Commendation and handling of violations of current law into a chapter. Accordingly, the new Law on Social Insurance includes 09 chapters and 125 articles.

### **CONTENTS OF THE LAW**

#### **I. Chapter 1. General Provisions**

This chapter consists of 17 articles (Articles 1 to 17). The amendments focus on the following issues:

##### *1. Coverage of adjustment*

The Law on Social Insurance 2014 does not apply to unemployment insurance due to the fact that the unemployment insurance has been stipulated in the Law on Employment.

##### *2. Coverage of subjects*

- Subjects to compulsory social insurance:

Compared with the current Law on Social Insurance, the Law 2014 has added 03 following groups of subject:

+ Persons working under labour contracts of definite term of full 01 to fewer than 03 months;

+ Non-specialized officers at communal level;

+ Foreign employees working in Vietnam with work permit or professional certificate or license issued by competent authorities of Vietnam.

- Subjects to voluntary social insurance:

The subjects to voluntary social insurance are open to everyone without the ceiling level of age to participate.

### *3. State management of social insurance*

03 articles (from Article 10 to 12) have been added to specify the respective responsibilities of the Minister of Labour, Invalids and Social Affairs, the Minister of Finance, People's Committees at all levels over social insurance.

### *4. Inspection of social insurance*

- Adding financial Inspection to perform the function of specialized inspection of the financial management of social insurance.

- Adding social insurance agency to perform the function of specialized inspection of social insurance's contributions, unemployment insurance and health insurance.

### *5. The rights and responsibilities of trade unions, the Vietnam Fatherland Front and its member organizations*

- Adding the rights of trade unions to sue in court for violations of the law on social insurance affecting the rights and legitimate interests of workers, laborers 'collectives.

- Adding the rights and responsibilities of the Vietnam Fatherland Front and its member organizations to propagate, mobilize, and monitor the implementation of policies and legislation on social insurance.

## **II. Chapter 2. Rights and responsibilities of employees, the employer, social insurance agency**

This chapter consists of 06 articles (from Article 18 to Article 23). The amendments focus on the following issues:

### *1. Adding the rights of employees:*

- To manage social insurance books.
- To be covered by health insurance during the maternity leave of childbirth or adoption; be covered by sickness benefit for those getting disease on the list of diseases required long-term treatment.
- To actively seek for the assessment on the incapacity for work in cases of injury, disease recurrence which had been treated stably, people who are reserving duration of social insurance payment; to be paid medical assessment fees if being

eligible for social insurance.

- To be informed periodically by social insurance agencies, employers on social insurance contributions.

### *2. The responsibilities of the employer:*

- To abolish the provision which allows the employer to keep social insurance book of the employee during employee's working time (employees are allowed to keep it);

- To add the responsibility for publicly posting information about the social insurance contributions for employees every 06 months; for annually posting information about social insurance contributions of employees provided by social insurance agencies.

### *3. The rights and responsibilities of social insurance agency:*

- Adding the rights of social insurance agency:

- + To require the employers to provide books of labor management, wage scale, information and documents relating to the payment, entitlement of social insurance, unemployment insurance, health insurance.

- + To be provided by agency of business registration, agency issuing operation certificate or license a copy of related documents to register for employees who participate in social insurance, health insurance of newly-found businesses, organizations.

- + To be informed every 06 months by the local state labour management agency about the use of and change in labor in the locality.

- + To be provided the tax identification number of the employer by tax agency; to annually provide information about the cost of wages for tax calculation of the employer.

- + To involve in specialized inspection for social insurance contributions, unemployment insurance, health insurance.

- + To handle violations of laws on social insurance, unemployment insurance, health insurance.

- Adding responsibilities of social insurance agencies:

- + To issue book form, dossier form of social insurance, of unemployment insurance after having the consent of the Ministry of Labour - Invalids and Social Affairs.

+ Every year, to confirm the duration of social insurance premiums for each employee; annually, provide information about the social insurance contribution of the employee for the employer to list publicly.

+ To report annually to Ministry of Labour - Invalids and Social Affairs about the implementation of social insurance, unemployment insurance; to Ministry of Health about the implementation of health insurance; to Ministry of Finance about the management and use of the social insurance, unemployment insurance, health insurance funds. Every year, the social insurance agency shall report to the local People's Committee at the same level about the implementation of social insurance, unemployment insurance, health insurance within the locality.

+ To publicize in the media about the employer who violates the duty to pay social insurance, unemployment insurance, health insurance.

### **III. Chapter 3. Compulsory Social Insurance**

This chapter consists of 48 articles (from Article 24 to Article 71) and is divided into following five sections:

- Section 1: Sickness benefit
- Section 2: Maternity benefit
- Section 3: Work accidents and occupational diseases benefit
- Section 4: Old age benefit
- Section 5: Survivors' benefit

The amendments in this chapter focus on the following issues:

#### *1. Sickness benefit*

- Amended the entitled duration for sickness benefit in cases of getting the disease in the list required long-term treatment and expiring the duration of 180 days and continuing the treatment, the covered person shall be entitled to sickness benefit at a lower rate and a duration maximum to the duration of social insurance contribution.

- Amended the level of sickness benefit per day to be calculated on the basis of monthly sickness allowance divided by 24 days (currently divided by 26 days).

- Increased the level of sickness benefit for the employee getting the disease in the list of diseases required long-term treatment from 45% to 50% of the wage on which social insurance premiums are based prior to the leave of absence if s/he has paid premiums less than 15 years.

- Amended the level of convalescence, rehabilitation after illness per day to be equal to 30% of common wage (currently provided by 25% if the convalescence and rehabilitation taken at home and by 40 % if taken at clinics).

## *2. Maternity benefit*

- Amended the entitled leave for female employees regarding the childbirth, adoption of child less than 6 months of age in accordance with the provisions of the Labour Code in 2012.

- Added the leave for male employee whose wife gives birth to be 05 working days in case of normal delivery; 07 working days in cases of birth with surgery, or under 32 pregnancy weeks; 10 working days in cases of twin and each additional child to be entitled to 03 working days; In case the wife gives birth to twins or more with surgery, he is entitled to take 14 - working – day leave.

- Added the eligibility of maternity benefit for female workers when she is pregnant and has to take leave for health care, to have fully paid social insurance from 3 months and more during 12 months before the birth instead of 6 months or more during the 12 months before the birth as provided by the current Law on Social Insurance Law.

- Added the maternity benefit for surrogate mother and intended mother.

- Added the lump-sum allowance for childbirth in case only the father is insured.

- Amended the level of maternity benefit per day to be equal to the maternity allowance per month divided by 24 days (currently divided by 26 days).

- Amended the level of convalescence, rehabilitation after illness per day by 30% of common wage.

## *3. Work accidents and occupational diseases benefits*

The regulation of work accidents and occupational diseases under the provisions of the current Law on Social Insurance is kept and transferred to Law on Occupational Safety and Health.

## *4. Old age benefit*

- Eligibility for old age benefit:

+ Amended the provisions that the female employee, who is a specialized or non-specialized civil servant at communal level, having paid social insurance premiums

from 15 to 20 years, and having reached 55 years of age, shall be entitled to the old age pension. These subjects are not applying the lowest pensions equal to common wage.

+ Had a timeline of age for the insured person with the incapacity for work of 61% - 80% from 50-year-old man, 45- year-old woman to 55 years and 50 years for man and woman respectively.

- The level of old age benefit

+ There is an ascending route with duration of social insurance contribution to entitle the maximum 75% of the benefit, to those who have paid social insurance for fully 30 years for women and 35 years for men to enjoy the maximum rate of benefit as much as 75%.

+ The specified reduction rate of pension because of early retirement from 1% to 2% for each year of early retirement is amended.

- Lump-sum social insurance:

+ The eligibility of lump-sum social insurance for those who are out of working age and not eligible for pensions yet or going abroad for the legal residence is amended. Exclusively, the armed forces is taken as the current regulations, the insured person shall be resolved as soon as s/he is demobilized, if s/he is not eligible for pension and has the request. Additional cases are those with dangerous diseases such as life-threatening cancer, paralysis, dropsy cirrhosis, leprosy, tuberculosis, HIV disease and AIDS other diseases as prescribed by the Ministry of Health (including the cases with 20 years of social insurance contributions or more).

+ Increased the level of lump-sum social insurance from 1.5 months to 02 months of the average of monthly wage of social insurance contributions for the years from 2014 onwards.

- *The level of the average monthly wage of social insurance contributions for calculating pensions, lump-sum allowance*

The amendment is made to the calculation of the average monthly wage of social insurance contributions for calculating pensions for employees who are subject to the wage prescribed by the State towards the average total payment according to wage determined by the employer. Specifically:

+ For those who participated social insurance before this Law enters into force, the weighted average is equal to 5 years, 6 years, 8 years or 10 years prior to retirement as the Social Insurance Law in 2006.

+ For those who participate social insurance from 01st January 2016 to 01st December 31, 2019, the weighted average wage is based on the last 15 years prior to the retirement;

+ For those who participate social insurance from 01st January 2020 to 01st December 31, 2024, the weighted average wage is computed on the basis of last 20 years before the retirement;

+ For those who participate social insurance from 01st January 2025 onwards, the weighted average wage is based on the entire duration of paying social insurance premiums.

*- Adjusting the wages paid for social insurance*

+ For those who have been participating in social insurance before the effective date of this law, the adjustment of wages paid for social insurance is implemented under current regulations.

+ For those who start participating social insurance since this law comes into force, the wages paid for social insurance is adjusted on the basis of cost of living index in each period applying to all employees, irrespectively in state or non-state sector.

*- Old age benefit for prisoners and those who settle abroad*

+ Those who are pensioners or eligible for pensions and are imprisoned shall also be entitled to a pension.

+ Those who are entitled to pensions, monthly social insurance allowances and reside abroad shall be resolved with a lump-sum allowance. The level of lump-sum is calculated according to the time of having paid for social insurance contributions and the time of having received pension.

*5. Survivors' benefit*

- The eligibility of burial allowance for relatives of employees who are paying social insurance or reserving the duration of social insurance for full 12 months is amended.

- Amended the regulation that the relative of employees who is eligible to monthly survivors' benefit, shall be entitled to opt to lump-sum allowance, except the cases with a child under 06 years of age, her/his child or spouse having incapacity for work by 81% or more;

- Increased the lump-sum survivorship allowance for relatives of employees who are paying social insurance or reserving the duration of social insurance

premiums by 02 months of the average wage of social insurance premiums for years of paying social insurance from 2014 onwards (the current provision is 1.5 months).

#### **IV. Chapter 4. Voluntary Social Insurance**

This chapter consists of 10 articles (from Article 72 to Article 81) and is divided into 2 sections including:

- Section 1: Old age benefit
- Section 2: Survivors' benefit

The amendments in this chapter focus on issues which are similar to the old age benefit and survivors' benefit of compulsory social insurance such as: pension rate, the eligibility of lump-sum social insurance, lump-sum social insurance level, lump-sum survivorship.

#### **V. Chapter 5. Social Insurance Fund**

This chapter consists of 11 articles (from Article 82 to Article 92). The amendments focus on the following issues:

- Integration of voluntary social insurance fund into old age and survivors' funds of compulsory social insurance fund.
- Addition to the expenditure for the payment of medical assessment in cases the employee actively assesses the incapacity for work and is eligible for social insurance; paying health insurance premiums for those who take maternity leave for childbirth or adoption or receive sickness benefit because of getting the disease in the list of disease required long-term treatment.
- Addition to methods for paying voluntary social insurance: pay a lump-sum for many years to come with lower monthly premiums or a lump sum for the missing years with higher monthly premiums.
- Additional regulations to the compensation payment for the time being halted to old age and survivor's funds.
- The monthly wage of compulsory social insurance: amended the regulations regarding the monthly wage for social insurance contributions according to the wage system determined by employers in the following directions:
  - + Since this law comes into effect to December 31st, 2017, the monthly wage for social insurance contributions is based on the wage and allowances in accordance with the labor legislations.



+ From 01st June 2018 onwards, the monthly wage for social insurance premiums are wages, wage subsidies and other additional amounts under the provisions of the labor legislation.

- The cost of managing social insurance: it has been amended in the way that the management costs of social insurance is deducted annually from the profits of the investment activities of the fund. Periodically every 03 years, the Government reports Standing Committee of the National Assembly to decide on the management costs of social insurance.

- In the relation to investment forms, the regulation is amended and supplemented in the sense:

+ To add a form of "lending to the State budget".

+ To remove the form of "investing in major national economic projects".

+ To modify the form of "lending to State commercial banks" into "depositing, buying bonds, bills, certificates of deposits at commercial banks with good performances ranked by State Bank of Vietnam".

## **VI. Chapter 6. Organization and management of social insurance**

This chapter consists of 3 articles (from Article 93 to Article 95). The amendments focus on the following issues:

- Specific provisions: social insurance agencies are state agencies to perform functions of implementing social insurance benefits and policies, managing and using social insurance, health insurance, insurance unemployment funds; inspecting the payment of social insurance, unemployment insurance, health insurance and other duties prescribed by this Law.

- More specific tasks and powers of the Board of Management of social insurance are stipulated.

## **VII. Chapter 7. The order and procedures for social insurance**

This chapter consists of 22 articles (from Article 96 to Article 117) and is divided into 02 sections, including:

Section 1: The order of procedure social insurance

Section 2: The order and procedures for settling the social insurance benefits

The amendments in this chapter focuses on the following issues:

Specific provisions on dossier, order, responsibilities and deadlines to settle on the basis of building in the current regulations which have been conducted stably, at

the same time researching and acquiring plans of simplified administrative procedures issued by Resolution No. 25 / NQ-CP on June 2nd, 2010, Resolution No. 48 / NQ-CP on December 9th, 2010 of the Government on simplifying administrative procedures within the scope, functions of management of Ministry of Labor, War Invalids and Social Affairs; Resolution No. 49 / NQ-CP on December 9th, 2011 of the Government on the simplification of procedures under the jurisdiction of Vietnam Social Security.

### **VIII. Chapter 8. Complaints and denunciations and handling violations of social insurance**

This chapter consists of 05 articles (from Articles 118 to 122). The amendments focus on the following issues:

- Adding the competent jurisdiction to handle administrative violations, penalties and remedial measures in the field of social insurance, health insurance, unemployment insurance of social insurance agency.

- Amending the provisions regarding the payment of interest on delayed payment of social insurance from 01 time of the interest rate of investment activity from the social insurance fund in the year to 02 times of the interest rate of investment activity from social insurance fund of the preceding year based on the delayed amount and duration.

