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REPUBLIC OF TURKEY
MINISTRY OF LABOUR
AND SOCIAL SECURITY



TOWARDS A SAFE AND HEALTHY GROWTH

LAW ON OCCUPATIONAL HEALTH AND SAFETY NO.6331





Safe and
Healthy
Growth

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Contents

HISTORY	5
NATIONAL OCCUPATIONAL HEALTH AND SAFETY SYSTEM	9
OHS SITUATION IN TURKEY WITH FIGURES	19
MAKING A NEW LAW	23
BRIEF OVERVIEW	29
THE NEW LAW THE NEW HORIZONS	33
LAW ON OCCUPATIONAL HEALTH AND SAFETY	55



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HISTORY

The history of occupational health and safety in Turkey stretches over a long pathway from the Ottoman Empire to the First Grand Assembly and to the Republic of Turkey.

In the middle of the 19th century during the Ottoman Empire period, “Dilaver Paşa Regulation” was published in 1865. This document appears as the first written regulation in the history of Turkish occupational health and safety. Although this regulation was not approved by the Sultan of that time and did not enter into force, with provisions such as assignment of physicians, obligation in the coal mines and improvements on working conditions, this document -consisting of 100 articles- shows us the importance given to health and safety at these times. The second important document after the administrative reforms was “Maadin Regulation” which was published in 1869. It was mostly based on provisions about occupational safety and had an advanced and comprehensive approach than “Dilaver Paşa Regulation”.



Following the establishment of the Grand National Assembly of Turkey in 1920, two laws on occupational health and safety came into force before the declaration of the republic: “Law on Coal Dust Trade in Zonguldak and Ereğli Region for the Benefit of Workers” dated 28

April 1921 and numbered 114; and “Law on Rights of Mining Workers in Ereğli Region” dated 10 September 1921 and numbered 151.

With these laws; relief funds were established, compensation in cases of occupational accidents and work diseases was provided, working periods and vocational training issues were organized and provisions about insurance and premium system were introduced.

In the following years of the Republic of Turkey, legislations which contain several provisions on occupational health and safety and form the basis of today’s regulations were published such as “Weekly Rest Days Law” (1924), “Code of Obligations” (1926), “Public Hygiene Law” (1930) and “Municipalities Law” (1930). Although these legislations aimed to regulate working life to some extent, they were not sufficient considering the industrial developments and consequently a need for a labour law arised.

The first “Labour Law” numbered 3008 was published in 1936 and had been in force till the year 1967. Although a new approach had been adopted on social security and occupational safety by this Law; due to the onset of the Second World War, progress about these issues could not be achieved until the establishment of the Ministry of Labour in 1946. The General Directorate of Workers’ Health and Safety was established within the structure of the Ministry of Labour in the following years. It was restructured in 2000 with its current name as the Directorate General of Occupational Health and Safety (DGOHS).

The second Labour Law numbered 931 was published in the late 1960s; however, it was annulled by a Constitutional Court decision. Labour Law numbered 1475 came into force in 1971 with detailed provisions on occupational health and safety.

In addition to these arrangements, “Law on Insurance of Occupational Accidents and Diseases”, “Law on Workers’ Insurance Institution”, “Law on Insurance of Illness and Maternity” and “Law on Old Age Insurance” were published consequently. In order to simplify and unify the applications of social security, “Social Insurance Law” was

enacted in 1964, including several provisions about occupational accidents and diseases. Besides this, there were some provisions concerning occupational health and safety in the “Law on Relations between Employees and Employers of Press Business” dated 1952 and numbered 5953, “Law on Mines” dated 1954 and numbered 6309, and “Law on Maritime Labour” dated 1967 and numbered 854 which were prepared in the same period.

In conjunction with the national legislation activities, relevant ILO Conventions were also followed by Turkey and totally 57 ILO Conventions were ratified, primarily being “Occupational Health and Safety (Dock Work) Convention” numbered 152, “Prevention of Accidents (Seafarers) Convention” numbered 134, “Health Protection and Medical Care (Seafarers) Convention” numbered 164, “Occupational Health and Safety Convention” numbered 155, “Occupational Health Services Convention” numbered 161, “Promotion of Health and Safety Convention” numbered 187, “Safety and Health In Mines Convention” numbered 176 and “Safety and Health In Construction” numbered 167. Among these Conventions, Conventions no. 155 and 161 are considered among the most important conventions for Turkey.

Labour Law numbered 1475 remained in force till 2003 when the recent Labour Law numbered 4857 came into force. Labour Law numbered 4857 also has a chapter for occupational health and safety, comprised of 13 articles.

At the end of this long course of legislative activities, “Law on Occupational Health and Safety” numbered 6331 came into force on 30 June 2012. The Law was prepared by the Ministry of Labour and Social Security according to national requirements, EU accession process and international conventions ratified by Turkey. Protective, proactive and amendatory mentality has been adopted rather than regulative mentality at legislative studies with the Law. Law on Occupational Health and Safety has been a crucial step and milestone according to reach developed countries level regarding OHS and it was revized three times with respect to our country’s requirements so effective implementation of the law has increased.



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NATIONAL OCCUPATIONAL HEALTH AND SAFETY SYSTEM

Labour Life has a complicated structure with different stakeholders. While the main structure consists of a tripartite body of workers, employers, and the state; each of the constituents has its own subbodies. Especially the state has different divisions having different duties in order to serve the protection of health and safety in labour life. Some important roles of the state are to enact Laws and regulations, to act as mediator in dispute settlement through different mechanisms, to enforce the legislation and to monitor the labour life.

Directorate General of Occupational Health and Safety (DGOHS)

This unit was established in 1946. However, in order to increase the efficiency of the department, The General Directorate of Workers' Health and Safety as it was originally named, was restructured as a "Directorate General of Occupational Health and Safety" on 2000.

The tasks assigned by Law to DGOHS are provided below:

- ◆ To determine the national policies and prepare programmes,
- ◆ To perform the preparatory work of legislation in the field of OHS and ensure the implementation of legislation,
- ◆ To ensure co-operation and co-ordination with national and international organizations and institutions,
- ◆ To provide necessary recommendations in order to ensure efficient inspection and monitor its results,
- ◆ To carry out standard studies, prepare and develop norms, carry out activities such as; measurement, evaluation, technical control, training, counseling, expertise, etc. and evaluate and authorize institutions that carry out such activities,

- ◆ Authorize persons and institutions that will manufacture personal protective equipment, to determine the compatibility of the imported equipment to the standards and to define the methods and principles on this subject,
- ◆ To plan, program and ensure the implementation of study and research activities on occupational health and safety and prevention of occupational accidents and diseases,
- ◆ To carry out activities on publishing and documentation in its field and to do statistical works,
- ◆ To carry out necessary activities and to ensure the protection of all workers, including those who are having occupational training, those who are rehabilitated, special risk groups and public servants, and to ensure that the necessary measures are taken.

Labour Inspection Board (İTKB)

Labour inspection is one of the key functions of the state in order to enforce the legislation and to monitor the work life. The role of the labour inspection is described in the ILO Convention numbered 81 which was ratified by Turkey in 1950 and classified as one of the “priority conventions” by ILO itself. The importance of an effective inspection system is also emphasized in the ILO Convention numbered 155 on Occupational Safety and Health, again ratified and implemented by Turkey.

The Labour Inspection Board functions in 2 main paths:

- a) Inspections in the field of occupational health and safety;
- b) Inspections in the field of working conditions such as employment status, wages, working hours, unionization.

The Labour Inspection Board carries out the following duties:

- ◆ Carrying out planned or occasional inspections and taking measures,
- ◆ Monitoring and investigating practices in workplaces according to international conventions,
- ◆ Monitoring compliance with the legislation on working conditions,
- ◆ Conducting works related to the preparation and improvement of national labour inspection legislation, in line with the inspection results preparing a “General Evaluation Report” which states problems, applicability of the legislation and measures to be taken by relevant institutions,
- ◆ Collecting, evaluating and assessing statistics.

The labour inspection system plays a crucial role in OHS compliance. Inspectors act as the bridge between the legislation and the employers, fulfilling their inspection duties by first informing the employers -sometimes even training them- and by convincing them about the advantages of having a good occupational health and safety management system in their workplaces. Enforcement procedures may differ from a simple warning to administrative fines. Further measures are in question if the employers fail to take necessary actions in order to comply with the legislation, not to forget stopping the work if an imminent danger is in question.

Social Security Institution (SGK)

Social Security Institution is established with the objective of the realization of a sound social security system at the contemporary standards that will provide individuals with social protection, based on the principles of effective, equitable, easily accessible social insurance taking the actuarial balance and sustainability into consideration.

The duties of SGK are as follows:

- ◆ To implement the social security policies in line with the national development strategies and policies as well as annual implementation programs and to undertake endeavors for the improvement of these policies,
- ◆ To inform natural and legal persons for whom it serves with regard to their rights and obligations and to facilitate the exercise of these rights and fulfillment of these obligations,
- ◆ To follow up international developments, to collaborate with the European Union and International organizations, to undertake the necessary studies with regard to social security agreements to be concluded with foreign countries, to monitor the proper implementation of international agreements,
- ◆ To provide coordination and collaboration among the public agencies in the field of social security.

In case occupational accident and occupational diseases occur, there are three kinds of benefits provided by SGK:

- a) Benefit for temporary disability
- b) Permanent incapacity income
- c) Survivors Benefits

In addition to Labour Inspection Board, the Social Insurance Inspection Board also carries out inspections on occupational diseases and occupational accidents in terms of legal dimensions of the case.

The main duties of the Social Insurance Inspection Board are:

- ◆ To widen social security scheme coverage,
- ◆ To inform employee and employer for their social security rights and obligations (includes occupational disease and accident),
- ◆ To prevent social security frauds,
- ◆ To detect or investigate occupational accidents/ diseases and the other insurance cases,
- ◆ To collect related information and to examine related persons and record their testimony.

Occupational Health and Safety Research and Development Institute (İSGÜM)

İSGÜM was founded in 1969 as a sub-institution of Directorate General of Occupational Health and Safety of Ministry of Labour and Social Security by an agreement signed between Turkish Government and ILO in the scope of International Programme for the Improvement of Working Conditions and Environment (PIACT).

İSGÜM is the only public organization executing workplace measurements and biological analysis together and evaluating the results in the scope of occupational health and safety. It conducts activities with the central laboratory in Ankara and six regional laboratories throughout Turkey.

Main objectives and tasks of İSGÜM are:

- ◆ Carrying out project, training, guidance etc. with the issues of preventing occupational diseases & accidents at national and international level.
- ◆ Improving suggestions according to applied research & development projects with the purpose of preparing & developing legislation, standard and rules.
- ◆ Authorizing, controlling and supervising the laboratories to serve in the field of occupational hygiene, test and analysis.
- ◆ Conducting risk assessment, analysis, test and measure for the working environment with the purpose of improving occupational health & safety.

Labour and Social Security Training and Research Centre (ÇASGEM)

The aim of ÇASGEM is to engage in the activities of training, research, surveying, publishing, documentation and consulting at national and international levels on working life and social security subjects.

The main tasks of ÇASGEM on OHS issues are:

- ◆ Providing training for OHS professionals (occupational physicians and occupational safety experts).
- ◆ Conducting research and organizing seminars on occupational life, social security, employee-employer relations, occupational health and safety, occupational medicine, total quality management, labour inspection, employment, productivity, research of labour market, ergonomics, environment, first aid, labour statistics and similar subjects to provide education to employers, employee or directors who work in private or public sector and to personnel of the Ministry, its subsidiaries and other related organizations.

National Occupational Health and Safety Council (NOHSC)

National Occupational Health and Safety Council (NOHSC) has been established in accordance with the Eighth Five Year Development Plan and ILO Convention No. 155, in order to socialize occupational health and safety, to solve the problems by reaching a consensus with social partners and to ensure health and social welfare of workers. Its legal basis has been clarified with the No. 6331 Law. The First NOHSC Meeting was held on 6th of May 2005.

DGOHS has been appointed to execute the secretarial work of this National Council which will convene at least twice annually.

The aims of the NOHSC are to bring together the social partners (trade unions and employers' organizations), universities, nongovernmental organizations and other relevant institutions and organizations in the field of occupational health and safety, and to create a platform where the partners could discuss, express their opinions and define the priorities, needs, policies and strategies in the field of OHS.

Other Governmental Organizations

Other Ministries, such as the Ministry of Health, Ministry of Science, Industry and Technology, etc., the Turkish Standards Institution and Universities are also public institutions that deal with OHS issues to some extent and collaborate with the MoLSS, with regards to training, research and determination of national policies.

Unions

Regarding the trade unions, the Article 114 of the Labour Law states that; "In order to provide an efficient consultation to monitor the ac-

tivities related to working life legislations and applications, an advisory committee, which is based on tripartite representation between government (public officials), employer organization, and trade union confederation, is established within the context of developing labour peace and sound industrial relations. The procedures and principal of the activities of this committee is arranged via regulations which are to be issued”.

Thus, trade unions are in a very convenient position in order to able to control whether the precautions are applied seriously or not in workplaces. This means that the monitoring of the trade union has more rapid result than the inspection of the government and it is also seen as an important factor which saves time in terms of clearing away the hazards. Moreover, in accordance with the Trade Unions and Collective Labour Agreements Law, they are responsible to train their members on OHS subjects.

Additionally, unions are involved in national level OHS activities and participate in the determination of the national policies.





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OHS SITUATION IN TURKEY WITH FIGURES



In 2014

221.336 occupational accidents and **494** occupational diseases took place in our country in 2014.

1.626 workers lost their lives due to occupational accidents.

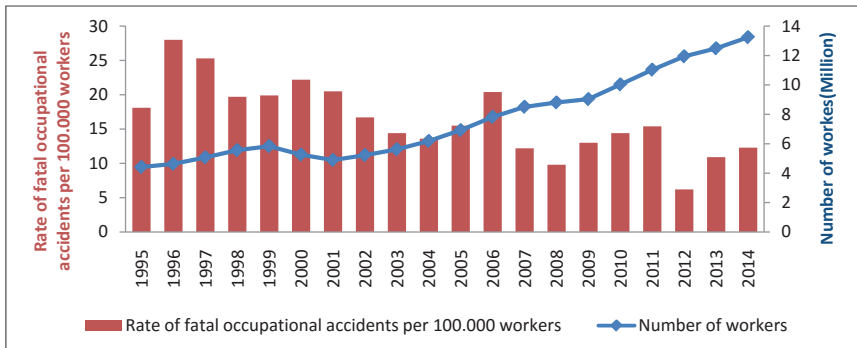
Every Day

606 occupational accidents.

5 workers losing his/her life due to occupational accidents.

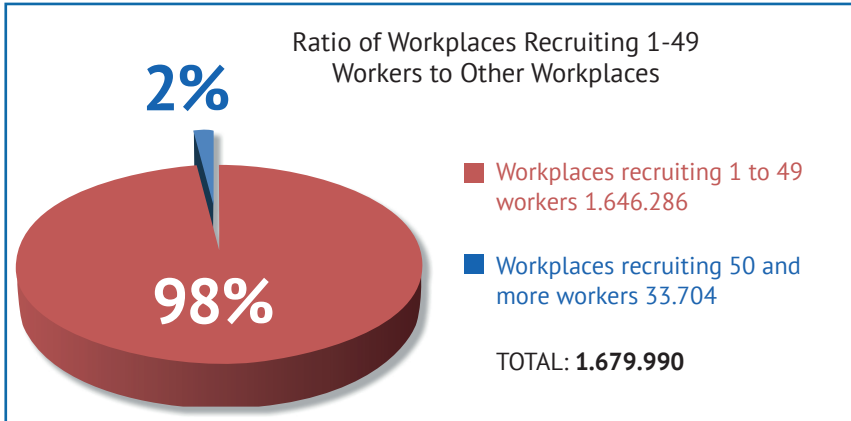
4 workers becoming permanently incapable.

* When occupational accident statistics of the number of insured workers were given at 2012 and previous years, it was based on the number of cases of occupational accidents made to pay off. With the beginning of the industrial accident notification form to be taken electronically from 2013, it began to publish data on the number of all insured which occupational accidents lived and notifications made.



Source: Social Security Institution, 1995-2014

Small Enterprises and Occupational accidents in Turkey -2014



Small enterprises, which did not have the obligation to employ occupational health and safety professionals, are included within the scope of the OHS law. This is of vital importance in terms of preventing accidents.



Source: Social Security Institution, 2014



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MAKING A NEW LAW

Working Life covers a wide range of issues including employment, working conditions, social security, vocational training, occupational health and safety, protection of the rights of citizens working abroad and creates direct and indirect effects on the whole society.

Occupational health and safety is not only related to workplaces and employees but also to the community as a whole and it is also a priority at national and international levels.

The right to occupational health and safety has been constitutionalized in Turkey. Article 49 of the Constitution states that everyone has the right and duty to work. The State shall take the necessary measures to raise the standard of living of workers, and to protect workers and the unemployed in order to improve the general conditions of labour, to promote labour, to create suitable economic conditions for prevention of unemployment and to secure labour peace. In addition to these provisions, Article 56 of the Constitution stipulates that the state regulates health services through central plans from one hand in order to ensure that every one lives in good physical and mental health; to realize coordination by increasing savings and productivity of both human and material resources. These articles indicate the importance attached to the health and safety of citizens by the State.

Moreover, OHS has been emphasized at the International level. United Nations Universal Declaration of Human Rights, United Nations International Covenant on Economic, Social and Cultural Rights Treaty, European Social Charter, EU Directives, ILO Conventions include specific provisions regarding occupational health and safety.

1948 United Nations Universal Declaration of Human Rights highlights this issue by stating that everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.

United Nations International Covenant on Economic, Social and Cultural Rights Treaty of 1976 confirms the importance of OHS with Article 6, stipulating that the States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

Furthermore, the right to just conditions of work, the right to safe and healthy working conditions, the right to children and young persons to protection, the right of employed women to protection of maternity are guaranteed by the European Social Charter, opened for signature in 1961. With an Additional Protocol to the Charter adopted in 1988, the right of equality of occupation, opportunity and treatment in employment without discrimination regarding gender, employees right to receive advice and information and employees right to participate in determination and improvement of working environment have been guaranteed as well.

In Article 137 of the Treaty, which established the European Community, it is stated that minimum requirements shall be determined re-



guarding improvement of the working environment to protect workers' health and safety.

European Union's Council. Directive 89/391/EEC was adopted in 1989 applying to all workers with limited exceptions. This Directive applies to all sectors of activity, both public and private (industrial, agricultural, commercial, administrative, service, educational, cultural, leisure, etc.). Directive is not applicable where characteristics peculiar to certain specific public service activities, such as the armed forces or the police, or to certain specific activities in the civil protection services inevitably in conflict with it.

ILO Occupational Safety and Health Convention No. 155 and Occupational Health Services No. 161, which were ratified by Turkey, require member states to develop occupational health services for all workers.

Turkey which attaches great importance to international laws and regulations and makes strategic cooperation at international level, takes into account all the above mentioned provisions on OHS while constituting its national legislation on occupational health and safety.

As for domestic legislation, regulations concerning occupational health and safety had been made in accordance with the provisions of Labour Law No. 4857. However since the scope of the law was limited and all employees were not covered by the Law, the legislation on OHS based on this Law was not inclusive.

On the other hand, tangible and non-tangible losses caused by occupational diseases and accidents are also given due consideration. According to the estimation made by the ILO, 4% of the world's annual GDP is lost as a consequence of occupational diseases and accidents.

On the basis of this estimation, the total cost of occupational diseases and occupational accidents is estimated to be over 50 billion TL for Turkey. Although financial losses can be compensated, intangible losses and griefs of families resulting from occupational diseases and accidents are impossible to be compensated.

As a result, it has been considered that OHS could improve as long as a reformative and constructive approach rather than a prescriptive approach has been adopted. By the way, the legislation should not be perceived as a body of rules to be obeyed but as a means to support OHS. Besides, in order to fulfill requirements of the legislation, non-legislative instruments should also be used and the issue should be handled as state policy together with all social partners and stakeholders.

Considering the economic, social and political conditions which deeply affect the work life of employees, eighty years of experience of the Turkey in the field of Labour Law, problems encountered in practice, efforts to harmonize domestic legislation with ILO norms and EU acquis. It was essential to introduce a new specific law focusing on protective and preventive measures. Consequently, the Law on Occupational Health and Safety which constitutes a cornerstone in terms of OHS in Turkey, has been enacted.



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BRIEF OVERVIEW

- ◆ Occupational health and safety is handled for the first time within the scope of an independent, specific law.
- ◆ All workers are included within the scope of the Law regardless of whether they work in public or private sector.
- ◆ A proactive approach rather than a reactive one has been adopted.
- ◆ Workplaces are categorized by hazard classes according to the nature of their main activity.
- ◆ Occupational health and safety services are to be provided by every workplace.
- ◆ Employers are given the opportunity to provide services from joint health and safety units.
- ◆ The expenses in micro enterprises arising from receiving OHS services are to be supported by the State.
- ◆ Risk assessment is carried out in advance in order to prevent occupational accidents and occupational diseases.
- ◆ Workers are to receive regular health surveillance.
- ◆ Recording and notification of occupational accidents and occupational diseases are to be carried out in an efficient and updated manner.