### **IX. Chapter 9. Implementing Provisions**

This chapter consists of 03 articles (from Articles 123 to 125). The amendments focus on the following issues:

- Specific provisions on timing for working duration before 01st January 1995 to be eligible to social insurance; monthly regional allowance for people who are receiving monthly pensions, allowance of incapacity for work, allowances of work accidents and occupational diseases.

- Assigning Government to specify sickness benefit for those getting disease in the list of diseases required long-term treatment and receiving sickness benefit before this law comes into effect; cases are not subject to compulsory social insurance.

- Providing that this law is coming into effect from 01<sup>st</sup> January 2016. The regulation for those work under labor contracts with a term of 01 month to less than 03 months and are foreign citizens working in Vietnam is applicable since 1st January 2018.

**LAW ON SOCIAL INSURANCE**

*Pursuant to the Constitution of the Socialist Republic of Vietnam;*

*The National Assembly promulgates this Law on social insurance.*

CHAPTER I

**GENERAL PROVISIONS**

**Article 1. Coverage of adjustment**

This law stipulates provisions on social insurance regimes and policies; the rights and responsibilities of an employee, an employer, an organization and an individual who is entitled to social insurance benefits, a employee's representative organization, an employer's representative organization, a social insurance agency; a social insurance fund; procedures on the implementation of the social insurance and a state administration on the social insurance.

**Article 2. Coverage of subjects**

1. Employees entitled to participate in compulsory social insurance are Vietnamese citizens, including:

a) Persons working under labor contracts of indefinite term, labour contracts of definite term, labour contracts of seasonal work or of a special task of three months to under twelve months, including labour contracts signed between an employer and the legal representative of a person under 15 years of age according to laws on labour;

b) Persons working under labor contracts of definite term of full one to fewer than three months;

c) Cadres, officials, public servants;

d) Defense workers, police workers, persons working in cipher work;

d) Military officers, professional personnels of the National Defence; professional officers and non-commissioned officers, technical officers and non-commissioned officers of the People's Public Security; persons working in cipher work and enjoying salaries like officers;

e) Non-commissioned officers and soldiers of People's Army; non-commissioned officers and combatants of People's Public Security with definite term services; trainees of People's Army, People's Public Security, and cipher work entitled with living allowances;

g) Persons working overseas under a labor contract according to Law on Vietnamese citizens working abroad under labour contracts;

h) Wage-paid enterprise managers, cooperative administrators;

i) Non-specialized officers at communal level;

2. Foreign employees working in Vietnam with work permit, profession certificate or profession license issued by Vietnamese state agencies are entitled to compulsory social insurance.

3. Employers entitled to compulsory social insurance include: State agencies, public administrative agencies, people's armed force units; political organizations, socio-political organizations, social-professional-political organizations, social professional organizations, other social organizations; foreign agencies and organizations, international organizations operating in the Vietnamese territory; enterprises, cooperatives, individual business households, cooperative groups, other organisations and individuals hiring and employing employees under a labour contract.

4. Persons entitled to voluntary social insurance are Vietnamese citizens of fully 15 years of age and above and excluded from the provision of Clause 1 of this Article.

5. Relevant agencies, organizations and individuals related to social insurance.

The subjects stipulated in Clause 1, 2 and 4 of this Article hereinafter are referred to as employees.

### **Article 3. Interpretation of terms**

In this Law, the following terms are construed as follows:

1. *Social insurance* means the guarantee to fully or partially offset a employee's income that is lost or reduced due to his/her sickness, maternity, work accident, occupational disease, unemployment, old age or death on the basis of his/her contributions to social insurance fund..

2. *Compulsory social insurance* means a type of social insurance offered by the State in which both employees and employers are obliged to participate.

3. *Voluntary social insurance* means a type of social insurance offered by the State in which a employee voluntarily participates, may select premium rates and modes of premium payment in accordance with his/her income, the State has policy to support the premium for the insured persons to enjoy old-age and survivors' benefits.

4. *Social security fund* is an independent financial fund from state budget and is raised by contributions of employees, employers and with Government's support.

5. *The duration of social insurance premium payment* means a duration which an employee starts paying social insurance premiums to the time s/he stops the payment thereof. In case, the employee does not pay social insurance premiums constantly, the duration of social insurance premium payment is calculated on the total time of social insurance premium paid.

6. *Relative of a insured person* means his/her child, wife or husband, natural father, natural mother, father-in-law, mother-in-law or other persons whom the insured person is obliged to nurture under the regulations of law on marriage and family.

7. *Supplemented pension insurance* means a voluntary social insurance policy which provides supplementation for the old-age benefit in compulsory social insurance and is raised by the contributions of employees and employers under the form of personal savings, it is preserved and accumulated through investment activities under laws.

#### **Article 4. Social insurance benefits**

1. Compulsory social insurance comprises the following benefits:

- a) Sicknes;
- b) Maternity;
- c) Work accident, occupational disease;
- d) Old - age;
- d) Survivorship allowance.

2. Voluntary social insurance comprises the following benefits:

- a) Old - age;
- b) Survivorship allowance.

3. Supplemented pension insurance regulated by the Government.

#### **Article 5. Principles of social insurance**

1. The level of social insurance entitlement is computed on the basis of premium rate, social insurance premium payment and the sharing among insured persons.

2. The payable compulsory social insurance premium rate is based on monthly wage of the employee. The payable voluntary social insurance premium is computed on the monthly income selected by the employee.

3. Employees who pay both compulsory and voluntary social insurance premiums are entitled to old age and survivors' benefits on the basis of the duration of social insurance premium payment. The duration of social insurance premium payment which is calculated for a lump-sum benefit will not be included for further calculations in social insurance benefits.

4. The social insurance fund shall be managed in a united, democratic, open and transparent manner; be used for proper purposes and be independently accounted according to the component funds, beneficiary groups entitled to salary regimes regulated by the State that managed by employers.

5. Social insurance shall be implemented in a simple, easy and convenient way, ensuring the interests of the insured persons adequately and timely.

#### **Article 6. State policies on social insurance**

1. The State shall encourage and create favorable conditions for agencies, organizations and individuals to participate in social insurance.

2. The State shall provide supports for participants of voluntary social insurance.

3. The State shall protect the social insurance fund and apply methods to preserve and raise the fund.

4. The State shall encourage employers and employees to participate in supplemented pension insurance.

5. The State shall prioritize investing and developing information and technology for social insurance management.

#### **Article 7. Contents of the State management on social insurance**

1. To formulate and organize the implementation of the legal documents, strategies and policies on social insurance.

2. To propagate and disseminate policies and laws on social insurance.

3. To perform statistical and information work on social insurance.

4. To organize the social insurance implementing apparatus; to train human resources for social insurance work.

5. To manage the incomes and expenses, preservation, development and balance of social insurance fund.

6. To inspect and control the compliance with the law on social insurance; to settle complaints and denouncements and handle violations of the law on social insurance.

7. To promote international cooperation on social insurance.

#### **Article 8. State management agencies in charge of social insurance**

1. The Government shall perform the uniform state management on social insurance.

2. The Ministry of Labor, Invalids and Social Affairs (MOLISA) shall be responsible for the state management on social insurance before the Government.

3. Ministries and ministerial-level agencies in the range of their respective

responsibilities and authorities shall be responsible for the state management of social insurance.

4. The Vietnam Social Security shall collaborate with the Ministry of Labour, Invalids and Social Affairs, Ministry of Finance, People's Committees at the city/provincial level (hereinafter called provincial level) to perform the management on incomes and expenses, preservation, development and balance of social insurance fund.

5. People's Committees at levels shall perform the state management on social insurance within their respective localities under the decentralization of the Government.

#### **Article 9. Modernization of social insurance management**

1. The State shall encourage investments in developing technology and advanced equipment to ensure the application of modern social insurance management methods.

2. The development and operation of national social insurance management digital database shall be completed by 2020.

#### **Article 10. Responsibilities of the Minister of Labour, Invalids and Social Affairs on social insurance**

1. To establish strategies and plans for social insurance development.

2. To develop policies and laws on social insurance; to propose state management agencies for promulgation, or issue legal document on social insurance in accordance with his/her respective authorities.

3. To complete and submit the Government goal for the expansion of social insurance participation.

4. To propagate and disseminate policies and laws on social insurance.

5. To direct the implementation of policies and laws on social insurance.

6. To inspect and control the compliance with the law on social insurance, handle violations of the law on social insurance, settle complaints and denouncements on social insurance, notwithstanding regulations in Clause 2, Article 11 of this Law;

7. To submit the Government for decisions regarding necessary protections for legitimate rights and benefits of employees participating in social insurance.

8. To perform statistical work and information dissemination on social insurance.

9. To organize training, workshops on social insurance.

10. To conduct research and promote international cooperation on social insurance.

11. To submit annual report to the Government on the performance of social insurance.

#### **Article 11. Responsibilities of the Minister of Finance on social insurance**

1. To develop and submit state management agencies for promulgation or promulgate, within his/her range of responsibilities and authorities, the financial management regimes on social insurance; expenditure for the management of social insurance.

2. To inspect and control the compliance with the law on social insurance, handle violations of the law on social insurance, settle complaints and denouncements on the financial management of social insurance.

3. To submit annual report on the management and usage of social insurance funds to the Minister of Labour, Invalids and Social Affairs for data collection prior to report to Government.

#### **Article 12. Responsibilities of People's Committee at levels on social insurance**

1. To direct and organize the implementation of policies and laws on social insurance.

2. To establish the goals for expansion of social insurance participation in the annual socio-economic development plans to submit to the People's Council of the same level for finalization.

3. To advocate and disseminate information of policies and laws on social insurance.

4. To inspect and control the compliance with the law on social insurance, handle violations of the law on social insurance, settle complaints and denouncements on social insurance.

5. To recommend to state management agencies for the amendment and supplement to social insurance laws and policies.

#### **Article 13. Social insurance inspectorate**

1. The labor, war-invalids and social affairs inspectorate shall carry out the specialized functions on the implementation of social insurance policies, laws on social insurance under the provisions of inspection law.

2. The finance inspectorate shall carry out the specialized functions on financial management of social insurance as stipulated in the inspection law.

3. The social security agencies shall carry out the specialized functions on social insurance premium payment, unemployment insurance and health insurance as stipulated in this Law and other relevant legal regulations.



4. The Government shall provide detail regulation for this Article.

**Article 14. Rights and responsibilities of trade unions, Vietnam's Fatherland Front and member organizations of the organization**

1. The Trade Union has the following rights:

- a) To protect legitimate rights and interests of insured employees;
- b) To request the employers and social insurance agency to provide information on social insurance for the employees;
- c) To supervise and propose state management agencies to handle violations on social insurance law;
- d) To bring to the court violations of laws on social insurance which affect legitimate rights and interests of a employee, group of employee as stipulated in Clause 8, Article 10 of Trade Union Law.

2. The Trade Union has the following responsibilities:

- a) To advocate and disseminate information on the policies and laws on social insurance to the employees;
- b) To participate in inspecting and supervising the implementation of the social insurance law;
- c) To propose and participate in the elaboration, amendment and supplement to social insurance laws and policies.

3. Vietnam's Fatherland Front and its member organizations in the range of their responsibilities and authorities shall take responsibility to propagate and mobilise people and members to implement social insurance policies and laws, actively participate in suitable forms of social insurance; protect legitimate rights and interests of insured members; consult with and coordinate with state agencies to establish policies and laws on social insurance; monitor the implementation of policies and laws on social insurance in compliance with legal regulations.

**Article 15. Rights and responsibilities of employer's representatives**

1. The Employer's representatives have the following rights:

- a) To protect legitimate rights and benefits of insured employers;
- b) To propose state management agencies to handle violations of social insurance law.

2. The Employer's representatives have the following responsibilities:

- a) To advocate and disseminate information on the social insurance regimes, policies and laws to the employers;

- b) To inspect and supervise the implementation of the social insurance law;
- c) To propose and participate in the elaboration, amendment and supplement to social insurance regimes, policies and laws.

**Article 16. Reporting and Auditing regimes**

1. Annually, the Government shall report to the National Assembly on the implementation of social insurance policies and regimes, the management and the usage of social insurance fund.

2. Once every three years, the State Audit shall audit the social insurance fund and report on the results to the National Assembly. At the request of the National Assembly, the Standing Committee of the National Assembly or the Government, the social insurance fund will be unexpectedly audited.

**Article 17. Prohibited Acts**

1. Not paying compulsory social insurance premiums, unemployment insurance premiums.

2. Failing to pay timely social insurance and unemployment insurance premiums.

3. Misappropriating the social insurance and unemployment insurance premiums and benefits.

4. Falsifying and forging dossiers in the implementation of social insurance and unemployment insurance.

5. Using social insurance and unemployment insurance funds for improper purposes.

6. Making troubles, causing obstacles to, or damaging the legitimate rights and benefits of the employees and employers.

7. Making illegal access to and exploitation of the database on social insurance and unemployment insurance.

8. Providing false reports; supplying false information and data on social insurance and unemployment insurance.

**Chapter II**

**RIGHTS AND RESPONSIBILITIES OF EMPLOYEES, EMPLOYERS**

**AND SOCIAL INSURANCE AGENCIES**

**Article 18. Rights of employees**

1. To be part of and entitled to the social insurance benefits as stipulated in this Law.

2. To receive and manage social insurance books.
3. To receive retirement and social insurance allowances fully and timely, through one of the following payment methods:
  - a) Directly from social insurance agencies or service providers authorized by the social insurance agencies;
  - b) Through the deposit account of the employee opened at a bank;
  - c) Through the employer.
4. To be covered by health insurance in the following cases:
  - a) Currently enjoying retirement allowance;
  - b) Being on leave with maternity allowance from childbirth or adoption;
  - c) Being on leave with monthly work accident or occupational disease allowance;
  - d) Currently enjoying sickness allowance for employees with diseases under the Category of diseases requiring long-term treatment issued by the Ministry of Health (MOH).
5. To actively seek for the assessment on the incapacity for work in the cases stipulated in Point b Clause 1 Article 45 of this Law and deferred the duration of social insurance payment; to be paid medical assessment fees if being eligible for social insurance.
6. To authorize other persons to receive their retirement or social insurance allowance.
7. To be supplied information on social insurance premium payment biannually by the employers; to be confirmed annually by social insurance agencies on social insurance premium payment; to require employers and social insurance agencies to provide information on the payment and entitlement of social insurance.
8. To lodge complaints, denunciations and initiate lawsuits regarding social insurance as stipulated by Law.