-
- ◆ “Occupational Health and Safety Committee” is to be set up in all workplaces recruiting fifty or more workers.
 - ◆ Emergency plans are to be prepared in workplaces.
 - ◆ Employers have to inform all workers on occupational health and safety issues and their rights in work life.
 - ◆ Workers can actively participate in decision making process on occupational health and safety activities in the workplace.
 - ◆ Workers are able to use their right to refrain from work in the event of serious and imminent danger.
 - ◆ In workplaces with more than one employer, occupational health and safety activities are to be carried out in coordination.
 - ◆ Operation may be ceased in whole or any part of the premises in case of any vital danger.
 - ◆ Workplaces bearing a risk of major industrial accident are not allowed to start operation without a “safety report” and “major accident prevention policy document”.
 - ◆ Effective administrative sanctions are to be applied in order to facilitate the implementation of the Law efficiently.



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THE NEW LAW THE NEW HORIZONS

1 HEALTH AND SAFETY FOR ALL

All workers, regardless of the fact that they are either from private or public sector, are covered by the Law.

The number of workers and the type of workplace do not constitute a barrier to reach services in terms of OHS.

Provisions of the Law apply to apprentices and interns as well.

A safe and healthy work environment is envisaged at all workplaces.

In parallel to the European Union norms, certain specific activities of the Turkish Armed Forces and the Turkish Police as well as intervention activities of disaster and emergency units are exempted from the scope of the Law.



2

PROACTIVE APPROACH

The Law introduces a general approach of prevention in all workplaces by taking into consideration the issues identified in the risk assessment.

Risk assessments are regularly reviewed.

The objective of the Law is to maintain the best possible occupational health and safety conditions and continuous improvement at workplaces.

The Law ensures to focus on the steps to prevent occupational accidents or diseases rather than trying to take measures after an occupational accident or disease.

In this respect, employers identify hazards arising from the operation at every single stage with the participation of workers and take precautions against potential risks accordingly.



3

WORKPLACES CATEGORIZED

Workplaces are categorized into three hazard classes with the aim of receiving more effective health and safety services.

This classification is carried out by taking into account the nature of the work performed, substances used or produced at every stage of work, work equipment, production methods and types as well as other issues related to work environment and working conditions.

Hazard classes are identified by the Ministry in consultation with a commission including social partners based on the main activity performed at the workplace.



Assignment & working hours of OHS professionals; occupational health and safety training hours of workers and revising of emergency plan and risk assessment are determined according to the hazard class of the enterprise.

4

PROFESSIONAL APPROACH ON OHS

Regardless of the number of workers and the type of enterprise every workplace shall assign an occupational safety expert and an occupational physician. In addition to the safety expert and occupational physician a health staff shall be assigned to very hazardous workplaces that have 10 or more workers.

OHS professionals are authorized by the Ministry among professionals who have been specifically trained and who have passed professional competency test.

In case the employer meets the criteria, he/she is able to undertake occupational health and safety services himself/herself.

In less hazardous workplaces that have less than 10 workers employer is able to offer the health and safety services except medical exams him/her self provided he/she completes the necessary training presented by the ministry.

Health and safety professionals are assigned to workplaces to advice and guide the employer regarding health and safety issues, they are also responsible to the employer for their negligence.

Professionals shall communicate occupational health and safety issues to the employer. In case employer fails to take



the necessary action and the risk bears a vital threat to life, the professional shall directly apply to the Ministry and inform the workers.

If the occupational health and safety professional is found to neglect his/her duties In a fatal accident or an accident in which worker's body integrity is disturbed the professionals license is suspended.

The contract of the occupational physician or occupational safety specialist cannot be terminated nor can their rights be forfeited for this application. Otherwise employer shall pay compensation not lower than a 1 year employment contract. All the rights of the occupational physician or occupational safety specialist mentioned in the Labor Law and other related laws are reserved.

5

EXTERNAL OHS SERVICES

The Law requires that occupational health and safety services are provided by internal staff at the workplace.

However, occupational health and safety services can be outsourced from joint health and safety units unless there is staff with required qualifications.

Joint health and safety units established by public institutions and organizations, organized industrial zones and private companies are authorized by the Ministry on the condition that they have required equipment and staff.

Joint health and safety units are accountable to the employer for the services they provide within the scope of their authority.

In workplaces where full-time occupational safety expert and occupational physician are required to be employed, the employer sets up workplace health and safety unit with the required equipment and staff.



The Ministry is to provide enterprises in private sector, which are classified as very hazardous or hazardous with less than 10 workers, with financial support in order to enable them to receive occupational health and safety services.

For workplaces classified as less hazardous with less than 10 workers, the Council of Ministers has the authority to decide whether such enterprises should benefit from this financial support or not.

The above mentioned financial support is to be funded by social security premiums collected for occupational accidents and diseases.

Within the framework of the fight against informality, workplaces that employ unregistered workers are not allowed to benefit from such a support for a period of three years.



7

OBLIGATION TO CARRY OUT RISK ASSESSMENT

Employers are obliged to carry out risk assessment in order to identify and eliminate present risks at the workplace or potential risks that might arise.

Workers as well as employers and occupational health and safety professionals participate in risk assessment process.

Risk assessment is updated at regular intervals, based on the hazard class, in order to ensure continuous improvement at workplace. Specific attention are paid to sensitive risk groups such as young workers, elderly workers, disabled, pregnant or breastfeeding workers and female workers during the risk assessment process.

In case of lack of risk assessment in mining, metal, construction enterprises, enterprises with hazardous chemicals and enterprises bearing a risk of major industrial accidents, the operations are stopped.





All workers are subjected to health surveillance in order to identify their susceptibilities and risky cases.

Comprehensive health surveillance is carried out before the recruitment of a worker and is repeated in the cases of changing of assignment, and resuming work after an occupational accident or disease and health problems.

Apart from the reasons specified above, health surveillance is carried out at regular intervals determined by the Ministry.

Workers to be employed in jobs which are classified hazardous and very hazardous are not allowed to start working without submitting their fit-for-work report.

The expenses regarding these health surveillance cannot be reflected to the worker and their personal information are held hidden.

9

EFFICIENT RECORDING OF OCCUPATIONAL ACCIDENTS AND DISEASES

Records of occupational accidents and occupational diseases are carried out in a more efficient and updated manner.

Occupational accidents and occupational diseases are communicated to the Social Security Institution by the employer within three days following an occupational accident and within three days after receiving the notification of an occupational disease from health care providers or occupational physicians.



The cases pre-diagnosed as occupational disease by the occupational physician and health officers are referred to healthcare providers authorized by the Social Security Institution.

Occupational accidents and cases with a diagnosis of occupational diseases are notified to Social Security Institution by the healthcare institutions and by the authorized healthcare service providers respectively within 10 days at the latest.

In addition, near-miss accidents are recorded by the employer at workplace.

10 EMERGENCY SITUATIONS

All employers are obliged to prepare emergency plans in advance for first-aid, fire-fighting, evacuation of people as well as for serious and imminent danger circumstances.

In the scope of preparation for emergency cases, trainings and practices are organized with the participation of all workers.

Employers ensure contact with external services regarding first aid, emergency medical care, rescue work and fire-fighting.

People who are not specifically assigned and adequately equipped with necessary materials are not to be allowed to enter places with



serious and imminent danger. Workers shall not be requested to keep working.

In the event that serious and imminent danger becomes unavoidable, the workers are to stop work and the workplace is to be evacuated immediately.

11

PARTICIPATION OF WORKERS

Active participation of workers is ensured in the activities conducted in order to achieve more efficient results in terms of occupational health and safety.

Workers' representative is elected or assigned at workplaces in order to ensure communication between workers and the employer regarding occupational health and safety issues.

Workers' representative, either elected or assigned, is able to provide the employer with suggestions regarding occupational health and safety issues.

In case there is a competent trade union in the workplace, trade union representatives act as workers' representatives.

Workers' representatives shall not be deprived of their rights by the employer because of their suggestions.



12 OHS TRAININGS

Employers provide all workers with information on occupational health and safety as well as their rights and obligations in work life.

Workers receive training following their recruitment and such training programs are conducted regularly according to new working conditions in the event of change in work, workplace or equipment and being away from work for a long time. These training sessions are repeated at regular intervals.

Workers to be employed in jobs which are classified hazardous and very hazardous are obliged to present a document stating that they have received vocational training of that specific profession. They are not allowed to be recruited in the absence of such a document.

The cost of training sessions is not to be reflected on the workers. The time spent during these sessions is counted as a part of working time.



13

OCCUPATIONAL HEALTH AND SAFETY COMMITTEES

In workplaces where a minimum of fifty employees are employed and permanent work is performed for more than six months, a committee on occupational health and safety is set up.

Employers are obliged to implement the decisions of the committee that carries out activities regarding occupational health and safety issues in line with the legislation.

In case there is more than one employer in the same workplace, employers are to inform each other on decisions of the committee which might affect other's operation.

In workplaces where there are the workers of subcontractors, the activities of the committee are needed to be coordinated by the main employer who is obliged to ensure subcontractor's participation.



14 RIGHT TO REFRAIN FROM WORK

In case of serious and imminent danger, the workers are to apply to the occupational health and safety committee for the elimination of such in order to eliminate it or the employer if such committee does not exist.

If any decision taken by the committee or the employer which supports the request of the worker, the worker has the right to refrain from work until necessary measures are put in practice.

The worker has the right to terminate his/her employment contract where the necessary measures are not taken despite the request.

The worker is paid as long as he/she uses the right to abstain from work until necessary measures are taken.



COORDINATION OF OCCUPATIONAL HEALTH AND SAFETY ISSUES

In case there is more than one employer at the same workplace employers are to inform each other and workers' representatives on occupational risks and prevention of such risks.

The management is in charge of coordinating occupational health and safety issues in places such as business centres, office blocks, shopping malls and industrial zones.

The management is to advise employers to take necessary measures against potential hazards in a workplace which might affect other workplaces.

The workplaces failing to take necessary measures are reported to the Ministry of Labour and Social Security by the management.



16

CEASE OF OPERATIONS IN CASE OF IMMINENT DANGER

In case of imminent danger, operations are stopped not in all premises but in the area which might be affected by the risk arising from the danger in question until such danger is eliminated.

This approach avoids any kind of adverse effects of closing down all premises.

Employers are obliged to keep paying the workers who become unemployed due to the cease of operations.

Workers are directed to another job based on their profession or situation provided that they are not paid less than the amount they used to be paid.

Forcing for production in the jobs which are done according to tendering procedure conducted in hazardous workplaces is stated as a reason which causes ceasing the operation.

Employer and the representative of the employer which do unauthorized work in workplace that its operation is already ceased are sentenced to imprisonment of up to five years from three years.



Accident prevention policy document or safety report is asked prior to the start of operations in workplaces that bear a risk of serious industrial accident.

The employer who is obliged to prepare the safety report is allowed to start operations only after the content and competency of reports are examined by the Ministry.

As a result, preventive efforts towards eliminating potential industrial accidents are to be in place and major losses which might arise from potential accidents are to be averted.