#### **Article 19. Responsibilities of employees**

1. To pay social insurance premiums according to the provisions of this Law.
2. To observe regulations on the compilation of social insurance dossiers.
3. To preserve social insurance books.

#### **Article 20. Rights of employers**

1. To reject requests contrary to the provisions of law on social insurance.
2. To lodge complaints, denunciations or initiate lawsuits regarding social insurance as stipulated by Law.

## **Article 21. Responsibilities of employers**

1. To compile dossiers for employees to be granted social insurance books, pay social insurance premiums and be covered by social insurance benefits.

2. To pay social insurance premiums as stipulated in Article 86 and make monthly deductions from salaries of their employees as stipulated in Clause 1, Article 85 of this Law for simultaneous payment to the social insurance fund.

3. To recommend employees under the provisions in Point a, Clause 1, Clause 2, Article 45 and Article 55 of this Law for the assessment of the incapacity for work by the Medical Assessment Council.

4. To coordinate with social insurance agencies to pay social insurance allowance to employees.

5. To coordinate with social insurance agencies to return social insurance books to employees, to confirm the duration of social insurance premiums payment when the employee terminates the labor contract, employment contract or ceases to work according to the provisions of the law.

6. To supply accurately, fully, and timely the information and documents regarding the payment or entitlement of social insurance at the request of competent state management agencies, or social insurance agencies.

7. To publicly list the information regarding the social insurance premiums payment for employees every six months; to provide information regarding the employees' social insurance premiums payment at the request of the employees or trade union organizations.

8. Annually, to publicize the information on social insurance premiums payment of employees as provided by social insurance agencies according to the provisions in Clause 7, Article 23 of this Law.

## **Article 22. Rights of social insurance agencies**

1. To organize and manage human resources, finance, and property as stipulated by Law.

2. To reject claims for social insurance, unemployment insurance, health insurance benefits against regulations of the Law.

3. To request employers to provide labor management books, wage scales and other information and documents regarding the payment and entitlement of social insurance, unemployment insurance, health insurance.

4. As for newly-founded businesses and organizations, to be sent copies of business registration certificate, license of operation, certificate of operation or establishment decision from business registration agencies, operation certificate or license issuing agencies to register employees for the participation in social insurance,

health insurance.

5. To be biannually provided information by state management bodies of labor at the local level on the usage of and change in labor in the area.

6. To be provided with tax codes of employers by tax agencies; to provide annually the information on salary cost for tax calculations of employers.

7. To examine the implementation of social insurance policies; to conduct specialized inspection on social insurance, unemployment insurance, and health insurance contributions.

8. To recommend to competent state agencies on the development, amendment and supplement to the policies and laws on social insurance, unemployment insurance, health insurance and the management of social insurance, unemployment insurance, and health insurance funds.

9. To handle violations of the Law or recommend to competent state agencies to handle law violations on social insurance, unemployment insurance, health insurance.

### **Article 23. Responsibilities of social insurance agencies**

1. To propagate and disseminate information on the policies and laws regarding social insurance, unemployment insurance, health insurance.

2. To issue samples of booklets and dossiers for social insurance, unemployment insurance after obtaining the consent from Ministry of Labor - Invalids and Social Affairs.

3. To collect and pay social insurance, unemployment insurance, health insurance as stipulated by Law.

4. To grant social insurance books to employees; to manage social insurance books when employees are entitled to old-age or survivors' benefits.

5. To receive dossiers of and settle regimes of social insurance, health insurance; to pay retirement, social insurance, unemployment insurance allowance fully, conveniently and timely.

6. To confirm annually the duration of social insurance premium payment for each employee; to provide fully and timely information on the contributions, entitlements, and implementation procedures of social insurance at the request of employees, employers or trade union organizations.

7. To provide information annually on employees' payment of social insurance premiums for public listing by the employers.

8. To apply information technology in the management of social insurance; to archive the insured people's records as stipulated by the Law.

9. To manage and utilize the social insurance, unemployment insurance, and health insurance funds as regulated by the Law.

10. To apply measures to raise and preserve social insurance, unemployment insurance, and health insurance funds according to the decisions of the Social Insurance Management Council.

11. To implement statistic, accounting and financial work on social insurance, unemployment insurance, health insurance.

12. To provide training and professional guidance on social insurance, unemployment insurance, health insurance.

13. To report biannually to the Social Insurance Management Council and annually to the Ministry of Labor - Invalids and Social Affairs on the implementation of social insurance, unemployment insurance; to report to the Ministry of Health on the implementation of health insurance; to report to the Ministry of Finance on the management and utilization of the social insurance, unemployment insurance, health insurance funds.

Annually, the local social insurance agencies report to the People's Committee of the same level on the implementation of social insurance, unemployment insurance, health insurance within the area under the management of the locality.

14. To publicize on the media cases of employers violating the responsibility of social insurance, unemployment insurance, health insurance payment.

15. To provide relevant documents and information at the request of competent state agencies.

16. To settle complaints and denouncements about the implementation of social insurance, unemployment insurance, health insurance according to the provisions of the Law.

17. To establish international cooperation on social insurance, unemployment insurance, and health insurance.

### CHAPTER III

## COMPULSORY SOCIAL INSURANCE

### Section 1

## SICKNESS BENEFIT

### **Article 24. Coverage of the sickness benefit**

The sickness benefit covers employees specified at Points of a, b, c, d, đ and h of Clause 1, Article 2 of this Law.

### **Article 25. Qualifying conditions for the sickness benefit**

1. The employee who has suffered from sickness, accident (not referred as work accident) and has medical certificate issued by a medical station authorized by Ministry of Health.

In case, the employee who takes leave of sickness and accident because of self-inflicted, or alcoholism, drug abuse shall not be entitled to sickness benefit.

2. The employee who has a child under 7 years of age and takes sick leave to look after the child and has medical certificate issued by authorized medical stations.

### **Article 26. Period for sickness benefit**

1. The maximum entitled period for sickness benefit in a year for the employees stipulated in Points a, b, c, d and h of Clause 1, Article 2 of this

Law is based on working days excluding holidays, Tet holidays and weekend holidays and stipulated as follows:

a) Working in normal condition, s/he shall be entitled to 30 days in a year, if he/she has paid social insurance premiums for less than 15 years; 40 days in a year, if he/she has paid social insurance premiums for fully 15 years to fewer than 30 years; 60 days if he/she has paid social insurance premiums for at least fully 30 years.

b) Working in heavy or hazardous occupations of jobs in the list of heavy or hazardous occupations of jobs issued by MOLISA and MOH or working regularly in areas where the area allowance is indexed at least 0.7, he/she is entitled to 40 days if he/she has paid social insurance premiums for fully 15 years to fewer than 30 years and 70 days if he/she has paid social insurance premiums for at least fully 30 years.

2. The employee who has suffered from a disease which requires long treatment in the list of long treatment diseases issued by the MOH is entitled to sickness benefit as follows:

a) Maximum of 180 days in a year including public holidays, Tet holidays and weekend holidays;

b) In the case that the employee must continue his/her medical treatment after these 180 days, he/she continues to be entitled to sickness benefit at a lower rate and a duration equal to the duration of social insurance premium payment.

3. The duration for sickness benefit of the employees stipulated in Point d Clause 1, Article 2 of this Law is decided by the medical treatment period at the authorized medical station.

### **Article 27. Duration for child caring benefit**

1. The duration for child-caring benefit in a year for each child is computed based on the number of the days to take leave to look after a sick child, maximum of

20 working days if the child is under 3 years of age; maximum of 15 working days if the child is from 3 to less than 7 years of age.

2. In the case of both father and mother of the sick child are insured persons, the duration for child caring benefit for each one of these parents is stipulated in Clause 1 of this Article.

The duration of child-caring benefit stipulated in this Article is calculated on the basis of working days and not included public holidays, TET holidays and weekend holidays.

#### **Article 28. Level of sickness benefit**

1. For the employee who is entitled to sickness benefit stipulated in Clause 1, Point a of Clause 2, Article 26 and Article 27 of this Law, the level of sickness benefit is equivalent to 75 per cent of the wage on which social insurance premiums are based prior to the leave of absence.

In case, the employee has just started working or s/he had paid social insurance premiums, after that s/he has to interrupt working and take sick leave right at the first month when s/he returns to work, s/he is entitled to 75 per cent of the wage on which social insurance is based on that month.

2. For the employee who is entitled to the continuation of sickness benefit stipulated in Point b of Clause 2, Article 26 of this Law, the level of sickness benefit is as follows:

a) 65 per cent of the wage on which social insurance premiums are based prior to the leave of absence if s/he has paid social insurance premiums for at least 30 years;

b) 55 per cent of the wage on which social insurance premiums are based prior to the leave of absence if s/he has paid social insurance premiums from 15 years to less than 30 years;

c) 50 per cent of the wage on which social insurance premiums are based prior to the leave of absence if s/he has paid social insurance premiums less than 15 years.

3. For the employee who is entitled to sickness leave stipulated in Clause 3, Article 26 of this Law, the level of sickness leave is equivalent to 100 per cent of the wage on which social insurance premiums are based prior to the leave of absence.

4. The level of sickness benefit per day is calculated based on monthly sickness allowance divided by 24 days.

#### **Article 29. Health saving and rehabilitation after sickness leave**

1. The employee, after the entitled treatment period of sickness for a year stipulated in Article 26 of this Law, has not recovered his/her health within 30 days



after returning to work, s/he shall be entitled to 5-10 days for health saving and rehabilitation in a year.

The duration for health saving and rehabilitation after sick leave includes public holidays, Tet holidays, and weekend holidays. In case, the duration of health saving and rehabilitation is taken from the end of a year to the beginning of the following year, the duration of the leave will be counted in the former.

2. The number of days for health saving and rehabilitation leave is decided by the employer and the Executive Committee of the local trade union. In the absence of an Executive Committee of the local trade union, the employer shall be in charge of making decision as follows:

a) Maximum of 10 days for employee who has not recovered after sickness which requires long-term treatment;

b) Maximum of 7 days for employee who has not recovered after an operation;

c) Equivalent to 5 days for other cases.

3. The level of health saving and rehabilitation after sickness leave for one day is equivalent to 30 per cent of the common minimum wage.

## **Section 2**

### **MATERNITY BENEFIT**

#### **Article 30. Coverage of the maternity benefit**

The employees stipulated in Points a, b, c, d, đ and h of Clause 1, Article 2 of this Law are entitled to maternity benefit.

#### **Article 31. Qualifying conditions**

1. The employees shall be entitled to maternity benefit if she is under one of the following cases:

a) The pregnant female employee;

b) The female employee who gives birth to her child;

c) The female employee who gives birth as a surrogate mother and the intended mother;

d) The employee who accepts to adopt an infant under 6 months of age;

đ) The female employee who takes intra-uterus device; and employee takes sterilization measures;

e) The insured male employee whose wife gives birth.

2. The employee stipulated in Points b, c and d of Clause 1 of this Article shall be entitled to maternity benefit if she has paid social insurance premiums for at least 6 months during 12 months prior giving birth or accepting to adopt an infant.

3. The employee stipulated in Point b of Clause 1 of this Article who has paid social insurance premiums for at least 12 months and taken maternity leave prescribed by an authorized medical station shall be entitled to maternity benefit if she has paid social insurance premiums for at least 3 months during 12 months prior giving birth.

4. The employee stipulated in Clause 2 and 3 of this Article who terminates a labour contract, an employment contract or quits job prior to giving birth or accepting to adopt an infant under 6 months of age shall be entitled to maternity benefit stipulated in Articles 34, 36, 38 and Clause 1 of Article 39 of this Law.

### **Article 32. Period of leave entitlement for prenatal care**

1. Pregnant female employee shall be entitled to take prenatal leave for 5 times of check-ups, one day per each time; if she is working far from the medical station or having an ailment or whose fetus is abnormal, she shall be entitled to 2 days off for each maternity check-up.

2. The period of maternity leave benefit stipulated in this Article does not include holidays, Tet holidays and weekend holidays.

### **Article 33. Period of leave entitlement when having miscarriage, abortion, death fetus**

1. The employee who has suffered from miscarriage, abortion, death fetus shall be entitled to maternity benefit prescribed by an authorized medical station. The maximum duration of maternity leave is stipulated as follows:

- a) 10 days leave of absence if the fetus is less than 5 weeks;
- b) 20 days leave of absence if the fetus is from 5 weeks to less than 13 weeks of age;
- c) 40 days leave of absence if the fetus is from 13 weeks to less than 25 weeks of age;
- d) 50 days leave if the fetus is at least 25 weeks of age.

2. The period of maternity leave benefit stipulated in Clause 1 of this Article includes holidays, Tet holidays and weekend holidays.

### **Article 34. Period of maternity leave benefit after giving birth**

1. The female employee who gives birth is entitled to maternity leave benefit of 6 months before and after giving birth. In case, the female employee gives birth to twins or more, the period of maternity leave benefit is added 1 month for each child

from the second.

The period of maternity leave prior to giving birth may not exceed 2 months.

2. Insured male employee whose wife gives birth is entitled to maternity leave benefit as follows:

a) 5 working days;

b) 7 working days if the wife had a operation at birth delivery or gave birth to premature infant of under 32 weeks;

c) 10 working days if the wife gives birth to twins; from triplets upwards, the period of leave is added 3 days for each child;

d) 14 working days if the wife gives birth to twins through an operation.

The period of maternity leave benefit stipulated in this Clause is calculated within 30 days since the date the wife gives birth.

3. In case of after giving birth, the new born child dies before 02 months of age, the female employee shall be entitled to a leave of absence of 4 months after child delivery; 2 months since death date if the child dies after at least 2 months of age, but not exceeding maximum period stipulated in Clause 1 of this Article; this leave duration is not calculated as compassionated leave as regulated by the law on labour.

4. In case, only mother is insured person or both father and mother are insured persons, the mother dies after the child was born, the father or the legal raiser shall be entitled to remaining maternity leave of the mother stipulated in Clause 1 of this Article. In case, the mother is insured person but is not qualified with conditions stipulated in Clause 2 and 3 of Article 31 of this Law, the mother dies after the child was born, the father or the legal raiser shall be entitled to maternity leave benefit until the child reaches 6 months of age.

5. In case, father or the legal raiser is insured person and does not take leave of absence stipulated in Clause 4 of this Article, s/he shall be entitled to maternity leave benefit transferred from that of the mother's stipulated in Clause 1 of this Article besides salary.

6. In case, only father is insured person, mother dies after the child was born or is at risk after giving birth and cannot take care of the child under the confirmation of a authorized medical station, the father shall be entitled to maternity leave benefit until the child reaches 6 months of age.

7. The period of maternity leave stipulated in Clauses 1, 3, 4, 5 and 6 of this Article includes public holidays, Tet holidays and weekend holidays.

### **Article 35. Maternity leave benefit for surrogate mother and intended mother**

1. Female employee who is a surrogate mother shall be entitled to leave of

absence for prenatal care, miscarriage, abortion, death fetus and maternity leave benefit until the child is given back to the intended mother, provided that the period may not exceed that stipulated in Clause 1, Article 34 of this Law. In case, the period of maternity leave from the birth date until the day the child is given back has not reached 60 days, the surrogate mother shall be entitled to continue the entitlement until it reaches 60 days, including public holidays, Tet holidays and weekend holidays.

2. The intended mother is entitled to maternity leave benefit from the day the child is given back until the child reaches 6 months of age.

3. The government shall regulate in detail the maternity leave benefit and procedures for entitlement of maternity leave benefit for surrogate and intended mother.

### **Article 36. Period of maternity leave entitlement for adopting a newly-born baby**

The employee who adopts a newly-born baby less than 6 months of age shall be entitled to maternity leave benefit until the child reaches 6 months of age. In case, both mother and father are insured persons and are qualified for maternity leave benefit stipulated in Clause 2, Article 31 of this Law, only mother or father is entitled to maternity leave benefit.

### **Article 37. Period of maternity leave entitlement when taking contraceptive methods**

1. The employee who takes contraceptive methods is entitled to maternity leave benefit prescribed by an authorized medical station. The maximum period for leave of absence is stipulated as follows:

- a) 7 days leave for the female employee who takes Intra-uterus device;
- b) 15 days leave for the employee who takes sterilize.

2. Period of the entitled maternity leave stipulated in Clause 1 of this Article includes holidays, Tet holidays and weekend holidays.

### **Article 38. A lump-sum allowance for giving birth or adopting an infant**

The female employee who gives birth or accepts to raise an adopted infant under 6 months of age is entitled to a lump-sum allowance equivalent to 2 months of the common minimum wage at the month of giving birth or adopting the child.

In case, only father is insured person, the father is entitled to a lump-sum allowance equivalent to 2 months of the common minimum wage at the month of giving birth for each child.

### **Article 39. Level of maternity benefit**

1. For the employee who is entitled to maternity benefit stipulated in Articles of 32, 33, 34, 35, 36 and 37 of this Law, the level of maternity benefit is computed as follows:

a) The monthly level of maternity benefit is equivalent to 100 per cent of the average wage on which the social insurance premiums are based prior to the last 6 months of taking leave of absence. In case, the employee has not reached 6 months of paying social insurance premiums, the level of maternity benefit stipulated in Article 32, Article 33, Clauses 2,4,5 and 6 of Article 34, Article 37 of this Law is the average wage of the months having paid social insurance premiums;

b) The level of maternity benefit for one day stipulated in Article 32 and Clause 2 of Article 34 of this Law is computed as the level of monthly maternity benefit divided by 24 days;

c) The level of maternity benefit after giving birth or adopting an infant is computed as the level of monthly allowance stipulated in Point a, Clause 1 of this Article; in case of incomplete months or the case stipulated in Clause 1 of Article 33 and Article 37 of this Law, the level of maternity benefit for one day is computed as the level of monthly allowance divided by 30 days.

2. Period of maternity leave entitlement from at least 14 working days of a month is computed as the period of paying social insurance premiums. During this period both employer and employee do not have to pay social insurance premiums.

3. The Minister of Labour- Invalids and Social Affairs shall promulgate in detail conditions, period and level of maternity benefit for certain subjects in Article 24 and Clause 1 of Article 31 of this Law.

#### **Article 40. Female employee working before the expiry of maternity leave period**

1. The female employee can work before the expiry of the maternity leave of absence stipulated in Clause 1 or 3, Article 34 of this Law if she meets the following conditions:

a) Having taken at least 4 months of maternity leave after giving birth;

b) She has to keep the employer informed and gets an approval from the employer;

2. In addition to the entitled wage, the female employee who works before the expiry of maternity period shall be still entitled to maternity benefit until the expiry of the maternity benefit period stipulated in Clause 1 or 3, Article 34 of this Law.

#### **Article 41. Health saving and rehabilitation after giving birth**

1. At the expiry of the maternity leave of absence stipulated in Article 33 or in Clause 1, Article 34 of this Law, if the female employee has not fully recovered her health within 30 days after returning to work, she is entitled to 5-10 days leave of absence for health saving and rehabilitation.

The period of health saving and rehabilitation leave includes public holidays, Tet holidays and weekend holidays. In case, the period of health saving and rehabilitation leave is taken from the end of a year until the beginning of the following year, the period of leave benefit is computed as for the former.

2. The number of days for health saving and rehabilitation leave benefit stipulated in Clause 1 of this Article is decided by the employer and the Executive Committee of the local trade union. In the absence of an Executive Committee of the local trade union, the decision is made by the employer. The period of health saving and rehabilitation leave is stipulated as follows:

- a) Maximum 10 days for female employee who gives birth to twins or more;
- b) Maximum 7 days for female employee who gives birth with operation;
- c) Maximum 5 days for other cases.

3. The level of maternity leave benefit for one day is equivalent to 30 per cent of the common minimum wage.

### **Section 3**

#### **WORK ACCIDENT AND OCCUPATIONAL DISEASE BENEFITS**

##### **Article 42. Coverage of work accident and occupational disease benefits**

The employee who suffers from work accident or occupational disease stipulated in Points of a, b, c, d, đ, e and h of Clause 1, Article 2 of this Law is entitled to work accident and occupational disease benefits.

##### **Article 43. Qualifying conditions to work accident benefit**

The employee shall be entitled to work accident benefit if he/she meets the conditions as follows:

1. Having suffered from the work accident under one of the following cases:
  - a) During work time at work place;
  - b) After/ before work time or outside the work place while on assignment by the employer;
  - c) On route to and from place of work and residence and in a reasonable time and route.

2. Having lost working capacity at least 5 per cent because of work accident stipulated in Clause 1 of this Article.

#### **Article 44. Qualifying conditions for occupational disease benefit**

The employee shall be entitled occupational disease benefit if he/she qualifies the conditions as follows:

1. Having suffered from the disease while working in hazardous occupations or jobs in the list of occupational disease issued by the Ministry of Labour, Invalids and Social Affairs and MOH;

2. Having lost at least 5 per cent of working capacity due to work accident as stipulated in Clause 1 of this Article.

#### **Article 45. Assessment of incapacity for work**

1. The employee who has suffered from work accident and occupational disease shall be recommended to take assessment of incapacity for work in the following cases:

- a) To be recovered after medical treatment of injury and occupational disease
- b) To be recovered after his/her injury or occupational disease relapses.

2. The employee shall be sent to assess his/her general incapacity for work if he/she is under one of the following cases:

- a) Having suffered from both work accident and occupational disease;
- b) Having suffered from work accident for many time;
- c) Having suffered from several occupational diseases.

#### **Article 46. A lump-sum allowance**

1. The employee who has lost working capacity from 5 per cent to 30 per cent is entitled to a lump-sum allowance.

2. The level of a lump-sum allowance is stipulated as follows:

a) The employee who has lost 5 per cent of working capacity shall be given an allowance equivalent to 5 times of the common minimum wage, then 0.5 percent of the common minimum wage for every additional per cent of losing working capacity;

b) In addition to the allowance stipulated in the Point a of this Clause, the employee shall be entitled to an additional grant based on the years of paying social insurance premiums, if the duration is less than one year, it is calculated equivalent to 0.5 month, then for every additional year of paying social insurance premiums he/she

shall be entitled to 0.3 month of the wage on which social insurance premiums are based prior to the last month of taking leave of absence for medical treatment.

#### **Article 47. Monthly allowance**

1. The employee who has lost at least 31 per cent of working capacity is entitled to monthly allowance.

2. The level of monthly allowance is regulated as follows:

a) The employee who has lost at least 31 per cent of working capacity shall be given allowance equivalent to 30 per cent of the common minimum wage, then 2.0 per cent of the common minimum wage for every additional per cent of losing working capacity;

b) In addition to the allowance stipulated in the Point a of this Clause, the employee shall be entitled monthly to an additional grant based on the years of paying social insurance premiums, if the duration is less than one year, it is equivalent to 0.5 per cent, then for every additional year of paying social insurance premiums he/she shall be entitled to 0.3 per cent of the wage on which the social insurance premiums are based prior to his/her leave for medical treatment.

#### **Article 48. Starting date of the allowance**

1. The starting date of the allowance stipulated in Articles 46, 47 and 50 of this Law shall be calculated since the month which the employee has finished his/her medical treatment and is discharged from the hospital.

2. In case of a recurring illness, the employee is sent to reassess his/her incapacity for work, the starting date of entitled allowance is calculated from the month of receiving the result from the Medical Assessment Council.

#### **Article 49. Proving functional aid and rehabilitation tools**

The employee who has suffered from work accident, occupational disease which damages the function of the body shall be provided with functional aids, rehabilitation tools based on the level of his/her incapacity for work.

#### **Article 50. Helper allowance**

The employee who has suffered from a work accident and lost at least 81 per cent of his/her working capacity and is paralysed in spinal column or lost his/her eyesight or amputation of two limbs or a serious mental disorder, in addition to the allowance stipulated in Article 47 of this Law, shall be given a monthly helper allowance equivalent to the common minimum wage.

#### **Article 51. A lump-sum allowance for deceased employee caused by work accident**



## **or occupational disease**

The employee who dies because of work accident, occupational disease or dies during the time of first medical treatment because of work accident or occupational disease, the relatives of the employee shall be entitled to a lump-sum allowance equivalent to 36 times of the common minimum wage.

### **Article 52. Health saving and rehabilitation after medical treatment of injury or occupational disease.**

1. If the employee still has not recovered his/her health after the medical treatment of work accident or occupational disease, he/she shall be entitled to 5-10 days leave for health saving and rehabilitation.

2. The level of benefit for one day is equivalent to 25 per cent of the common minimum wage if he/she decides to save and rehabilitate her/his health at home and 40 per cent of the common minimum wage if she decides to save and rehabilitate her health at the rest-home.

## **Section 4**

### **OLD AGE BENEFIT**

#### **Article 53. Coverage of old age benefit**

The employee stipulated in Clause 1, Article 2 of this Law is entitled to the old age benefit.

#### **Article 54. Qualifying conditions**

1. The employee stipulated in Points a, b, c, d, g, h and i of Clause 1, Article 2 of this Law, having had at least 20 years of paying social insurance premiums, not including the case stipulated in Clause 3 of this Article, shall be entitled to the old age pension if he/she is under one of the following conditions:

a) Having reached the age of 60 for a man and 55 for a woman;

b) Having reached the age of 55 to 60 for a man and from 50 to 55 for women and having worked 15 years in heavy, hazardous and dangerous occupations in the list issued by the Ministry of Labour, Invalids and Social Affairs and Ministry of Health or having worked at least 15 years regularly in areas where the area allowance is indexed at least 0.7;

c) Having reached the age of 50 to 55, having had at least 20 years of paying social insurance premiums, in which having worked at least 15 years regularly in coal mining;

d) Having acquired HIV-AIDS due to occupational accidents and risks.

2. The employee stipulated in Point d and e, Clause 1, Article 2 of this Law, having had at least 20 years of paying social insurance premiums, shall be entitled to the old age pension if he/she is under one of the following conditions:

a) Having reached the age of 55 for a man and 50 for a woman, not including specific cases stipulated in Law on Vietnam People's Army Officers, Law on People's Public Security and Cipher Law;

b) Having reached the age of 50 to 55 for a man and from 45 to 50 for women and having worked 15 years in heavy, hazardous and dangerous occupations in the list issued by the Ministry of Labour, Invalids and Social Affairs and Ministry of Health or having worked at least 15 years regularly in areas where the area allowance is indexed at least 0.7;

c) Having acquired HIV-AIDS due to occupational accidents and risks.

3. The female employee, who is a specialized or non-specialized civil servant at communal level, having paid social insurance premiums from 15 to 20 years, and having reached 55 years of age, shall be entitled to the old age pension.

4. The Government shall stipulate qualifying conditions for old age benefit entitlement for several special subjects; the condition for old age benefit entitlement for subjects stipulated in Point c and d of Clause 1, and Point c of Clause 2 of this Article.

**Article 55. Qualifying conditions for an old age benefit when decreasing working capacity.**

1. The employee who has paid social insurance premiums for at least 20 years stipulated in Points of a, b, c, d, g, h and i in Clause 1, Article 2 of this Law losing at least 61% of working capacity shall be entitled to the old age benefit at the lower level than that of a qualified employee stipulated in Point a and b, Clause 1, Article 50 of this Law if he/she she is under one of the following conditions:

a) From 1st January 2016, employee who has reached the age of 51 for a man and 46 for a woman and has lost at least 61% of working capacity shall be entitled to old age pension when decreasing working capacity. After that, by 2020 onward, employee who reaches the age of 55 for a man and 50 for a woman shall be entitled to old age benefit if having lost at least 61% of working capacity;

b) Having reached the age of 50 for a man and 45 for a woman and having lost at least 81% of working capacity;

c) Having lost at least 61% of working capacity and having had at least 15 years working in heavy, hazardous and dangerous occupations in the list issued by the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health.

2. The employee who has paid social insurance premiums for at least 20 years stipulated in Point d and e in Clause 1, Article 2 of this Law losing at least 61% of working capacity shall be entitled to the old age benefit at the lower level than that of a qualified employee stipulated in Point a and b, Clause 2, Article 54 of this Law if he/she she is under one of the following conditions:

- a) Having reached the age of 50 for a man and 45 for a woman;
- b) Having at least 15 years working in heavy, hazardous and dangerous occupations in the list issued by the Ministry of Labour, Invalids and Social Affairs and the Ministry of Health.

### **Article 56. Level of the monthly old age benefit**

1. From the date this Law takes effect to 1st January 2018, the level of a monthly old age benefit of a qualified employee stipulated in Article 54 of this Law is calculated at 45 per cent of the average wage on which the social insurance premiums are based stipulated in Article 62 of this Law and equivalent to 15 years of paying social insurance premiums, then for each additional year of paying insurance premiums, the man shall get 2 per cent more and the woman shall get 3 per cent more. The maximum rate shall be equivalent to 75 per cent.