18 ADMINISTRATIVE SANCTIONS

Inspection of work life at workplaces in order to improve occupational health and safety conditions are carried out by the labour inspectors. In case of non-compliance with the law, administrative fines are to be more deterrent.

In case of determination of contrary to the law, considering the number of employees and the hazard class administrative fines are applied as increased by 25% to 200%.

Type of workplace	Less hazardous	Hazardous	Very hazardous
0-10 worker	Same quantity	+%25	+%50
10-49 worker	Same quantity	+%50	+%100
50 and more worker	+%50	+%100	+%200

The income derived from the administrative fines is used for occupational health and safety training and research projects.

In case of occurrence of fatal occupational accidents in mining workplaces, employers prohibited from public contracts for two years.



Employers' Responsibilities in Brief

- ◆ Improvement in OHS conditions and sustaining the improvement.
- ◆ Consideration of suitability of the worker for the job in terms of OHS.
- ◆ Development of a general prevention policy with consideration of risk assessment reports.
- ◆ Taking all measures including training and providing information in order to prevent occupational risks.
- ◆ Having all necessary controls, measurements, investigations and research conducted.
- ◆ Monitoring, controlling and eliminating nonconformities.
- ◆ Taking further precautions to prevent workers entering places where vital danger exists.
- ◆ Coordinating with other employers where multiple employers share the same workplace.

Workers' Rights and Responsibilities in Brief

- ◆ Benefit from OHS services without a Limit in the size of the workplace in terms of the number of workers.
- ◆ Actively participating and providing feedback OHS exercises.
- ◆ Right to refrain from work until necessary measures are taken in case of serious and imminent danger.
- ◆ Receiving training and information on OHS issues.
- ◆ Being represented and having a say in OHS committees.
- ◆ Not to endanger health and safety of himself or of coworkers.
- ◆ Proper use of all equipment given for production and protection.



Safe and
Healthy
Growth

LAW ON OCCUPATIONAL HEALTH AND SAFETY

Law No. 6331

Date of Issuance: 20/6/2012

SECTION ONE

Object, Scope and Definitions

ARTICLE 1	Object.....	58
ARTICLE 2	Scope and exceptions.....	58
ARTICLE 3	Definitions	59

SECTION TWO

Duties, Authority and Responsibilities of the Employer and Workers

ARTICLE 4	General responsibility of the employer.....	62
ARTICLE 5	Principles of protection from risks.....	63
ARTICLE 6	Occupational health and safety services	63
ARTICLE 7	State subsidies to occupational health and safety services.....	65
ARTICLE 8	Occupational physicians and occupational safety specialists.....	66
ARTICLE 9	Determining the hazard class.....	68
ARTICLE 10	Risk assessment, control, measurement and examinations	69
ARTICLE 11	Emergency plans, fire-fighting and first aid.....	69
ARTICLE 12	Evacuation.....	70
ARTICLE 13	Right to abstain from work.....	71
ARTICLE 14	Recording and notification of occupational accidents and diseases...72	
ARTICLE 15	Health surveillance.....	72
ARTICLE 16	Worker information.....	73
ARTICLE 17	Training of workers.....	74
ARTICLE 18	Consultation with and participation of workers	75
ARTICLE 19	Workers' obligations.....	76
ARTICLE 20	Workers' representative.....	77

SECTION THREE

Council, Committee and Coordination

ARTICLE 21	National Occupational Health and Safety Council.....	79
ARTICLE 22	Occupational health and safety committee.....	80
ARTICLE 23	Coordination of occupational health and safety.....	81

SECTION FOUR

Inspection and Administrative Sanctions

ARTICLE 24	Inspection, examination, investigation and authority, obligation and responsibility of the inspector	82
ARTICLE 25	Cease of operations	82
ARTICLE 25/A	Prohibition from public procurement due to fatal occupational accident	84
ARTICLE 26	Administrative fines and enforcement	84
ARTICLE 27	Cases for which no provision exists and exemption	88

SECTION FIVE

Miscellaneous and Temporary Provisions

ARTICLE 28	Prohibition of using drugs.....	89
ARTICLE 29	Safety report or serious accident prevention policy document.....	89
ARTICLE 30	Regulations related to occupational health and safety.....	89
ARTICLE 31	Certification, notice and cancellation.....	93
ARTICLE 32, 33, 34, 35, 36	Amended provisions.....	93-95
ARTICLE 37	Abolished provisions.....	95
TEMPORARY ARTICLE 1	References	95
TEMPORARY ARTICLE 2	Current regulations	95
TEMPORARY ARTICLE 3	Medical reports.....	95
TEMPORARY ARTICLE 4	Requirement to appoint occupational safety specialist.....	96
TEMPORARY ARTICLE 5	Existing certificates and documents, and warning points ...	96
TEMPORARY ARTICLE 6	Payments to physicians employed as occupational physicians in public institutions.....	97
TEMPORARY ARTICLE 7	97
TEMPORARY ARTICLE 8	97
TEMPORARY ARTICLE 9	98
ARTICLE 38	Enforcement.....	99
ARTICLE 39	Execution	99

SECTION ONE

Object, Scope and Definitions

Object

ARTICLE 1

- (1) Object of this law is to regulate duties, authority, responsibility, rights and obligations of employers and workers in order to ensure occupational health and safety at workplaces and to improve existing health and safety conditions.

Scope and exceptions

ARTICLE 2

- (1) This Law shall apply to all works and workplaces in both public and private sector, employers of these workplaces and their representatives, all workers including apprentices and interns regardless of their field of activity.
- (2) However, this Law shall not be applicable to the following activities and persons:
 - a) Activities of the Turkish Armed Forces, the police and the Undersecretary of National Intelligence Organisation except for those employed in workplaces such as factories, maintenance centres, sewing workshops and the like.
 - b) Intervention activities of disaster and emergency units.
 - c) Domestic services.
 - ç) Persons producing goods and services on their own account without employing workers.
 - d) Prison workshop, training, security and vocational course activities within the framework of improvement of enforcement services for convicts and inmates.
 - e) **(Annex: 10/9/2014-6552/15 Article; Annulment: Supreme Court's dated 14/5/2015 and numbered E.: 2014/177, K.: 2015/49 decision)**

Definitions

ARTICLE 3

- (1) For the purposes of this Law, the following terms shall have the following meanings:
- a) Ministry: Ministry of Labour and Social Security;
 - b) Worker: any natural person employed at public or private sector workplaces, regardless of their status in their relevant laws;
 - c) Workers' representative: any worker authorised to represent workers in matters such as participating in occupational health and safety related activities, monitoring these activities, requesting measures, making propositions;
 - ç) Support staff: any person with appropriate competence and sufficient training who is specifically put in charge of issues related to occupational health and safety such as prevention, protection, evacuation, firefighting, first-aid besides their main duty;
 - d) Training institution: public institutions and organisations authorised by the Ministry to provide training for occupational safety specialists, occupational physicians and other health-care personnel, universities and enterprises established by companies operating in accordance with the Turkish Code of Commerce;
 - e) Young worker: any worker who is of at least fifteen years of age but less than eighteen years of age;
 - f) **(Amendment: 12/7/2013-6495/101 Article)** Occupational safety specialist: any engineer, architect or technician who are authorised by the Ministry to work in the field of occupational health and safety and who have occupational health and safety expertise certificate;
 - g) Occupational accident: any occurrence taking place at the workplace or due to the performance of work which leads to death or makes physically or mentally disabled to the physical integrity of the victim;
 - ğ) Employer: any natural or legal person or any institution and organisation which is not a legal entity who has an employment relationship with the worker;

- h) Workplace: any organisation in which material and non-material elements and workers are organised together to produce goods or services, where the employer is linked in qualitative terms to the goods or services produced and which includes locations linked to the workplace organised under the same management and other premises and equipment such as rest rooms, nursing rooms, canteens, sleeping, washing, examination and maintenance facilities as well as physical and vocational training locations and courtyards;
- i) Occupational physician: any physician who is authorised by the Ministry to work in the field of occupational health and safety and who has occupational medicine certificate;
- i) Workplace health and safety unit: any unit established to provide occupational health and safety services at the workplace with required equipment and personnel;
- j) Council: National Occupational Health and Safety Council;
- k) Committee: occupational health and safety committee;
- l) Occupational disease: any illness caused by exposure to occupational risks;
- m) Common health and safety unit: any unit which is established by public institutions and organisations, organised industrial zones and companies operating under the Turkish Code of Commerce in order to provide occupational health and safety services to workplaces, with required equipment and personnel and which is authorised by the Ministry;
- n) Prevention: all the measures planned or taken in order to eliminate or reduce occupational health and safety risks at all stages of work undertaken at the workplace;
- o) Risk: probability of loss, injury or other harmful result arising from hazard;
- ö) Risk assessment: activities required for identifying hazards which are existing in or may arise from outside the workplace, analysing and rating the factors causing these hazards to turn into risks and the risks caused by hazards and determining control measures;

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- p) Hazard: potential which exists at the workplace or may arise from outside the workplace to cause harm or damage which could affect the worker or the workplace;
- r) Hazard classification: hazard group in which a workplace is identified to fit in, taking into account the nature of the work performed, substances used or produced at every stage of work, work equipment, production methods and types as well as other issues related to work environment and working conditions in terms of occupational health and safety;
- s) **(Amendment: 12/7/2013-6495/101 Article)** Technician: any person with the title of technical instructor, physicist and chemist as well as any graduate of an occupational health and safety programme at universities;
- ş) Occupational nurse: any nurse/health technician who is authorised to perform the nursing profession pursuant to the Nursing Law dated 25/2/1954 and numbered 6283 and who has the occupational nurse's certificate issued by the Ministry in order to work in the field of occupational health and safety.
- (2) Employer's representatives who act on behalf of the employer and are involved in the work and the management of the workplace are considered as employers as far as the implementation of this Law is concerned.

SECTION TWO

Duties, Authority and Responsibilities of the Employer and Workers

General responsibility of the employer

ARTICLE 4

- (1) The employer shall have a duty to ensure the safety and health of workers in every aspect related to the work. In this respect, the employer shall;
 - a) Take the measures necessary for the safety and health protection of workers, including prevention of occupational risks and provision of information and training, as well as provision of the necessary organization and means and shall ensure that these measures are adjusted taking account of changing circumstances and aim to improve existing situations.
 - b) Monitor and check whether occupational health and safety measures that have been taken in the workplace are followed and ensure that nonconforming situations are eliminated.
 - c) Carry out a risk assessment or get one carried out;
 - ç) Take into consideration the worker's capabilities as regards health and safety where he entrusts tasks to a worker;
 - d) Take appropriate measures to ensure that only workers who have received adequate instructions may have access to areas where there is serious and specific danger.
- (2) In case an employer enlists competent external services or persons, this shall not discharge him from his responsibilities in this area.
- (3) The workers' obligations in the field of safety and health at work shall not affect the principle of the responsibility of the employer.
- (4) Measures related to health and safety at work may in no circumstances involve the workers in financial cost.

Principles of protection from risks

ARTICLE 5

- (1) The employer shall fulfil these responsibilities on the basis of the following principles:
- a) Avoiding risks.
 - b) Evaluating the risks which cannot be avoided.
 - c) Combating the risks at source.
 - ç) Adapting the work to the individual, especially as regards the design of work places, the choice of work equipment and the choice of working and production methods, with a view, in particular, to avoiding or minimizing adverse effects of monotonous work and work at a predetermined work-rate on health and safety
 - d) Adapting to technical progress.
 - e) Replacing the dangerous by the non-dangerous or the less dangerous.
 - g) Developing a coherent overall prevention policy which covers technology, organization of work, working conditions, social relationships and the influence of factors related to the working environment
 - ğ) Giving collective protective measures priority over individual protective measures
 - h) Giving appropriate instructions to the workers.

Occupational health and safety services

ARTICLE 6

- (1) In order to provide occupational health and safety services including activities related to the protection and prevention of occupational risks, the employer shall:
- a) Designate workers as occupational safety specialist, occupational physician and other health staff. In case there is lack of personnel in the undertaking competent enough to be designated, the employer shall enlist a common health and safety

unit to provide these services partially or completely. Provided that the employer has the required qualifications and documents, these services can be offered by the employer considering the hazard classification and the number of workers. **(Additional clause: 10/9/2014-6552/16 Article)** In enterprises where less than 10 employees and which are classified as less hazardous employer or employer's representative who do not have specified qualifications and the required certification, provided by completing the training which declared by the Ministry, shall fulfill occupational health and safety services except for recruitment medical and periodic examinations.

- b) Meet the need for means, space and time to help designated people or organizations fulfill their duties.
 - c) Ensure cooperation and coordination among all people and bodies responsible for providing health and safety services at workplaces
 - ç) Implement measures that are in accordance with the relevant occupational health and safety and notified in written by the designated persons or organizations providing service
 - d) Inform designated persons, external services consulted and other workers and their employers from any outside enterprise or undertaking engaged in work in his undertaking or enterprise receive adequate information as regards the factors known to affect, or suspected of affecting, the safety and health of workers.
- (2) Public bodies and organizations as defined in Public Procurement Law no. 4734 dated 4/1/2002 may get occupational health and safety services either directly from circulating capital enterprises operating under the Ministry of Health or as defined in law no. 4734.
- (3) It is not obligatory to hire other health care staff in enterprises where there is a full time occupational physician.
- (4) **(Annex: 10/9/2014-6552/16 Article)** For determining appointment time according to (a) of the first paragraph of this article apprentices and trainees with student status which is in the scope of Vocational Training Law no. 3308 dated 5/6/1986 and Higher

Education Law no. 2547 dated 4/11/1981 shall not be taken into account the total number of workers.

State subsidies to occupational health and safety services

ARTICLE 7

- (1) The Ministry may provide support to enterprises to carry out occupational health and safety services provided that the following conditions are met:
 - a) This support may be provided to enterprises employing fewer than ten workers except for public bodies and organizations provided that the enterprise is classified as 'very hazardous' and 'hazardous'. However, the Council of Ministers may decide that the Ministry may also provide subsidies to enterprises employing fewer than ten workers and classified as 'less hazardous'.
 - b) Social Security Institution shall cover expenses by allocating resources out of premiums collected under the short-term insurance program including occupational accidents and occupational diseases.
 - c) The records kept by the Social Security Institution shall constitute the basis in the implementation phase.
 - ç) In case it is revealed, in the scope of controls and inspections carried out as per this law and other relevant pieces of legislation, that the employer has failed to enter their employees into social insurance registry, the Social Security Institution shall collect the outstanding debts together with legal interest rate. Employers who are found to be in such violation shall be deprived of the right to benefit from all types of subsidy for a period of three years.
 - d) The Ministry is the authorized body to guide the practice, remove hesitations on how to implement the law and resolve problems arising out of implementation.
- (2) The following issues and the relevant procedures and principles shall be specified by a regulation issued by the Ministry after receiving the approval of the Ministry of Finance:

- a) Utilization of subsidies provided as a means to support occupational health and safety services.
 - b) Determining the amount of remuneration to be paid by the Social Security Institution to cover occupational health and safety services, identifying which part of these services are to be supported and deciding on the payment rate taking account of the characteristics of the enterprises to be provided subsidy with fewer than ten workers
 - c) Conditions to be met by the enterprises to be provided with state subsidy.
 - ç) Characteristics of enterprises providing occupational health and safety service.
- (3) The Ministry might cooperate with Ministry of Health, Ministry of Science, Industry and Technology and other relevant professional organizations in order to ensure efficiency and sustainability.

Occupational physicians and occupational safety specialists

ARTICLE 8

- (1) Rights and authorities of occupational physicians and occupational safety specialists might not be restricted in the execution of their duties. Occupational physicians and safety specialists shall seek and maintain professional independence and observe the rules of ethics in the execution of their functions.
- (2) **(Amendment: 4/4/2015-6645/1 Article)** Occupational physician and occupational safety specialist, whom are appointed as guide and consultant in occupational health and safety issues to the employer, shall identify the deficiencies and defects regarding occupational health and safety issues in the workplace, considering improvements and changes to the legislation and technical developments and notify the employer regarding these deficiencies and defects in writing. It is the responsibility of the employer to correct the deficiencies and defects. In case the employer fails to implement measures against life threatening dangers such as fire, explosion, collapse, chemical leakage or environment that may cause occupational disease; occupational physician or occupational safety specialist shall notify the component body of

the Ministry, if available authorized union representative if not available worker representative. The license of the occupational physician or occupational safety specialist who is detected to act against the previous sentence falls into abeyance for three months and in repetition six months. The contract of the occupational physician or occupational safety specialist cannot be terminated nor can their rights be forfeited. Otherwise employer shall pay compensation not lower than a 1 year employment contract. All the rights of the occupational physician or occupational safety specialist mentioned in the Labour Law and other related laws are reserved. If claims of the occupational physician or occupational safety specialist are found to be false by the court the certificate shall be suspended for 6 months.

- (3) Occupational physicians and occupational safety specialists as well as external services consulted shall be accountable to the employer for neglect of duty in the execution of their offices.
- (4) Where an occupational physician or occupational safety specialist is found to be in neglect of his/her duties resulting in an occupational accident or occupational disease which causes disruption in the integrity of the body such as death or disability, his/her certificate of authorization shall be suspended.
- (5) In order to be able to be employed as an occupational safety specialist, one shall obtain class (a) certification to be considered as qualified enough to work in enterprises classified as very hazardous and at least class (B) certification to work in enterprises classified as hazardous and at least class (C) certification to be hired in less hazardous enterprises. The Ministry might introduce several arrangements specific to a sector related to the designation of occupational safety specialists and occupational physicians. **(Additional sentence: 4/4/2015-6645/1 Article)** Under the framework of sectoral arrangement, procedures and principles regarding determination of which occupational titles from mining and construction and other sectors which occupational safety expert have and occupational safety expert who work in other duties and with these people are made by the Ministry.
- (6) In the event that it is required to hire full time occupational physicians and safety specialists due to the working hours, the em-

ployer shall establish a workplace health and safety unit. Without prejudice to the provisions of the law applicable to workers, the weekly working hours as defined in the Labour Law no. 4857 dated 22/5/2003 shall be taken into account.

- (7) The personnel qualified enough to be hired as occupational physician or occupational safety specialist in public bodies and organizations according to the relevant legislation might be assigned in other public bodies and organizations in addition to their fundamental duties following the approval and consent of the relevant personnel and top management provided that the working hours are not to exceed the time indicated in their contract and all required documentation is presented. An additional payment equal to the product of an indicative figure (200) and quotient of the monthly salary of civil servants shall be awarded by the organization benefiting from this additional service to the personnel assigned in public bodies other than the one that they were originally assigned. There shall be no deduction in this payment other than the deduction due to stamp tax. Assignments exceeding eighty hours in total in a month shall not be included in the additional payment provided that the daily working hours are not exceeded.
- (8) Without prejudice to the legislation on full time employment in public health care services, the restrictive provisions of other laws shall not apply to employment of occupational physicians and other health care staff in workplace health and safety units and common health and safety units and fulfilment of their duties the scope of which shall be limited to the number of workers in the enterprise benefiting from the service.

Determining the hazard class

ARTICLE 9

- (1) Considering the short-term insurance premium tariff as defined in article 83 of the Law no. 5510 dated 31/5/2006 on Social Insurance and Universal Health Insurance and in line with the views of commission composed of all parties concerned and set up under the chairmanship of Directorate General of Occupational Health and Safety, the Ministry shall issue a circular on assigning a hazard classification to enterprises.

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- (2) The hazard classification for enterprises shall be assigned based on the main activities conducted.

Risk assessment, control, measurement and examinations

ARTICLE 10

- (1) The employer shall conduct an assessment of risks to health and safety of workers or get one carried out, taking account the following points:
- a) The situation of workers who might get affected by risks.
 - b) Choice of work equipment, the chemical substances or preparations used.
 - c) Workplace organization and housekeeping.
 - ç) The situation of female workers and other workers such as young workers, older workers, disabled, pregnant or breastfeeding workers who need specific policies.
- (2) The employer shall identify measures needed to be taken for the safety and health of workers as a consequence of the risk assessment and protective equipment needed to be used to implement the measures.
- (3) Measures to be taken for the safety and health protection of workers and the working and production methods implemented by the employer must assure an improvement in the level of protection afforded to workers with regard to safety and health and be practicable at all hierarchical level within the undertaking and/or enterprise.
- (4) The employer shall ensure that controls, measurements, examinations and researches are carried out to determine the risks related to safety and health present at the workplace and affecting the workers.

Emergency plans, fire-fighting and first aid

ARTICLE 11

- (1) The employer shall;
- a) Assess the foreseeable emergency situations and identify those

that might potentially affect workers and work environment taking into account the work environment, substances used, equipment and environmental conditions present in the workplace and take measures to prevent and limit adverse effects of emergency situations.

- b) Conduct measurement and assessments to afford protection against adverse effects of emergency situations and prepare emergency plans.
- c) Designate a sufficient amount of persons trained in prevention, protection, evacuation, fire fighting, first aid and other related issues taking into account the size and specific hazards of the undertaking, nature of the activities, number of employees and other persons present in the enterprise. The number of such workers, their training and equipment available to them shall be adequate and the employer shall arrange emergency drills and trainings and make sure that the rescue teams are always available to respond.
- c) Arrange any necessary contacts with external services, particularly as regards first aid, emergency medical care, rescue work and fire-fighting.