2. From 1st January 2018, the level of a monthly old age benefit of a qualified employee stipulated in Article 5 of this Law is calculated at 45 per cent of the average wage on which the social insurance premiums are based stipulated in Article 62 of this Law and equivalent to the number of years of paying social insurance premiums as follows:

- a) 16 years for male employee retiring from 2018, 17 years from 2019, 18 years from 2020, 19 years from 2021, and 20 years from 2022 onward;
- b) 15 years for female employee retiring from 2018.

For each additional year, the employee stipulated in Point a and b of this Clause shall get 2 per cent more; the maximum rate is 75 per cent.

3. The level of a monthly old age benefit of an entitled employee regulated at Article 55 of this Law is calculated in Clause 1 and 2 of this Article, then 2 per cent shall be reduced for every year of early retirement.

For the retirement age which has a fraction of less than fully 6 months, 1 per cent shall be reduced, and for the retirement age which has a fraction of over 6 months, the level of monthly old age benefit shall not be reduced for every year of early retirement.

4. The level of a monthly old age benefit of a entitled female employee regulated at Point 3 of Article 54 of this Law is calculated as the years of paying social

insurance premiums and the average monthly wage on which the social insurance premiums based as follows: at least 15 years of paying social insurance premiums equivalent to 45 per cent of average monthly wage on which the social insurance premiums based as stipulated in Article 62 of this Law. From 16 years to less than 20 years of paying social insurance premiums, the employee shall get 2 per cent more for each additional year of paying social insurance premiums.

5. The lowest pension for a employee who participates in compulsory social insurance and is entitled to old age benefit stipulated in Article 54 and 55 of this Law shall be equivalent to the common minimum wage, except for the cases stipulated in Point i, Clause 1 of Article 2 and Clause 3 of Article 55 of this Law.

6. The Government shall stipulate in detail this Article.

#### **Article 57. Adjustment of the old age benefit**

The specific level of adjustment shall be regulated by the Government based on the increase of consumer price index and economic growth accordingly to the State budget and the social security fund.

#### **Article 58. A lump sum of the old age benefit**

1. For the employee who has contributed to social insurance fund for more than the number of year equivalent to a pension benefit of 75 per cent of average wage, when he/she is retired, in addition to the old age pension, he/she shall be entitled to a lump-sum benefit.

2. The level of lump-sum benefit is calculated based on the years of paying social insurance premiums which are more than the number of year equivalent to a pension benefit of 75 per cent of average wage, for every year of contributions to social insurance fund, he/she shall be entitled to 0.5 per cent of the average monthly wage on which social insurance premiums are based.

#### **Article 59. Starting date of old age pension benefit**

1. For the employee who is paying compulsory social insurance premiums stipulated in Points of a, b, c, d, đ, e and i in Clause 1, Article 2 of this Law, the starting date for old age benefit is stated in the retirement decision by the employer when the employee has already been qualified for the entitlement of old age benefit by the law.

2. For the employee who is paying compulsory social insurance premiums stipulated in Point h, Clause 1, Article 2 of this Law, the starting date for old age benefit is appointed at the beginning of the following month after the employee is qualified for old age benefit and submitted application for the benefit to the social insurance agency.

3. For employee stipulated in Point g, Clause 1, Article 2 of this Law and the employee who is preserving the duration of social insurance premiums, the starting date for old age benefit is stated in the proposal of the employee who is qualified for old age benefit.

4. The Minister of Labour, Invalids and Social Affairs shall regulate the starting date of old age benefit for employees stipulated in Clause 1, Article 2 of this Law.

#### **Article 60. Lump-sum social insurance**

1. A lump-sum can be paid to the employee stipulated in Clause 1, Article 2 of this Law and makes the request for it if he/she is under one of the following cases:

a) Having reached the retirement age stipulated in Clause 1, 2 and 4 of Article 50 of this Law but having paid social insurance premiums less than 20 years or stipulated in Clause 3 of Article 54 of this Law but having paid social insurance premiums for less than 15 years and shall not continue participating in voluntary social insurance;

b) Settling abroad;

c) The employee who suffers from fatal illnesses in the list issued by the Ministry of Health such as cancer, polio, cirrhotic ascites, leprosy, severe TB, HIV/AIDS, and so on;

d) The employee stipulated in Point d and e of Clause 1, Article 2 of this Law who demobilizes and ceases working but not qualifying for a monthly old age benefit.

2. The level of a lump-sum social insurance is computed based on the number of contribution years to social insurance fund, for each year, the level is computed as follows:

a) 1.5 months at the average wage on which social insurance premiums are based for years of paying social insurance premiums prior to 2014;

b) 2 months at the average wage on which social insurance premiums are based for years of paying social insurance premiums from 2014 onward;

c) The level of social insurance benefit shall be equivalent to the amount of social insurance premiums paid if the duration of social insurance premium payment is less than 1 year, the maximum rate is equivalent to 2 months at of the average wage on which social insurance premiums are based..

3. The level of lump sum social insurance stipulated in Clause 2 of this Article does not include State's support for paying voluntary social insurance premiums, except for the cases stipulated in Point c, Clause 1 of this Article.

4. The starting date for lump-sum social insurance is stated in the decision of the social insurance agency.

**Article 61. Preserving the duration of social insurance premium payment**

The employee who ceases working but is not qualified for monthly old age benefit stipulated in Articles 54 and 55 or has not got a lump-sum as stipulated in Article 60 of this Law shall be entitled to preserve his/her duration of paying social insurance premiums.

**Article 62. Average monthly wage on which social insurance premiums are based for computing old age and lump-sum benefits**

1. For the employee who receives monthly wage as defined in the wage scale set by the Government and has paid social insurance premiums based on this wage scale, the average of his/her monthly wage of the number of years of his/her social insurance premiums prior to his/her retirement is computed as follows:

a) The weighted average wage is based on the last 5 years prior to retirement if the employee participated in social insurance before 1<sup>st</sup> January 1995;

b) The weighted average wage is based on the last 6 years prior to retirement if the employee participated in social insurance between 1<sup>st</sup> January 1995 and 31<sup>st</sup> December 2000;

c) The weighted average wage is based on the last 8 years prior to retirement if the employee participated in social insurance between 1<sup>st</sup> January 2001 and 31<sup>st</sup> December 2006;

d) The weighted average wage is based on the last 10 years prior to retirement if the employee participated in social insurance between 1<sup>st</sup> January 2007 and 31<sup>st</sup> December 2015;

đ) The weighted average wage is based on the last 15 years prior to retirement if the employee participated in social insurance between 1<sup>st</sup> January 2016 and 31<sup>st</sup> December 2019;

e) The weighted average wage is computed based on the last 20 years prior to retirement if the employee participated in social insurance between 1<sup>st</sup> January 2020 and 31<sup>st</sup> December 2024;

g) The weighted average wage is based on the whole duration of paying social insurance premiums prior to retirement if the employee participated in social insurance from 1<sup>st</sup> January 2025 onward.

2. For the employee who has the whole duration of paying social insurance premiums according to wage regime as defined by the employer, the computing is done on the basis of the average of his/her monthly wage on which the social insurance premiums are based for the whole duration.

3. For the employee who has paid social insurance premiums according to wage regime as defined in the wage scale set by the Government and also paid that as defined by the employer, the computing is done on the basis of the weighted average of the wage on which the social insurance premiums are based for these periods, in which the duration of paying social insurance premiums according to wage regime set by the Government is computed on the basis of the weighted average of the wage on which the social insurance premiums are based as stipulated in Clause 1 of this Article.

4. The Government shall stipulate in detail this Article.

### **Article 63. Adjustment of the monthly wage on which social insurance premiums are based**

1. The monthly wage of an employee on which social insurance premiums are based stipulated in Clause 1, Article 89 of this Law shall be adjusted on the basis of the level of the common minimum wage at the time of receiving old age benefit for the employee who participated in social insurance before 1<sup>st</sup> January 2016.

For the employee who participated in social insurance from 1st January 2016 onward, the monthly wage of a employee on which social insurance premiums are based shall be adjusted as stipulated in Clause 2 of this Article.

2. The monthly wage of an employee on which social insurance premiums are based stipulated in Clause 2, Article 89 shall be adjusted based on the consumer price index of each period regulated by the Government.

### **Article 64. Temporary suspending an old age benefit and monthly social insurance allowance**

1. The employee who receives the monthly old age benefit and social insurance allowance shall be suspended temporarily if he/she is under one of the following cases:

- a) Illegal migration;
- b) Missing proclaimed by the court;
- c) Proven of misdemeanour for the entitlement of social insurance allowance.

2. Monthly old age benefit and social insurance allowance shall be continued if the migrant returns for legal settlement pursuant to regulations on residence. In case the court abolishes a missing proclamation, the monthly old age benefit and social insurance allowance shall be continued and retrieved from the suspending time.

3. The social insurance agency must issue an announcement which clearly states the reasons if it decides to suspend the entitlement as stipulated in Point c, Clause 1 of this Article. Within 30 days since the suspension, the social insurance agency must give the decision on the entitlement, and provide reasons in case of terminating the entitlement.

**Article 65. Implementation of social insurance benefits for those who are receiving monthly old age benefit, social insurance allowance, then settle abroad.**

1. A person is receiving a monthly old age benefit, social insurance allowance, then goes abroad for residence, is entitled to a lump-sum benefit.

2. The level of lump-sum benefit for a person who is receiving old age benefit is based on the duration of paying social insurance premiums and equivalent to 1.5 months of the receiving monthly pension for every year of paying social insurance before 2014 and 2 months of receiving monthly pension for 2014 and onward; after that it shall be deducted by 0.5 month of pension for every received monthly pension. The minimum level is equivalent to 03 months of receiving monthly pension.

3. The level of lump-sum benefit for a person who is receiving monthly social insurance allowance is equivalent to 03 months of the receiving allowance.

## **Section 5**

### **SURVIVORS' BENEFIT**

**Article 66. Funeral allowance**

1. The following employee when he/she dies, the undertaker for his/her funeral service shall be given a lump-sum funeral allowance if he/she is under one of the cases as follows:

a) The employee who has paid his/her social insurance premiums stipulated in Clause 1, Article 2 of this Law or the employee who has preserved social insurance contribution period and has had at least 12 months of paying social insurance premiums;

b) The employee deceases of work accident, occupational disease or deceases during the treatment for work accident or occupational disease;

c) The employee who has received monthly old age benefit, work accident and occupational disease benefit after ceasing working.

2. The funeral allowance is equivalent to 10 months of the common minimum wage at the month the employee stipulated in Clause 1 of this Article dies.



3. In case the employee stipulated in Clause 1 of this Article is declared to be deceased by court, his/her relatives shall be entitled to the allowance stipulated in Clause 2 of this Article.

#### **Article 67. Eligibility for monthly survivors' benefit**

1. The employee stipulated in Clause 1 and 3, Article 66 of this Law, when he/she dies his/her relatives shall be entitled to a monthly survivors' benefit for his/her death if he/she is one of the following cases:

a) Having paid social insurance premiums for at least 15 years, but have not made a withdrawal of a lump-sum;

b) Receiving monthly old age benefit;

c) Being deceased because of work accident and occupational disease;

d) Receiving monthly work accident and occupational disease benefits with incapacity for work of at least 61 per cent.

2. The relatives of the insured employee stipulated in Clause 1 of this Article shall be eligible for a monthly survivors' benefit as follows:

a) His/her children have not reached 18 years of age; his/her children reached 18 years of age if having lost at least 81 per cent of working capacity; the father died before the child was born, during his spouse's pregnancy;

b) Legal spouse reaches 60 years of age for a man and 55 years of age for a woman; Legal spouse has not reached 60 years of age for a man and 55 years of age for a woman if having lost at least 81 per cent of working capacity;

c) The father, mother, father- in- law and mother- in- law, other members in the family who the insured person is taking care of under the law on marriage and family and at least 60 years of age for a man and 55 years of age for a woman;

d) The father, mother, father- in- law and mother- in- law, other members in the family who the insured person is taking care of under the law on marriage and family and under 60 years of age for a man and 55 years of age for a woman if having lost at least 81 per cent of working capacity.

3. The relatives of the insured employee stipulated in Points b, c and d of this Clause must have no income or have income but lower than the common minimum wage. The income stipulated in this Law does not include allowance according to the regulations on preferential treatment for merit person during wartime.

4. Period for request of assessment of working incapacity level for monthly survivor's benefit is regulated as follows:

a) The relatives must submit the request within 4 months after the date of death

of the insured employee;

b) The relatives must submit the request within 4 months before or after the expiry of survivor's benefit entitlement for the insured employee stipulated in Point a, Clause 2 of this Article.

#### **Article 68. Monthly survivors' benefit**

1. The level of monthly survivors' benefit for each dependent of the deceased employee is entitled to 50 per cent of the common minimum wage; in case the dependent of the deceased employee has no direct raiser, he/she shall be entitled to 70 per cent of the common minimum wage.

2. For one deceased employee stipulated in Clause 1, Article 67 of this Law, the number of dependent to be given this monthly benefit shall not exceed four. For at least 2 deceased employees, the dependents of these deceased employees are entitled 2 times of the allowance stipulated in Clause 1 of this Article.

3. Eligible time of monthly survivors' benefit shall be started right in the month after the insured employee stipulated in Clauses 1 and 3, Article 66 of this Law dies. In case the father dies during the mother's pregnancy, the eligible time for the child's monthly survivors' benefit shall be started from the month of birth.

#### **Article 69. Eligibility for a lump-sum survivors' benefit**

If the employee stipulated in Clause 1 and 3, Article 66 of this Law is under one of the following cases when he/she dies, his/her relatives shall be entitled to a lump-sum survivors' benefit:

1. The deceased employee does not include in cases specified in Clause 1, Article 67 of this Law;

2. The deceased employee is under one of the conditions stipulated in Clause 1, Article 67, but has no dependant to receive monthly survivors' benefit stipulated in Clause 2, Article 67 of this Law;

3. The dependant of the deceased employee, who is entitled to monthly survivors' benefit stipulated in Clause 2, Article 67 of this Law, requests a lump-sum survivors' benefit, not including cases of having child under 6 years of age, or child, wife or husband who has lost at least 81 percent of working capacity;

4. In case the deceased employee has no dependant stipulated in Clause 6, Article 3 of this Law, a lump-sum survivors' benefit is implemented according to law on inheritance.