Evacuation

ARTICLE 12

- (1) In the event of serious, imminent and unavoidable danger, the employer shall:
 - a) Take action and give instructions to enable workers to stop work and/or immediately to leave the work place and proceed to a place of safety.
 - b) Save in exceptional cases for reasons duly substantiated; refrain from asking workers to resume work in a working situation where there is still a serious and imminent danger.
- (2) The employer shall ensure that all workers are able, in the event of serious and imminent danger to their own safety and/or that of other persons, and where the immediate superior responsible cannot be contacted, to take the appropriate steps in the light of their knowledge and the technical means at their disposal, to

avoid the consequences of such danger. Their actions shall not place them at any disadvantage, unless they acted carelessly or there was negligence on their part.

Right to abstain from work

ARTICLE 13

- (1) Workers exposed to serious and imminent danger shall file an application to the committee or the employer in the absence of such a committee requesting an identification of the present hazard and measures for emergency intervention. The committee shall convene without delay and the employer shall make a decision immediately and write this decision down. The decision shall be communicated to the worker and workers' representative in writing.
- (2) In the event that the committee or the employer takes a decision that is supportive of the request made by the worker, the worker may abstain from work until necessary measures are put into practice. The worker shall be entitled to payment during this period of abstention from work and his/her rights arising under the employment contract and other laws shall be reserved.
- (3) In the event of serious, imminent and unavoidable danger; workers shall leave their workstation or dangerous area and proceed to a place safety without any necessity to comply with the requirements in the first paragraph. Workers may not be placed at any disadvantage because of their action.
- (4) Where the necessary measures are not taken despite the requests by workers, workers under labour contract might terminate their employment contract in accordance with the provisions of the law applicable to them. As for the workers under collective bargaining agreement, the abstention period as defined in this article shall be deemed as actual work time.
- (5) In compliance with the article 25 of this law, the provisions of this article shall not apply in the event of cease of work in the enterprise.

Recording and notification of occupational accidents and diseases

ARTICLE 14

- (1) The employer shall;
 - a) Keep a list of all occupational accidents and diseases suffered by his workers and draw up reports after required studies are carried out.
 - b) Investigate and draw up reports on incidents that might potentially harm the workers, work place or work equipment or have damaged the work place or equipment despite not resulting in injury or death.
- (2) The employer shall notify the Social Security Institution of the following situations within a prescribed time as follows:
 - a) Within three work days of the date of the accident.
 - b) Within three work days after receiving the notification of an occupational disease from health care providers or occupational physicians.
- (3) Occupational physicians or health care providers shall refer workers who have been pre-diagnosed with an occupational disease to health care providers authorized by the Social Security Institution.
- (4) Occupational accidents referred to health care providers shall be notified to the Social Security Institution within ten days at most and authorized health care providers shall notify the Social Security Institution of the occupational diseases within the same period of time.
- (5) The procedures and principles as regards this article shall be defined by the Ministry following the receipt of approval from the Ministry of Health.

Health surveillance

ARTICLE 15

- (1) The employer shall;
 - a) Ensure that workers receive health surveillance appropriate to the health and safety risks they incur at work.

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- b) Health examination of workers is required under the following situations:
- 1) Pre-assignment.
 - 2) Job change after the assignment.
 - 3) In case of return to work following repetitive absence from work due to occupational accidents, occupational diseases or health problems upon request.
 - 4) At regular intervals recommended by the Ministry in the course of employment taking into account the workers, the nature of work and hazard classification of the enterprise.
- (2) Workers to be employed **(Amended expression: 10/9/2014-6552/17 Article)** in jobs classified as hazardous and very hazardous shall receive a medical report before employment.
- (3) **(Amended first sentence: 10/9/2014-6552/17 Article)** Medical reports required to be received as per this law shall be obtained from occupational physician. It might also obtaine from the Public Health Service Providers or family physicians for enterprises where less than 10 workers and which are classified as less hazardous.
- (4) The employer shall cover all expenses arising from health surveillance and any additional expense related to this surveillance. The health surveillance may in no circumstances bring financial burden to workers.
- (5) Health data of workers undergoing a medical examination shall be kept confidential in order to ensure protection of individual privacy and prestige.

Worker information

ARTICLE 16

- (1) The employer shall inform the workers and workers' representatives of the following issues taking into account the characteristics of the enterprise for the purposes of ensuring and maintaining the occupational health and safety:
- a) The safety and health risks and protective and preventive measures.

- b) Their legal rights and responsibilities.
 - c) Workers designated to handle first aid, extra ordinary situations, disasters, fire-fighting and the evacuation.
- (2) The employer shall;
- a) As soon as possible, inform all workers who are, or may be, exposed to serious and imminent danger of the risk involved as defined in article 12 and of the steps taken or to be taken as regards protection
 - b) Ensure that employers of workers from any outside undertakings and/or enterprises engaged in work in his undertaking and/or enterprise receive adequate information concerning the points referred to in paragraph 1 which is to be provided to the workers in question.
 - c) Ensure that support staff and workers' representatives shall have access to the risk assessment, protective and preventive measures related to safety and health at work, the information yielded by measurements, analysis, technical controls, records, reports and inspections.

Training of workers

ARTICLE 17

- (1) The employer shall ensure that each worker receives adequate safety and health training. This training shall be provided on recruitment, in the event of a transfer or a change of job, in the event of a change in equipment or introduction of any new technology. The training shall be adapted to take account of new or changed risks and repeated periodically if necessary.
- (2) Workers' representatives shall be entitled to appropriate training.
- (3) Workers failing to present documents to prove that they have received vocational training on their job might not be employed in jobs classified as hazardous and very hazardous which require vocational training.
- (4) Workers who have had occupational accident or disease shall receive additional training on reasons for the accident or disease, ways to protect themselves and safe working methods. Workers

who are away from work for any reason for more than six months shall receive refresher training before return to work.

- (5) Workers from outside undertakings and/or enterprises might not start to be employed in jobs classified as hazardous and very hazardous unless they can present documents to prove that they have received appropriate instructions regarding health and safety risks.
- (6) The employer who is the party to temporary employment relationship shall ensure that the worker receives training on health and safety risks.
- (7) Trainings mentioned in this article may in no circumstances bring financial burden to workers. Time spent on trainings shall be deemed as actual work time. In case the time allocated for trainings exceeds weekly working hours, hours worked in excess of weekly working hours shall be considered as overtime.

Consultation with and participation of workers

ARTICLE 18

- (1) The employer shall consult workers or representatives authorized by trade unions in enterprises with more than two workers' representatives or workers' representatives themselves in the absence of trade union representative to ensure the consultation and participation of workers. This presupposes:
 - a) Consultation with regard to safety and health at work, the right of workers and/or their representatives to make proposals and allowing them to take part in discussions and ensuring their participation.
 - b) Consultation as regards the introduction of new technology and the consequences of the choice of equipment, the working conditions and the working environment for the safety and health of workers.
- (2) The employer shall ensure that support staff and workers' representatives shall be consulted in advance with regard to:
 - a) The assignment of occupational physicians, occupational safety specialists and other staff inside the enterprise or the enlist-

- ment, where appropriate, of the competent services or persons outside the undertaking and/or enterprise and designation people to be in charge of first aid, fire fighting and evacuation.
- b) Identification of the protective equipment and protective and preventive measures to be introduced as a consequence of risk assessment.
 - c) Prevention of health and safety risks and providing protective services.
 - ç) Worker information.
 - d) The planning of training to be provided to workers.
- (3) Workers and/or their representatives are entitled to report to the authority responsible for safety and health protection at work if they consider that the measures taken and the means employed by the employer are inadequate for the purposes of ensuring safety and health at work. The workers may not be placed at a disadvantage because of their respective activities.

Workers' obligations

ARTICLE 19

- (1) It shall be the responsibility of each worker to take care as far as possible of his own safety and health and that of other persons affected by his acts or commissions at work in accordance with his training and the instructions given by his employer
- (2) To this end, workers must in particular, in accordance with their training and the instructions given by their employer:
 - a) Make correct use of machinery, apparatus, tools, dangerous substances, transport equipment and other means of production; use such safety devices correctly and refrain from changing or removing arbitrarily safety devices fitted
 - b) Make correct use of the personal protective equipment supplied to them.
 - c) Immediately inform the employer and/or the workers' representative of any work situation they have reasonable grounds for considering represents a serious and immediate danger to

safety and health and of any shortcomings in the machinery, apparatus, tools, facilities and buildings;

- ç) Cooperate with the employer and/or workers' representative to enable any tasks or requirements imposed by the competent authority to protect the safety and health of workers at work to be carried out
- d) Cooperate with the employer and/or workers' representative for the safety and health of workers within their field of activity.

Workers' representative

ARTICLE 20

- (1) In the event that no person might be elected or chosen to represent workers, the employer shall designate a workers' representative considering the risks present at work and the number of workers with special attention to balanced participation of workers. The number of representatives shall be identified in the following way:
 - a) One representative for enterprises between two and fifty workers.
 - b) Two representatives for enterprises between fifty one and one hundred workers.
 - c) Three representatives for enterprises between one hundred one and five hundred workers.
 - ç) Four representatives for enterprises between five hundred one and one thousand workers.
 - d) Five representatives for enterprises between one thousand one and two thousand workers.
 - e) Six representatives for enterprises between two thousand one and more workers.
- (2) Where there is more than one workers' representative, the chief representative shall be elected among the other workers' representative.
- (3) Workers' representatives shall have the right to ask the employer to take appropriate measures and to submit proposals to him to

that end to mitigate hazards for workers and/or to remove sources of danger.

- (4) Workers' representatives may not be placed at a disadvantage because of their respective activities and the employer shall provide them with the necessary means to enable such representatives to exercise their rights and functions.
- (5) Where there is an authorized trade union represented in the enterprise, the trade union representative shall act as workers' representative.

SECTION THREE

Council, Committee and Coordination

National Occupational Health and Safety Council

ARTICLE 21

- (1) A council has been set up to make recommendations on policies and strategies relevant to health and safety at work.
- (2) The council shall be headed by the Undersecretary of the Ministry and comprise the following persons or organizations:
 - a) General Director for Occupational Health and Safety, General Director of Labour, Head of the Labour Inspection Board and one general director from the Social Security Institution.
 - b) One general director from the Ministry of Science, Industry and Technology, Ministry of Environment and Urbanization, Ministry of Energy and Natural Resources, Ministry of Food, Agriculture and Livestock, Ministry of Development, Ministry of National Education and Ministry of Health.
 - c) A member from the executive board of the Council of Higher Education and a vice president from the State Personnel Presidency.
 - ç) The first three trade unions with the highest number of members representing employers, workers and public officials separately and one executive board member or any other relevant person from the The Union of Chambers and Commodity Exchanges of Turkey, Confederation of Turkish Craftsmen and Tradesmen, Turkish Medical Association, Union of Chambers of Turkish Engineers and Architects and Union of Turkish Chambers of Agriculture.
 - d) Two representatives at most, when needed, from organizations or institutions operating in the field of occupational health and safety upon the suggestion of Director General for Occupational Health and Safety and approval of the Council.
- (3) The members of the Council referred to in sub clause (e) of the second paragraph shall hold office for a period of two years and

the office of a member shall be vacant if the member is absent from two consecutive meetings.