#### **Article 70. Level of a lump-sum survivors' benefit**

1. The level of a lump-sum survivors' benefit for dependants of the deceased employee who has participated in social insurance or preserved social insurance

duration is computed on the number of years of paying social insurance premiums, equivalent to 1,5 months of average monthly wage for each year of the contribution to the social insurance fund on which social security premiums are based before 2014; equivalent to 2 months of average monthly wage for each year of that from 2014 onward; the lowest level must be at least equivalent to 3 months of the average monthly wage on which social security premiums are based. The average monthly wage on which social security premiums are based, which is the basis for the calculation of a lump-sum survivors' benefit is stipulated in Article 62 of this Law.

2. The level of a lump-sum survivor's benefit for dependants of the deceased employee who is receiving monthly old age benefit shall be computed on the period of receiving the old age benefit, if he/she dies in the first 2 months of the entitled old age benefit, his/her dependants shall receive a lump-sum allowance equivalent to 48 months of the currently receiving old age benefit; if he/she dies in the later months, for each month of having received old age benefit, the level of lump-sum shall be deducted by 0,5 month, the lowest level must be at least equivalent to 3 months of the currently receiving old age benefit.

3. The common minimum wage used for the calculation of a lump-sum survivors' benefit is the one in the month when the employee stipulated in Clause 1 and 3, Article 66 of this Law dies.

**Article 71. Computing the old age and survivors' benefits for the employee who has paid both compulsory social insurance premiums and voluntary social insurance premiums**

1. Computing the old age pension and survivors' benefits for the employee who has paid both compulsory social insurance premiums and voluntary social insurance premiums is regulated as follows:

a) The employee who has at least 20 years of paying compulsory social insurance premiums shall be entitled to an old age benefit according to the policies of compulsory social insurance; the minimum level of monthly pension is equivalent to the minimum common wage, not including the subjects stipulated in Point i in Clause 1, Article 2 of this Law;

b) The employee who has at least 15 years of paying compulsory social insurance premiums shall be entitled to a monthly survivors' benefit according to the policies of compulsory social insurance;

c) The employee who has at least 12 years of paying compulsory social insurance premiums shall be entitled to funeral allowance according to the policies of compulsory social insurance.

2. The Government shall stipulate this Article.

**CHAPTER IV**  
**VOLUNTARY SOCIAL INSURANCE**  
**Section 1**  
**OLD AGE BENEFIT**

**Article 72. Coverage of old age benefit**

Employees specified in Clause 4, Article 2 of this Law are entitled to voluntary social insurance.

**Article 73. Eligibility for old age benefit**

1. Employees are entitled to an old age benefit when all of the following conditions are met:

- a) Having reached the age of 60 for men and 55 for women;
- b) Having paid for social insurance premiums for at least 20 years.

2. In case the employee has reached the eligible age as stipulated in Point a Clause 1 of this Article but has yet reached 20 years of social insurance premiums payment, s/he shall continue to pay it until s/he reaches 20 years of social insurance contribution.

**Article 74. Level of a monthly old age benefit**

From the date this Law comes into effect to before 1<sup>st</sup> January 2018 the monthly old age benefit level of an eligible employee as stipulated in Article 73 of this Law is equivalent to 45% of the average monthly income on which the social insurance premiums are based, as stipulated in Article 79 of this Law, equivalent to 15 years of social insurance premiums payment; after which 2% for men and 3% for women shall be added with an additional year; the maximum rate is 75%.

2. From 1<sup>st</sup> January 2018, the monthly old age benefit level of an eligible employee as specified in Article 73 is equivalent to 45% of the average monthly income on which the social insurance premiums are based, as stipulated in Article 79 of this Law and equivalent to the years of social insurance premiums payment, specifically as follows:

- a) 16 years for male employees who retire in 2018, 17 years for 2019, 18 years for 2020, 19 years 2021, and 20 years for 2022 onward;
- b) 15 years for female employees who retire from 2018 onward.

After that, with an additional year, employee specified in Point a and Point b of this Clause is entitled to an additional 2%; the maximum rate is 75%.

3. The adjustment of old age benefit shall be implemented as regulated in Article 57 of this Law.

#### **Article 75. A lump-sum of old age allowance**

1. Employees with a period of social insurance payment longer than the number of years equivalent to the old age benefit rated of 75% shall be entitled to a lump-sum allowance apart from the old age benefit.

2. The rate of lump-sum allowance is calculated based on the number of years of social insurance premiums payment, which is longer than the number of years equivalent to the old age benefit rated 75%, such one year of social insurance premiums payment is equivalent to 0.5 month of the average monthly income on which the social insurance premiums are based.

#### **Article 76. Starting time of old age benefit**

1. The eligible time of old age benefit entitlement for employees specified in Article 72 of this Law starts immediately on the month consecutive to which social insurance participants have become eligible for an old age benefit as regulated in Article 73 of this Law.

2. The Minister of Labor - Invalids and Social Affairs shall provide detailed regulations on this Article.

#### **Article 77. Lump-sum social insurance benefit**

1. Employees specified in Clause 4 Article 2 of this Law, if they require, are entitled to lump-sum social insurance benefit if they are under one of the following cases:

a) Having reached the eligible age as stipulated in Point a Clause 1 Article 73 of this Law but having yet reached 20 years of social insurance premiums payment and having discontinued social insurance.

b) Going abroad to settle;

c) Employees with a fatal disease such as cancer, polio, cirrhosis, leprosy, severe tuberculosis, HIV turning to AIDS stage and other diseases as regulated by the Ministry of Health.

2. The level of lump-sum social insurance benefit is calculated on the number of years of social insurance premiums payment, specifically as follows with each year:

a) A month and a half of the average income on which social insurance premiums are based for the years of payment before 2014;

b) Two months of the average income on which social insurance premiums are based for the years of payment after 2014;

c) In case the period of social insurance premiums payment is less than a year, the level of social insurance benefit equals to the paid amount, the maximum level equals to two months of the average income on which social insurance premiums are based.

3. The level of lump-sum social insurance benefit of employees supported by the State as regulated in Clause 2 of this Article shall not include the amount supported by the State in voluntary social insurance premiums, with the exception of the cases specified in Point c Clause 1 of this Article.

4. The eligible time of lump-sum social insurance benefit is specified in the decision of the social insurance agency.

5. The social insurance benefit for employees who are contributing to voluntary social insurance, receiving old age benefit and settling abroad, is in accordance with Clauses 1 and 2, Article 65 of this Law.

**Article 78. Preservation of the social insurance payment duration, suspension and resumption of old age benefit**

1. Employees discontinuing voluntary social insurance contribution and failing to meet eligible conditions to enjoy an old age benefit as regulated in Article 73 or having yet received lump-sum social insurance as regulated in Article 77 of this Law shall have the right to preserve the duration of social insurance payment.

2. The suspension, resumption of old age benefit for employees participating in voluntary social insurance is implemented in accordance with Article 64 of this Law.

**Article 79. The average monthly wage on which social insurance premiums are based**

1. The average monthly wage on which social insurance premiums are based is the average of monthly wage on which social insurance premiums are based for the entire duration.

2. The monthly wage on which social insurance premiums are used as the basis for calculation of social insurance premiums, shall be adjusted on the basis of the consumer price index of each period as stipulated by the Government.

**Section 2**

**SURVIVORS' BENEFIT**

**Article 80. Funeral allowance**

1. When an employee dies, the undertaker who is responsible for funeral service shall be given a funeral allowance if:

- a) The employee has paid the social insurance premiums for 60 months or more;
- b) The employee has been on an old age benefit.

2. The funeral allowance is equivalent to ten months of common minimum wage at the month when the employee specified in Clause 1 of this Article dies.

3. When the employee specified in Clause 1 of this Article is deceased declared by the Court, his or her relatives shall be entitled to the allowance specified in Clause 2 of this Article.

#### **Article 81. Survivors' allowance**

1. When employees who are paying social insurance premiums, or preserving the duration of social insurance premiums payment, or on an old age benefit die, their relatives shall be entitled to a lump-sum survivors' allowance.

2. The level of lump-sum survivors' allowance for relatives of employees who are paying social insurance premiums or preserving the duration of social insurance premiums payment shall be calculated based on the number of years of social insurance premiums payment; for each year, the relatives shall be entitled to one month and half of the average monthly wage on which social insurance premiums are based as stipulated in Article 79 of this Law for the years of social insurance premiums payment before 2014; two months of the average monthly wage for the years of social insurance payment from 2014 onward.

In case the employee has a period of social insurance payment of less than a year, the level of lump-sum survivorship allowance is equivalent to the paid amount, however the maximum level is equivalent to two months of the average monthly income on which social insurance premiums are based; in case the employee has both compulsory and voluntary social insurance contribution, the level of the minimum lump-sum survivorship allowance is equivalent to three months of the average wage and monthly income on which social insurance premiums are based.

3. The level of lump-sum survivorship allowance for relatives of persons who are on an old age benefit shall be calculated on the basis of such persons' period of having enjoyed old age benefit; if they die within the first two months of such old age benefit, the allowance is equivalent to forty eight months of the currently enjoyed old age benefit; if they die later than that the allowance shall be reduced by half of the monthly old age benefit for each month of having enjoyed old age benefit.

### **CHAPTER V**

#### **SOCIAL INSURANCE FUND**

##### **Article 82. Sources of social insurance fund**

1. Social insurance premiums paid by employers stipulated in Article 86 of this

Law;

2. Social insurance premiums paid by employees stipulated in Article 85 and Article 87 of this Law;

3. Profits earned from the fund;

4. Support from the State;

5. Other legal sources.

### **Article 83. Components of the social insurance fund**

1. The funds for sickness and maternity benefits;

2. The funds for work accident, occupational disease benefits;

3. The funds for old age and survivors' benefits.

### **Article 84. Utilization of the social insurance fund**

1. Pay social insurance benefit to employees under the provisions in Chapter III and IV of this Law;

2. Pay health insurance to employee who receives monthly old age pension or on monthly work accident allowance, or occupational disease benefits; or maternity benefit during childbirth or adoption; or sickness benefits for employees with diseases under the list of diseases requiring long-term treatment issued by the Ministry of Health;

3. Pay management expenses as stipulated in Article 90 of this Law;

4. Pay the fee of assessment of the incapacity for work with the cases not referred by the employer but the results of assessment proves employee's eligibility to be entitled to social insurance benefits;

5. Invest to preserve and develop the fund as stipulated in Article 91 and Article 92 of this Law.

### **Article 85. Level and mode of paying compulsory social insurance premiums of employees**

1. Every month, employees specified in Points a, b, c, d, đ, and h of Clause 1 Article 2 of this Law shall pay social insurance premiums equivalent to 8% of the monthly wage to the old age and survivors' funds.

Every month, employees specified in Point i Clause 1 Article 2 of this Law shall pay social insurance premiums equivalent to 8% of the common minimum wage to the old age and survivors' funds.

2. For employees specified in Point g Clause 1 Article 2 of this Law, the level and



mode of payment is stipulated as follows:

a) The monthly contribution to the old age and survivors' funds is equivalent to 22% of the monthly wage on which social insurance premiums are based of the employees prior to working overseas, for employees who have been contributing to compulsory social insurance; equivalent to 22% of twice of the common minimum wage for employees who have not contributed to compulsory social insurance or have contributed to compulsory social insurance but have been entitled to a lump-sum social insurance benefit;

b) Payment shall be made quarterly, biannually or annually or in advance in a lump-sum in accordance with the deadline specified in the contract for employees working overseas. The employee shall make the payment directly to the social insurance agency at the place of residence of the employees prior to working overseas or via businesses, professional organizations which send employees to work overseas.

In case the payment is made via businesses, professional organizations which send employees to work overseas, these entities shall collect and pay social insurance premiums on the employees' behalf and register the mode of payment with the social insurance agency.

In case the employee is able to extend the contract or sign a new labor contract in the labor-receiving country, social insurance premiums payment shall be made in the mode stipulated in this Article or paid retrospectively to the social insurance agency after returning to Vietnam.

3. If the employee does not work and earn the wage for 14 working days or more in a month, s/he shall not pay the social insurance premiums of that month. This period shall not be taken into account in calculating social insurance benefit, except the case of maternity leave.

4. If the employees specified in Point a, b Clause 1 Article 2 of this Law enter into a labor contract with several employers, they only pay the social insurance premiums as stipulated in Clause 1 of this Article with the first labor contract they enter.

5. Employees enjoying salaries or remuneration according to products or piece – work in businesses, cooperatives, individual household businesses, cooperative groups in agricultural, forestry, fishery or salt-making sectors shall be subject to the monthly social insurance premiums payment level specified in Clause 1 of this Article; payment shall be made on a monthly, quarterly or biannual basis.

6. The calculation of the duration of social insurance premiums payment to determine the monthly old age and survivors' benefits must include 12 months for each year; if the employee is eligible in age to enjoy a old age benefit but the duration of social insurance premiums payment is still short of 06 months or less, the employee shall have

the right to make a lump-sum payment for those months with the monthly premiums payment being equivalent to the total premiums payment of the employee and the employer based on the monthly wage to the old age and survivors' funds prior to ceasing to work.

7. The calculation of old age and survivors' benefits entitlement in case of having odd months in the duration of social insurance premiums payment is as follows:

- a) 01 month to 06 months is counted as half a year;
- b) 07 months to 11 months are counted one year.

#### **Article 86. Level and payment mode of employers**

1. Employers shall make payment of social insurance premiums monthly on the employees' wage fund on which social insurance premiums are based stipulated in Points a, b, c, d, đ, and h of Clause 1, Article 2 of this Law as follows:

- a) 3% into the sickness and maternity funds;
- b) 1% into the work accident and occupational disease funds;
- c) 14% into the old age and survivorship funds.

2. Employers shall make social insurance premiums payments monthly on the common minimum wage for each employee specified in Point e, Clause 1, Article 2 of this Law as follows:

- a) 1% into the work accident and occupational disease fund;
- b) 22% into the old age and survivorship fund.

3. Every month, employers shall pay 14% of the common minimum wage to the old age and survivorship fund for employees specified in Point i Clause 1 Article 2 of this Law.

4. Employers do not have to pay social insurance premiums for employees regulated in Clause 3 Article 85 of this Law.

5. For employers who are businesses, cooperatives, individual household businesses, cooperative groups in agricultural, forestry, fishery or salt-making sectors paying on basis of product or piece-work, the monthly premiums payment is in accordance with regulations in Clause 1 of this Law; payment shall be made monthly, quarterly, or biannually.

6. The Minister of Labor - Invalids and Social Affairs shall provide detailed regulations in Clause 5, Article 85 and Clause 5, Article 86 of this Law.

#### **Article 87. Level and payment mode to voluntary social insurance of employee**

1. Employees specified in Clause 4 Article 2 of this Law shall make a monthly payment equivalent to 22% of the monthly income selected by the employees to contribute to the old age and survivorship funds; the monthly income which is the basis for social insurance premiums payment with the minimum is equivalent to the poverty line in rural areas and maximum 20 times of the common minimum wage.

Based on the conditions of socio-economic development and the capacity of state budget in each period, the level of support, subjects of support, and time of implementation of support policies in social insurance premiums for employees' voluntary social insurance contribution shall be specified.

2. Employees may choose one of the following methods of payment:

a) Monthly;

b) Quarterly;

c) Biannually;

d) Annually;

d) A lump-sum for several following years with a lower rate than the monthly rate or a lump-sum for the remaining years with a higher rate than the monthly rate in comparison with the regulations in this Article.

3. The Government shall provide detailed regulations on this Article.

### **Article 88. Suspension in paying compulsory social insurance premiums**

1. The suspension in contribution to the old age and survivorship fund is stipulated as follows:

a) When employers meet with difficulties and have to temporarily stop their production or business which lead to incapacities of the employer and employee to contribute to social insurance premiums, the payment into the old age and survivorship allowance fund can be suspended for no more than twelve months.

b) When the suspension in payment specified in Point a of this Clause is over, employers and employees shall resume the social insurance premiums payment and compensate for the period of suspension. The compensation is not subject to late payment interest as stipulated in Clause 3 Article 122 of this Law.

2. If a employee on compulsory social insurance is temporarily detained, the employee and the employer have the right to suspend social insurance premiums payment. If a competent body identifies the employee as a victim of injustice, the employee shall resume social insurance premiums payment to compensate for the time in temporary detention. The compensation is not subject to late payment interest as stipulated in Clause

3 Article 122 of this Law.

3. The Government shall provide detailed regulations on this Article and other cases of suspension in payment of compulsory social insurance premiums.

#### **Article 89. Monthly wage on which social insurance premiums are based**

1. For employees whose wage is on the wage scale set by the State, the monthly wage on which social insurance premiums are based is the wage based on rank, position, military rank, leadership allowance, extra-seniority allowance, professional seniority allowance (if any).

For employees specified in Point i Clause 1 Article 2 of this Law, the monthly wage on which social insurance premiums are based is the common minimum wage.

2. For employees paying social insurance premiums according to the wage scale set by the employer, the monthly wage on which social insurance premiums are based is the wage level and wage allowance according to the regulations on labor.

From 1<sup>st</sup> January 2018, the monthly wage on which social insurance premiums are based is the wage level, wage allowance and other additional amounts in accordance with the regulations on labor.

3. If the monthly wage specified in Clause 1 and Clause 2 of this Article is 20 times more than the common minimum wage, the monthly wage on which social insurance premiums are based is equivalent to 20 times of the common minimum wage.

4. The Government shall provide detailed regulations on the retrospective collection, retrospective payment of compulsory social insurance premiums for employees, employers, with the exception of cases specified in Clause 3 Article 122 of this Law.

#### **Article 90. Social insurance management costs**

1. The social insurance management costs are utilized for the following purposes:

a) To propagate and disseminate information on the policies and laws regarding social insurance; to train and foster the professional ability in social insurance;

b) To reform social insurance procedures, modernize the management system; to develop and manage participants and beneficiaries of social insurance;

c) To organize the collection and payment of social insurance and the operation of the apparatus of social insurance agencies of all levels.

2. The funding to implement the tasks specified in Clause 1 of this Article is annually deducted from the profits of investment activities of the fund.

Every three years, the Government shall report to the Standing Committee of the National Assembly on the decisions regarding the costs of social insurance management.

3. The Prime Minister shall provide detailed regulations on Clause 1 of this Article.

#### **Article 91. Investment principles**

Investment activities from the social insurance fund must be safe, efficient and easy to take back when required.

#### **Article 92. Forms of investment**

1. Buying government bonds.

2. Depositing, buying treasury bills, deposit certificates at commercial banks with good quality performance according to the credibility rating of the State Bank of Vietnam.

3. Lending to the state's budget.

4. The Government shall provide detailed regulations on this Article.

## CHAPTER VI

### **ORGANIZATION AND MANAGEMENT OF SOCIAL INSURANCE**

#### **Article 93. Social insurance agency**

1. The social insurance agency is a state agency which has functions of implementing the social insurance benefit and policies, managing and utilizing social insurance, health insurance, unemployment insurance funds; inspecting the payment of social insurance, unemployment insurance, health insurance premiums and other duties as regulated by this Law.

2. The Government shall provide detailed regulations on the organization, duties, and powers of social insurance agency.

#### **Article 94. Council of social insurance management**

1. The Council of social insurance management at the national level has the responsibility of directing and supervising the activities of social insurance agency as well as providing consultation on social insurance, health insurance and unemployment insurance policies.

2. The Council of social insurance management includes representatives of Vietnam General Confederation of Labor, organizations representing employers, state management agencies in social insurance and health insurance, Vietnam Social Security

and other relevant agencies.

3. The Council of social insurance management has a President, Vice Presidents and commissioners promoted, dismissed, or demoted by the Prime Minister; members of the Council of social insurance management serve a five-year term.

4. The Government shall provide detailed regulations on work benefits, responsibilities and operational expenses of the Council of social insurance management.

#### **Article 95. Functions of the Council of social insurance management**

1. To approve the strategy of social insurance development, plans of long-term, 5-year, or annual implementation of social insurance, health insurance, unemployment insurance, projects to preserve and develop social insurance, health insurance, unemployment insurance funds.

To supervise and inspect the social insurance agency's implementation of strategies, plans, projects after they are approved.

2. To propose to competent state agencies on the development, amendment, supplement of the policies and laws on social insurance, health insurance, unemployment insurance, strategies on the development of social insurance; to consolidate the organizational system of social insurance agencies, management mechanism and utilization of social insurance, health insurance, unemployment insurance funds.

3. To make decisions and be liable to the Government in the investment forms and structure of social insurance, health insurance, unemployment insurance funds on the basis of the proposals from social insurance agency.

4. To approve the annual reports on the implementation of social insurance, health insurance, unemployment insurance benefits, the management and utilization of social insurance, health insurance, unemployment insurance funds before Vietnam Social Insurance presents to competent agencies.

5. To approve annual estimations of collection and spending of social insurance, health insurance, unemployment insurance funds; management costs of social insurance, health insurance, unemployment insurance before Vietnam Social Insurance presents to competent agencies.

6. To report annually to the Prime Minister on the implementation of duties and powers as stipulated and results of operation.

7. To carry out other duties and powers assigned by the Prime Minister.

## CHAPTER VII

### ORDER AND PROCEDURES OF SOCIAL INSURANCE IMPLEMENTATION

#### Section 1

### ORDER AND PROCEDURES IN PARTICIPATION IN SOCIAL INSURANCE

#### **Article 96. Social insurance books**

1. Social insurance books are granted to each employee to monitor the payment and entitlement of social insurance benefits and serve as a basis for settlement of social insurance benefits under the provisions of this Law.

2. By 2020, social insurance books shall be replaced by social insurance cards.

3. The Government shall specify the order and procedures of participation and settlement of social insurance benefits by electronic transaction method.

#### **Article 97. Dossier of registration and issuance of social insurance books**

1. The dossier of registration for first-time social insurance participation includes:

a) The declaration form of employer enclosed with a list of employees participating in social insurance;

b) The declaration form of the employee.

2. The dossier of reissuance of social insurance books in case of damage and loss includes:

a) A form requesting the reissuance of social insurance books from the employee;

b) The social insurance book in case of damage.

3. The Government shall regulate the procedures, dossiers, and issuance of social insurance books for employees specified in Point e Clause 1 Article 2 of this Law.

#### **Article 98. Adjustment in the information on social insurance participation**

1. The employer shall inform in writing to the social insurance agency when adjusting the information on social insurance participation.

2. The dossier of adjustment in personal information of employees participating in social insurance includes:

a) The declaration form of adjustment in personal information;

b) Social insurance book;

c) Copies of documents from competent state agencies regarding the adjustment in personal information in accordance with the provisions of the Law.

### **Article 99. Settlement of registration and issuance of social insurance books**

1. The registration of first-time social insurance shall be settled as follows:

a) Within 30 days from the date of signing labor contract, work contract or employment contract, the employer shall submit the dossier specified in Clause 1 Article 97 of this Law to the social insurance agency;

b) Employees contributing to voluntary social insurance shall submit the dossier specified in Point b Clause 1 Article 97 of this Law to the social insurance agency.

2. The employee submits the dossier for the reissuance of the social insurance book as stipulated in Clause 2 Article 97 of this Law to the social insurance agency.

3. The social insurance agency has the responsibility of granting the social insurance books within the following periods:

a) 20 days from the date of receiving the full dossier for employees participating in first-time compulsory social insurance;

b) 07 days from the date of receiving the full dossier for employees participating in first-time voluntary social insurance;

c) 15 days from the date of receiving the full dossier for employees requesting the reissuance of the social insurance book; no more than 45 days in case of complex verification process of social insurance contribution period. In case of refusal to issue, there must be a written reply, clearly stating the reasons;

d) 10 days from the date of receiving the full dossier for employees requesting for an adjustment in the information of social insurance participation, the social insurance agency must reissue the social insurance book. In case of refusal to settle, there must be a written reply, clearly stating the reasons.

4. The Minister of Labor - Invalids and Social Affairs shall provide detailed regulations on the order and procedures of participation and settlement of social insurance benefits for employees specified in Point b Clause 1 Article 2 of this Law.

## **Section 2**

### **ORDER AND PROCEDURES IN SETTLING SOCIAL INSURANCE BENEFITS**

#### **Article 100. Dossier for the entitlement of sickness benefits**



1. The original or copy of the discharge form from the hospital for employees or children of employees being in-patients. If the employee or his/her child is an out-patient, there must be a certificate of leave with social insurance eligibility.

2. If the employee or his/her child receives medical examination or treatment abroad, the dossier specified in Clause 1 of this Article shall be replaced by the Vietnamese translation of medical treatment and examination documents issued by the overseas clinic or health facility.

3. The list of employees on leave with sickness benefit is compiled by the employer.

4. The Minister of Health shall provide regulations on the form, order, competence to issue certificates of leave with social insurance benefits, hospital discharge form and other forms specified in Points c, d, and đ of Clause 1, Article 101 of this Law.

#### **Article 101. Dossier for entitlement of maternity benefits**

1. The dossier for entitlement of maternity benefits for female employees includes

a) Copy of the child's birth certificate or copy of the birth certification;

b) Copy of the child's death certificate if the child dies, the mother's death certificate if the mother dies after giving birth to the child;

c) Certification from competent medical facilities on the conditions of the mother after childbirth when she is unable to take care of the infant due to poor health;

d) Extract of the medical record or hospital discharge of the mother if the infant dies after birth and has not got a certification of birth yet;

đ) Certification from competent medical facilities regarding the female employee's pregnancy leave for employees specified in Clause 3 Article 31 of this Law.

2. When female employees have prenatal checks-up, miscarriage, abortion, stillbirth, or employees applying contraceptive measures as regulated in Clause 1 Article 37 of this Law, they must have a certificate of leave with social insurance for out-patients, an original or copy of the hospital discharge form for in-patients.

3. If the employee adopts a child under 06 months old, s/he must have a certificate of adoption.

4. In case a male employee takes leave when his wife gives birth, there must be a copy of the infant's birth verification or a copy of the infant's birth certificate and certification from the health facility if the childbirth requires surgery or the infant is born when under 32 weeks old.

5. The list of employees on leave with maternity benefits is compiled by the

employer.

### **Article 102. Settlement of sickness or maternity benefits**

1. Within 45 days since the employee returns to work, s/he has to submit the dossier specified in Clause 1 and Clause 2 Article 100, Clauses 1, 2, 3, 4 Article 101 of this Law to the employer.

If the employee resigns before childbirth or adoption, s/he must submit the dossier specified in Clause 1 and Clause 3 Article 101 of this Law and present the social insurance book to the social insurance agency.

2. Within 10 days since receiving the full dossier from the employee, the employer has to compile documents specified in Article 100 and Article 101 of this Law and submit to the social insurance agency.

3. Responsibilities of the social insurance agency:

a) Within 10 days since receiving the full dossier as regulated from the employer, the social insurance agency has to settle the claims and pay the employee;

b) Within 05 working days since receiving the full dossier as regulated from the employee who resigns before childbirth or adoption, the social insurance agency has to settle the claims and pay the employee.

4. In case of refusal to settle, the social insurance agency must reply in writing, clearly stating the reasons.

### **Article 103. Settlement of health saving, rehabilitation allowance after periods of sickness or pregnancy**

1. Within 10 days since the employee becomes eligible to be entitled a health saving or rehabilitation allowance after periods of sickness or pregnancy, the employer shall compile a list and submit to the social insurance agency.

2. Within 10 days since receiving the full dossier as regulated, the social insurance agency has to settle the claims and pay the employee; in case of refusal to settle, the social insurance agency must reply in writing, clearly stating the reasons.

### **Article 104. Dossier for entitlement of work accident benefits**

1. The social insurance book.

2. The investigation record of the work accident; when the traffic accident is determined as a work accident, the traffic accident record or scene examination record and scene diagram of the traffic accident are additionally required.

3. The hospital-discharge paper after the treatment following the work accident.

4. The record on examination of the decline in working capacity, made by the Medical Assessment Council.

5. The written request for settlement of work accident benefits.

**Article 105. Dossiers for entitlement of occupational disease benefit**

1. The social insurance book.

2. The record on measurement of the contaminated environment; when the record gives certification for many persons, the dossier of each employee must contain an extract thereof.

3. The hospital discharge paper upon treatment of the occupational disease; in case the treatment is not carried out in a hospital, a paper on occupational disease examination is required.

4. The record on examination of the decline in working capacity of the Medical Assessment Council.

5. The written request for settlement of occupational disease benefits.

**Article 106. Settlement of work accident, occupational disease benefits**

1. The employee shall submit the dossier to the social insurance agency as stipulated in Article 104 and Article 105 of this Law.

2. Within 10 days since receiving the full dossier, the social insurance agency has to settle the claims for work accident, occupational disease benefits; in case of refusal to settle, the social insurance agency must reply in writing, clearly stating the reasons.

**Article 107. Settlement of health saving, rehabilitation allowance after work accidents or occupational diseases**

1. The employer shall compile a list of beneficiaries of work accident, occupational disease benefit whose health has not recovered and submit to the social insurance agency.