- (4) The role of the secretariat of the Council shall be fulfilled by the Directorate General for Occupational Health and Safety.
- (5) The Council shall act by an absolute majority. In the event of equality of votes, the President shall have a casting vote. No one shall abstain from a vote.
- (6) The council shall hold two ordinary meetings a year. The council might hold emergency meetings upon the suggestion of the President or one third of members.
- (7) The operating principles and procedures shall be governed by the Ministry.

Occupational health and safety committee

ARTICLE 22

- (1) The employer shall set up an occupational health and safety committee in enterprises where a minimum of fifty employees are employed and permanent work is performed for more than six months. Employers are under the obligation to enforce the decisions of the occupational health and safety committees taken in accordance with the legislation on occupational health and safety.
- (2) In the event that main employer - sub contractor relation exceeds six months:
 - a) Where the contractor and sub-contractor have set up separate committees, the contractor shall ensure cooperation in the enforcement of decisions and maintenance of activities.
 - b) Where the contractor has set up a committee, the sub-contractor shall appoint by proxy an authorized representative to facilitate coordination.
 - c) The contractor who is not required to set up a committee shall appoint by proxy an authorized member to be represented in the committee set up by the sub-contractor to ensure cooperation and coordination.

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- ç) Where the contractor is not supposed to set up a committee and the sub-contractor employs more than fifty workers, the contractor and sub-contractor shall set up a joint committee provided that the cooperation is ensured by the contractor.
- (3) Where there is more than one employer in the same workplace and these employers set up more than one committee, these employers shall inform each other of the decisions of the committees which might affect one another.

Coordination of occupational health and safety

ARTICLE 23

- (1) Where there is more than one employer in the same work environment, the employers shall cooperate in the implementation of measures related to health and safety at work and occupational hygiene. The employers shall work in cooperation to prevent occupational risks and offer protection against such risks and inform each other and workers' representatives on these risks.
- (2) Where there is a business centre, office block, industrial zone or an industrial estate with more than one workplace, the management shall ensure cooperation in the field of occupational health and safety. The management shall advise the employers to take necessary measures against hazards that might affect the health and safety in other workplaces. The management shall notify the Ministry of the employers failing to take these measures.

SECTION FOUR

Inspection and Administrative Sanctions

Inspection, examination, investigation and authority, obligation and responsibility of the inspector

ARTICLE 24

- (1) The monitoring and inspection with regards to the implementation of this Law is carried out by the labour inspectors of the Ministry authorized to carry out occupational health and safety inspections. During the inspections and examinations to be carried out under this Law, the articles numbered 92, 93, 96, 97 and 107 of the Law numbered 4857 are implemented.
- (2) The Ministry has the authority to carry out occupational health and safety measurements, examinations and investigations, to take samples for this purpose and to control and inspect training institutions and common health and safety units. The authorized personnel in this respect are obliged to avoid interrupting the work as much as possible and to keep professional secrets of the employer and the workplace and what he/she sees and learns confidential. The procedures and principles of such control and inspection are regulated by the Ministry.
- (3) The audit and inspection of military workplaces and the workplaces producing materials for home security and the results of such inspection are carried out according to the regulations to be jointly prepared by the Ministry of National Defence and the Ministry of Labour.

Cease of operations

ARTICLE 25

- (1) In case of any situation found dangerous to workers' life in the premises, working methods or equipment, operations shall be stopped in the premises or any part of it, taking into account the nature of the hazard and the part of the premises and the workers to be affected by the hazard, until such hazard is eliminated. In addition, at the workplaces classified as very hazardous, mining,

metal and construction workplaces, workplaces where hazardous chemicals are used and the workplaces where serious industrial accidents may take place, the operations shall be stopped in case of a lack of risk assessment.

- (2) The group of three labour inspectors, authorized to carry out occupational health and safety inspection, carry out required examination based on the decision of the labour inspector authorized to carry out occupational health and safety inspection and may decide to stop the operations in the days following the date of the decision. However, in case the hazard requires urgent intervention, the labour inspector taking the decision shall stop the operations temporarily until a decision is taken by the group of inspectors.
- (3) The decision on cease of operations shall be sent in one day to the relevant local authority and to the Provincial Directorate of Labour and Employment which has the file of the workplace. The decision on the cease of operations is enforced in twenty four hours (**Annex expression: 4/4/2015-6645/2 Article**) by legal authority by means of the law enforcers. However, the cease of operations decision requiring urgent intervention is enforced (**Annex expression: 4/4/2015-6645/2 Article**) by legal authority by means of the law enforcers on the same day.
- (4) The employer may appeal the decision on the cease of operations through authorized labour court in six days following the enforcement of the decision. The appeal shall not affect the enforcement of the decision on the cease of operations. The court first evaluates the appeal and takes a decision in six working days. The court's decision is the final decision.
- (5) In case that the employer informs the Ministry in written form that the factors leading to cease of operations are not in place any more, there shall be another examination at the workplace in seven days at maximum in order to address the request of the employer.
- (6) The employer is obliged to make the payments of his workers unemployed due to the cease of operations or assign them to another job judging by their profession or situation on the condition that they are not paid less.

- (7) **(Annex: 4/4/2015-6645/2 Article)** In jobs classified as very hazardous and taken by procurement; technological development, increasing the workforce capacity, without providing a portion elements such as innovation in production methods life-threatening forms of work due to the force production by way act contrary to production and/or the manufacturing plan, work programs, considered as a reason to cease of operation.
- (8) **(Annex: 4/4/2015-6645/2 Article)** Employer and their representatives who make working without permission in ceased operations in the workplace is given a prison sentence from three years to five years.

Prohibition from public procurement due to fatal occupational accident

ARTICLE 25/A

(Annex: 4/4/2015-6645/3 Article)

In the mining workplace occurring fatal occupational accidents, as determined by the employer defected by the judgment, is prohibited for two years from participating in public procurement by the court with specified in the second paragraph of the Article 26 of Public Procurement Contracts Law dated 5/1/2002 and numbered 4735. A copy of the decision is sent to the Public Procurement Authority to be processed by the employer of record and shall be announced on the Authority's website.

Administrative fines and enforcement

ARTICLE 26

- (1) Within the scope of this Law, the administrative fines are as follows;
 - a) For the employer who violates the obligations laid down in lines (a) and (b) of the first paragraph of the Article 4, two thousand Turkish Lira per each obligation,
 - b) For the employer who does not employ an occupational safety specialist or occupational physician as foreseen in the first paragraph Article 6, five thousand Turkish Lira per each professional, the same amount per each month until it is corrected,



- for the employer who does not employ other health technician twothousandfivehundred Turkish Lira, the same amount per each month until it is corrected, for the employer who violates the obligations laid down in lines (b), (c) and (d) of the same paragraph, onethousandfivehundred Turkish Lira per each obligation, for the employer who violates the obligations laid down in line (ç) thousand Turkish Lira per each obligation,
- c) For the employer who violates the obligations laid down in the first and sixth paragraphs of the Article 8 onethousandfivehundred Turkish Lira per each obligation,
 - ç) For the employer who fails to do risk assessment or to have risk assessment done in accordance with the first paragraph of the Article 10, threethousand Turkish Lira, fourthousandfivehundred Turkish Lira per each month until it is corrected, for the employer who violates the obligations laid down in the fourth paragraph, onethousandfivehundred Turkish Lira,
 - d) For the employer who violates the Articles 11 and 12, onethousand Turkish Lira per each obligation violated and the same amount per each month until it is corrected,
 - e) For the employer who violates the obligations laid down in the first paragraph of the Article 14, onethousandfivehundred Turkish Lira per each obligation, for the obligations in the second paragraph twothousand Turkish Lira, for the health service providers or authorized health service providers who violate the obligations laid down in the fourth paragraph twothousand Turkish Lira,
 - f) For the employer who violates the obligations laid down in the first and second paragraphs of the Article 15, onethousand Turkish Lira per each worker who hasn't gone through health surveillance or who doesn't have a health report,
 - g) For the employer who violates the obligations laid down in the Article 16, onethousand Turkish Lira per each uninformed worker,
 - ğ) **(Amendment: 4/4/2015-6645/4 Article)** The employer who doesn't carry out the obligations stated in 17. Article, 500 Turkish Liras for each nonconformity per employee,

- i) For the employer who violates the obligations laid down in the first and fourth paragraphs of the Article 20 onethousand Turkish Lira, for the obligations laid down in the third paragraph onethousandfivehundred Turkish Lira,
- i) For the employer who violates the obligations laid down in the Article 22, twothousand Turkish Lira per each obligation,
- j) For the management which violates the notification obligations laid down in the second paragraph of the Article 23, fivethousand Turkish Lira,
- k) For the employer who prevents measurement, examination and investigation, taking samples in terms of occupational health and safety or checks and audits of training institutions and common health and safety units laid down in the second paragraph of the Article 24, fivethousand Turkish Lira,
- l) **(Amendment: 4/4/2015-6645/4 Article)** The employer who doesn't carry out the obligations stated in 6. Sub-Article of 25. Article, 1000 Turkish Liras for each employee whose right violated, the same amount per month that the violation continues,
- m) For the employer who fails to prepare serious accident prevention policy document in accordance with the Article 29 fiftythousand Turkish Lira, for the employer who prepares safety report but fails to submit to the Ministry before starting the operations, the employer who starts the operations without getting the permit from the Ministry or the employer who maintains the operations ceased by the Ministry, eightythousand Turkish Lira,
- n) For the employer who violates the obligations laid down in the regulations mentioned in Article 30, onethousand Turkish Lira per each provision violated per month following the date of detection of the violation.
- o) **(Annex: 4/4/2015-6645/4 Article)** The employers who doesn't supply CE marked personal protective equipment, 500 Turkish Liras per employee,
- ö) **(Annex: 4/4/2015-6645/4 Article)** The employer who doesn't set up a tracking system which shows the place of the employ-

ees and the direction of enters and exits, 500 Turkish Liras per employee.