2. Within 15 days since receiving the full dossier as regulated, the social insurance agency has to settle the claims for health saving, rehabilitation benefits for the employee and transfer the money to the employer; in case of refusal to settle, the social insurance agency must reply in writing, clearly stating the reasons.

3. Within 10 days since receiving the money transferred from the social insurance agency, the employer has to pay the allowance to the employees.

**Article 108. Dossier for entitlement of old age benefit**

1. The dossier for enjoyment of old age benefit for participants of compulsory social insurance includes:

- a) The social insurance book;
  - b) The decision of resignation with an old age benefit or written document terminating the labor contract with an old age benefit;
  - c) The record on examination of the decline in working capability of the Medical Assessment Council for pensioners specified in Article 55 of this Law or certificate of HIV/AIDS infection due to occupational accidents for employees specified in Article 54 of this Law.
2. The dossier for entitlement of old age benefit for participants of voluntary social insurance, persons reserving social insurance participation including persons currently serving imprisonment sentences includes:

- a) The social insurance book;
- b) A written request for the entitlement of an old age benefit;
- c) An authorization letter for settlement of old age benefit and pension enjoyment for persons currently serving imprisonment sentences;
- d) Documents from competent state agencies on the return for legal settlement for cases of illegal exits;
- đ) A decision with legal effect from the Court to cancel the missing declaration for cases of returned persons.

**Article 109. Dossier for entitlement of lump-sum social insurance benefit**

- 1. The social insurance book.
- 2. Request letter for lump-sum social insurance benefits of the employee.
- 3. For persons settling abroad, a copy of the certification from competent agencies regarding the renunciation of Vietnamese citizenship or the certified or notarized Vietnamese translation of one of the following documents should be additionally submitted:
  - a) Passport issued by the foreign country;
  - b) Visa issued by competent foreign agencies which certifies the allowance of entry on grounds of overseas residence;
  - c) Documents certifying the ongoing procedure of acquiring foreign citizenship; certifications, residence or permanent residence cards with a validity period of 5 years or more issued by competent foreign agencies.
- 4. Extract of the medical record in cases specified in Point c Clause 2 Article 60 and Point c Clause 1 Article 77 of this Law.

5. For employees specified in Article 65 and Clause 5 Article 77 of this Law, the dossier for enjoyment of lump-sum benefits is compiled in accordance with regulations in Clause 2 and Clause 3 of this Article.

**Article 110. Settlement of old age benefit and lump-sum social insurance benefits**

1. Within 30 days until the employee is entitled to an old age benefit, the employer shall submit the documents specified in Clause 1 Article 108 of this Law to the social insurance agency.

2. Within 30 days until the employee is entitled to an old age benefit, employees currently reserving the period of social insurance premiums payment, participants of voluntary social insurance shall submit the documents specified in Clause 2 Article 108 of this Law to the social insurance agency.

3. Within 30 days until the employee is eligible and may request to enjoy lump-sum social insurance benefits, documents specified in Article 109 of this Law shall be submitted to the social insurance agency.

4. Within 20 days since receiving the full dossier as regulated for pensioners or within 10 days since receiving the full dossier as regulated for persons enjoying lump-sum benefits, the social insurance agency has to settle and pay the employees; in case of refusal to settle, the social insurance agency must reply in writing, clearly stating the reasons.

**Article 111. Dossier for entitlement of survivorship benefits**

1. The dossier for enjoyment of survivorship benefits for employees currently paying social insurance premiums and persons reserving the period of social insurance premiums payment includes:

a) The social insurance book;

b) A copy of the death certificate or death notice or a copy of the Court's decision declaring such person deceased which has legal effect;

c) Relative's declaration and the meeting's minute of the relatives for cases of persons eligible for monthly allowance but instead opting for a lump-sum survivorship allowance.

d) The investigation record of the work accident; when the traffic accident is determined as a work accident, the traffic accident record or scene examination record and scene diagram of the traffic accident as stipulated in Clause 2 Article 104 of this Law is additionally required; copy of the medical record for occupational disease treatment for cases of deceased persons due to occupational diseases.

đ) The assessment record on the incapacity for work for relatives with a decline in

working capability of 81% or more.

2. The dossier for enjoyment of survivorship benefits for persons currently enjoying or persons suspending the enjoyment of monthly old age benefit, work accident or occupational disease allowance includes:

a) A copy of the death certificate or death notice or a copy of the Court's decision declaring such person deceased which has legal effect;

b) Relative's declaration and the meeting's minute of the relatives for cases of persons eligible for monthly allowance but instead opting for a lump-sum survivorship allowance.

c) The assessment record on the incapacity for work for relatives with a decline in working capability of 81% or more.

### **Article 112. Settlement of survivorship benefits**

1. Within 90 days since the person reserving the period of social insurance premiums payment, the person participating in voluntary social insurance, the person currently enjoying a monthly old age benefit, work accident or occupational disease allowance dies, his or her relatives shall submit the dossier specified in Article 111 of this Law to the social insurance agency.

Within 90 days since the employee currently contributing to compulsory social insurance dies, his or her relatives shall submit the dossier specified in Clause 1 Article 111 of this Law to the employer.

2. Within 30 days since receiving the full dossier from the employee's relatives, the employer shall submit the dossier specified in Clause 1 Article 111 of this Law to the social insurance agency.

3. Within 15 days since receiving the full dossier, the social insurance agency has to settle and pay the employee's relatives. In case of refusal to settle, the social insurance agency must reply in writing, clearly stating the reasons.

### **Article 113. The dossier for continuing monthly old age benefit, social insurance allowance for persons illegally exiting the country but having legally returned for permanent residence and persons who have returned after being declared missing by the Court**

1. Letter requesting to continue to receive a monthly old age benefit, social insurance allowance.

2. A written document from competent state agencies regarding the legal return for persons illegally exiting the country but having legally returned for permanent residence in the country.

3. The decision which has legal effect from the Court of canceling the missing declaration for cases of persons returning after being legally declared missing by the Court.

**Article 114. Settlement for continuing monthly old age benefit, social insurance allowance for persons illegally exiting the country but having legally returned for permanent residence and persons who have returned after being declared missing by the Court**

1. The employee shall submit documents specified in Article 113 of this Law to the social insurance agency.

2. Within 15 days since receiving the full dossier as regulated, the social insurance agency has to settle the claims; in case of refusal to settle, the social insurance agency must reply in writing, clearly stating the reasons.

**Article 115. Change in location of receiving monthly old age benefit or social insurance allowance**

When persons enjoying monthly old age benefit or social insurance allowance move to other places of residence within the country and wish to enjoy social insurance at the new place, they must file their applications to the social insurance agency of the place where they are currently enjoying social insurance benefits.

Within 05 days since receiving the application, the social insurance agency has to settle the case; in case of refusal to settle, the social insurance agency must reply in writing, clearly stating the reasons.

**Article 116. Late settlement of social insurance benefits**

1. If the deadline specified in Clause 1 and Clause 2 Article 102, Clause 1 Article 103, Clause 1 and Clause 2 Article 110, Clause 1 and Clause 2 Article 112 of this Law is exceeded, a written explanation must be presented.

2. In case of late submission and settlement of social insurance benefits which cause damage to the legal rights and interests of beneficiaries, there shall be compensation in accordance with provisions of the Law, except for cases in which the fault lies on the employee or relatives of the employee who is a beneficiary of social insurance.

**Article 117. Dossier and examination procedures in assessing the decline in working capability to settle social insurance benefits**

1. The dossier and examination procedures in assessing the decline in working capability to settle claims for social insurance benefits are regulated by the Minister of Health.

2. The assessment of the incapacity for work must ensure the accuracy, openness,

and transparency. The Medical Assessment Council is responsible for the accuracy of the assessment results as stipulated by law.

## **Chapter VIII**

### **COMPLAINTS, DENOUCEMENTS AND HANDLING VIOLATIONS IN SOCIAL INSURANCE**

#### ***Article 118. Complains on Social insurance***

1. Employees who are on monthly old age pension, social insurance benefit, preserving social insurance period and others have the rights to complain to competent agencies, organizations and individual about unsatisfied decisions and acts of the agencies, organizations, individuals when they have cases to prove these decisions and acts violate regulations on social insurance and their legal rights and benefits;
2. Employers have the rights to complain to competent agencies, organizations and individuals about unsatisfied decisions and acts of agencies, organizations and individuals when they have cases to prove these decisions and acts violate regulations on social insurance and their legal rights and benefits;

#### ***Article 119. Order and procedure to settle complaints o social insurance***

1. The settlement of complaints for administrative decisions and acts on social insurance shall be implemented in accordance with regulations on complaints and denouncements.
2. The settlement of complaints for administrative decisions and acts on social insurance which is not under regulations stipulated in Clause 1 of this Article shall be implemented as follows:
  - a) Complain for the first time to the agency, person who has made the improper decision, acts. In case, this entity no longer exists, the state management agency on labor at district level shall be authorized to settle the complaints.
  - b) Bring the complaints to the court in accordance with the law.
3. In case, the complaining person specified in Point a Clause 2 of this Article does not agree with the first decision on complaint settlement or the deadline is passed and the complaints have not been settled, he/she has the right to bring these complaints to the court or the state management agency on labor at provincial level.



In case the complaining person does not agree with the decision on complaint settlement of the state management agency on labor at provincial level or the deadline is passed, s/he has the right to bring these complaints to the court.

4. The effective time of the complaints and the deadline for complaint settlement are in accordance with regulations on complaints and denouncements in the law.

***Article 120. Denouncements and settling denouncements on social insurance***

The denouncements and settling denouncements on the violation of social insurance shall be implemented in accordance with regulations on complaints and denouncements of the law.

***Article 121. Jurisdiction on settling administrative violations, fine level and rectification methods for social insurance, health insurance and unemployment insurance***

1. Jurisdiction of the social insurance agency includes:
  - a) General Director of Vietnam Social Security has the jurisdiction as specified in Clause 4 Article 46 of Law on administrative violations;
  - b) Director of provincial social insurance agency has the jurisdiction as specified in Clause 2 Article 46 of Law on administrative violations;
  - c) Head of specialized inspectorate appointed by General Director of Vietnam Social Security has the jurisdiction as specified in Clause 3 Article 46 of Law on administrative violations.
2. The authorized person as specified in Clause 1 of this Article can refer to his/her deputy to settle administrative violations.
3. The maximum fine level in the field of social insurance, health insurance, unemployment insurance, and the sanctions, remedial measures and procedures for sanctioning of administrative violations and regulations other provisions relating to administrative sanctions shall comply with the provisions of the Law on handling administrative violations and other provisions of the relevant legislation.

***Article 122. Handling of violations on social insurance***

1. Agencies and organizations that violate provisions of this Law, depending on the nature and seriousness of their violations, be administratively sanctioned; If damage is caused, compensation must be made as prescribed by law.
2. Individuals who commit acts of violating the provisions of this Law, depending on the nature and seriousness of their violations, be administratively sanctioned, disciplined or prosecuted for criminal liability; If damage is caused, compensation must be made as prescribed by law.
3. The employer may have violations specified in Clauses 1, 2 and 3 of Article 17 of this Law for 30 days or more, in addition to pay the full amount which has not been

paid or paid late and be handled as prescribed by law, must pay the amount of 02 times of the average investment interest rate of social insurance fund of the preceding year based on the amount, time delay; if not, at the request of the competent person, banks, credit institutions, the state bank shall deduct from the deposit account of the employer to remit the unpaid money, late contributions and interest on this amount to transfer to account of the social insurance agency.

## *Chapter IX*

### **IMPLEMENTATION PROVISION**

#### *Article 123. Transitional provision*

1. Regulations in this law are applied to those participating in social insurance system before this Law comes into effects.
2. The employee who receives monthly old age benefit before 1<sup>st</sup> January 1994, is entitled to old age, incapacity for work, work accident and occupational disease benefits, survivors' benefit and monthly allowance for local officers who have stop working, person whose allowance is terminated and is receiving monthly allowance, and person for whom social insurance is temporarily terminated because of violating law prior to the effective date of this Law shall continue to receive social insurance benefits in accordance with regulations stipulated before and the level of benefit shall be adjusted in accordance with law.
3. The employees who have paid social insurance including the area allowance, in addition to pensions, lump-sum social insurance and survivors' benefit, shall be eligible to a lump-sum of area allowance; who are entitled to pensions, incapacity of work allowance, work accidents and occupational diseases benefits and a monthly area allowance at the permanent residence with area allowance, shall continue to enjoy.
4. Persons entitled to military spouses in Vietnam missions abroad having participated in compulsory social insurance with old age and survivorship benefits; workers taking leave due to illness on the list of diseases required long-term treatment by the Ministry of Health are entitled to sickness benefit before this law comes into force, shall comply with the provisions of the Government.
5. Persons who are entitled to pensions, allowances for loss of working capacity, occupational accidents, and occupational diseases every month before the effective date of this Law shall be applicable to survivors' benefit provided for in this Law.

6. The employee who has time to work in the public sector before 01 May 1995, if s/he is eligible but has been solved with severance allowance or lump-sum allowance, demobilization allowance, that time is counted as duration of social insurance contribution. The calculation of working time before 01 January 1995 to be entitled to social insurance shall comply with the provisions previously written about the time the work before 01 January 1995 to social insurance of officers, servants, employees, workers, soldiers and police people.

7. Each year, the State transfers from its budget to the social insurance fund to ensure full payment of pensions and social insurance benefits for pensioners, social insurance benefits before the 01 May 01, 1995; social insurance contributions for time worked before 01 May 01, 1995, for the provisions in Clause 6 of this Article.

8. The employee is eligible and entitled to social insurance benefits before this Law comes into force shall continue to comply with the provisions of the Social Insurance Law No. 71/2006 / QH11.

9. Persons who are receiving monthly old age benefit, social insurance allowance and under a labor contract, are not eligible for participation in compulsory social insurance.

10. The Government shall detail this Article.

#### ***Article 124. Validity***

1. This Law shall enter into effect on 1st January 2016, except the provisions at Point b Clause 1 and Clause 2 Article of this Law come into effect on 1st January 2018.

2. Social Insurance Law No. 71/2006 / QH11 shall expire since this Act takes effect.

#### ***Article 125. Detail guideline***

The Government and competent agencies shall provide detailed guidelines for the implementation of this Law.

*This law was passed by the National Assembly of the Socialist Republic of Viet*

*Nam, XIII, session 8th on 20 November 2014*

**Chairman of National Assembly**

***Nguyen Sinh Hung***