- (2) **(Amendment: 4/4/2015-6645/4 Article)** The administrative fines defined in this law except for the administrative fines which are applied to ones who don't carry out the declaration obligation stated in 14 article of this Law, are conducted by the province director of Provincial Directorates of Labour and Employment, thereby the reasons are stated. The administrative fines, except for the administrative fines applied to the ones who don't carry out the declaration obligation stated in 14 article of this Law, are registered as income to the national budget. The administrative fines which are applied to ones, who don't carry out the declaration obligation stated in 14 article of this Law, are directly paid to Social Security Institution. In case of the declaration, objection and collection of administrative fines conducted by Social Security Institution, decrees of 102 article of Law No 5510 applied. The other administrative fines shall be paid in 30 days. The administrative fines also can be applied on the state institutions and organizations which aren't legal entity.
- (3) **(Annex: 4/4/2015-6645/4 Article)** Within the scope of this article, the administrative fines are as follows,
- a) For the management with fewer than ten workers;
 - 1) Same amount to classified as less hazardous,
 - 2) Twenty-five percent increase in amount to classified as hazardous,
 - 3) Fifty percent increase in amount to classified as very hazardous,
 - b) For the management having between ten and forty-nine workers,
 - 1) Same amount to classified as less hazardous,
 - 2) Fifty percent increase in amount to classified as hazardous,
 - 3) One hundred percent increase in amount to classified as very hazardous,
 - c) For the management fifty or more workers,

- 1) Fifty percent increase in amount to classified as less hazardous,
 - 2) One hundred percent increase in amount to classified as hazardous,
 - 3) Two hundred percent increase in amount to classified as very hazardous,
shall apply.
- (4) **(Annex: 4/4/2015-6645/4 Article)** the administrative fines shall not apply in the event of cease of work due to related to actions that caused the suspension.
- (5) **(Annex: 4/4/2015-6645/4 Article)** the provisions of the third paragraph shall not apply in administrative fines which multiplied with the number of employees.
- (6) **(Annex: 4/4/2015-6645/4 Article)** The administrative fines collected in accordance with this Law shall be used in spending on education and research and development projects related to occupational health and safety except for applying for the management which violates the notification obligations laid down in the Article 14. The appropriations needed for this purpose is provided for in the Ministry's budget. These allowances and the relevant procedures and principles shall determine by jointly with the Ministry of Finance and the Ministry.

Cases for which no provision exists and exemption

ARTICLE 27

- (1) Save for the legal provisions that the workers are subject to, for the cases for which there are no provisions in this Law, the provisions of the Law numbered 4857, which are in compliance with this Law shall apply.
- (2) The papers issued in accordance with this Law are exempted from stamp tax and the transactions are exempted from fees.
- (3) The Ministry shall ask for and archive any document or data related to the work or transactions to be done according to this Law via electronic or similar media and shall confirm, authorize, inform and issue documents via these media.

SECTION FIVE

Miscellaneous and Temporary Provisions

Prohibition of using drugs

ARTICLE 28

- (1) It is forbidden to come to the workplace drunk or on drugs and to drink alcohol or use drugs in the workplace.
- (2) The employer has the authority to determine in which cases, when and under which conditions alcohol can be consumed in the premises.
- (3) The prohibition of drinking is not applicable to the following workers:
 - a) The workers employed in workplaces producing alcoholic drinks and assigned to inspect what is produced.
 - b) The workers who have to drink alcohol due to the requirements of their job in workplaces where alcohol is sold either in closed bottles or open ones.
 - c) The workers who have to drink alcoholic drinks with the customers due to the nature of their job.

Safety report or serious accident prevention policy document

ARTICLE 29

- (1) For workplaces where a serious industrial accident can take place, the employer shall prepare a serious accident prevention policy document or safety report based on the size of the workplace before starting the operations.
- (2) The employer shall start operations in the workplace following the examination of the safety report of the workplace in terms of the content and competency by the Ministry.

Regulations related to occupational health and safety

ARTICLE 30

- (1) The following issues as well as the procedures and rules related

to them shall be set out by the regulations to be prepared by the Ministry:

- a) With the aim of ensuring, maintaining and improving occupational health and safety by consulting the relevant ministries, the issues that may require specific regulation such as; premises, work equipment, the materials used or produced in every phase of the work, working environment and conditions, work equipment, works and workplaces which involve specific risks, employment of groups which require specific policy, night work and shift work based on the nature of the work done, works that should be done for shorter time due to health reasons, working conditions of pregnant and nursing women, establishing breast feeding rooms and day-care dormitories or having external services as well as notifications and permits related to them and other issues with regards to implementation of this Law.
- b) In relation to occupational health and safety services;
 - 1) The workplaces where occupational health and safety units shall be established based on the number of workers and the hazard classification, the physical conditions and the equipment that should be available in such units.
 - 2) The qualifications, employment, appointment, duty, authority and responsibilities of occupational physicians, occupational safety specialist and other health technicians to be employed in workplace health and safety units and common health and safety units, the procedures as to how they should carry out their duties, minimum working hours based on the number of workers and the hazard class of the workplace, the procedures of notification of hazardous situations at the workplace, the workplaces where they can be employed according to the certificates they have.
 - 3) Duty, authority and obligations, certification and authorization of people and institutions providing occupational health and safety services, health surveillance and health reports to be provided within such services, physical conditions, staff and equipment that should be available in such institutions.



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- 4) The conditions under which the services will be received from people and institutions providing occupational health and safety services based on the workplace hazard classification and the number of workers; the number of staff to be assigned or employed, the duration of services to be provided and the conditions under which the employer can undertake the assigned duties himself.
 - 5) The training and certification of occupational physicians, occupational safety specialist and other health technicians, the classification of the certificates to which they are entitled based on their titles, certification and authorization of the institutions training occupational physicians, occupational safety specialist and other health technicians, appointment and certification of the training schedule and the trainers of such training institutions, the tests to be taken at the end of such trainings and certificates to be issued.,
 - 6) **(Annex: 10/9/2014-6552/18 Article)** The points related to the duration of training, qualifications of trainers, assignments and training programs for occupational health and safety in the enterprises employing fewer than ten workers and classified as less hazardous.
 - c) In relation to risk assessment; the workplaces where risk assessment shall be done and how, setting down the qualification of people and institutions to carry out risk assessment, providing the required permit and cancellation of the permits.
 - ç) By consulting Ministry of Health, the checks, examination and investigation required for personal exposure and working environment stipulated by this Law, procedures and rules of physical, chemical and biological factor measurements and laboratory analysis, setting up the required qualification of people and institutions providing such measurements and analysis, authorization and cancellation of authorization as well as authorization and certification costs.
 - d) Preparation of an emergency plan based on the nature of the work done, the number of workers, the size of the workplace, materials produced and stored, working equipment and loca-

- tion of the workplace, prevention, protection, evacuation, first aid and people to be assigned for such issues.
- e) Training sessions to be organized for workers and their representatives, certification of these training sessions, qualifications of people and institutions providing occupational health and safety training, work requiring professional training.
 - f) Composition of the council, its duty, authority, rules and procedures, the coordination and cooperation among the councils in case there are more than one council.
 - g) **(Amendment: 4/4/2015-6645/5 Article)** the cease of operations at the workplace, the workplaces where the operations shall be stopped in case of lack of risk assessment, temporary lift of closure with the aim of eliminating the reasons leading to cease of operations, conditions under which resume of operations can be allowed, the issues requiring urgent cease at the workplaces classified as very hazardous mainly in the mining and construction, implementation of the measures to be taken until the decision on cease of operations shall be taken in urgent cases.
 - ğ) Jointly with the Ministry of Environment and Urbanisation, measures to be taken in order to prevent serious industrial accidents and mitigating their effects, determination and classification of the workplaces where serious industrial accidents may take place, preparation and implementation of serious accidents prevention policy document and safety report, the cease of operations and allowing maintaining of operations in case of lack of safety report, failing to send it to the Ministry or its being found incompetent by the Ministry.
- (2) Training schedule for occupational physician and other health technician stipulated in the regulations to be published on occupational physician and other health technician in compliance with the line (b) of the first paragraph, duration of their work, the Ministry of Health is consulted on the issues of duties and authority.
- (3) **(Annex: 4/4/2015-6645/5 Article)** The procedures and principles regarding the technical specifications about refuge chambers in which mining workplaces can be established is arranged by the regulation issued by Ministry within a year. These specifications

are determined in accordance with national and international standards.

Certification, notice and cancellation

ARTICLE 31

(1) Authorization and certification costs of people, institutions and training institutions which provide occupational health and safety services, conduct measurements and analysis, the registration of rules imposed on such people and institutions as slight, medium and severe notice in case of violation, suspending of and procedures and principles of cancellation of the authorization certificates directly or considering notice points, are regulated by the Ministry.

Amended provisions

ARTICLE 32

Of the Labour Law numbered 4857 and dated 22/5/2003;

- a) The last sentence of the first paragraph of the Article 7 is amended as follows: “Having established a temporary business relation, the employer has the right to give instructions to the worker.”
- b) The expression in the sub clause (d) of line (II) in the first paragraph of Article 25 “or violating the Article 84” has been replaced as follows: “, coming to the workplace drunk or on drugs and to drink alcohol or use drugs in the workplace”.
- c) The following clause is added in the third paragraph of the Article 7, just after “light work”: “, the jobs where youngsters over sixteen but under eighteen can be employed”.

ARTICLE 33

The posts of “Chief Labour Inspector”, belonging to the Ministry of Labour and Social Security on the table (I) which is an annex to Decree Law on General Posts and Procedures dated 13/12/1983 and numbered 190, has been changed as “Chief Inspector of Labour”.

ARTICLE 34

The posts on the tables (I), (II) and (III) in the annex are formed and added on the table (I) which is an annex to Decree Law numbered

190 under the section of Ministry of Labour and Social Security, the posts in the table (IV) in the annex are cancelled and taken out of the table (I) which is an annex to Decree Law numbered 190 under the section of Ministry of Labour and Social Security.

ARTICLE 35

The article has been added to the Law on Public Officers dated 14/7/1965 and numbered 657.

ARTICLE 36

The following article has been added to the Law on Organization and Duties of Ministry of Labour and Social Security dated 9/1/1985 and numbered 3146:

“Obligation of broadcasting

ADDITIONAL ARTICLE 2

Turkish Radio and Television Corporation as well as national, regional, and local private television channels and radios shall broadcast programs of warning and didactic content in relation to occupational health and safety, elimination of black economy in working life, social security, employer and worker relations for at least sixty minutes a month. These programs shall be broadcasted at 08:00-22:00, at least thirty minutes to be broadcasted at 17:00-22:00, and the copies of the broadcasts shall be regularly submitted to the High Council of Radio and Television every month. The broadcasts beyond these hours shall not be counted within sixty minutes of broadcast per month. The Ministry and affiliated and relevant institutions, High Council of Radio and Television and other relevant public institutions and scientific institutions, professional organizations with public institution status or civil society organizations shall prepare or have somebody else prepare such programs. The programs, following the confirmation of the Ministry, shall be broadcasted on radio and television channels by the High Council of Radio and Television.

The broadcasts within the scope of this article shall be free of charge. The supervision of such broadcasts and their duration shall be performed by the High Council of Radio and Television.”

Abolished provisions

ARTICLE 37

The following provisions of the Law numbered 4857 have been abolished:

- a) fourth paragraph of the Article 2.
- b) fourth paragraph of the Article 63.
- c) fourth, fifth and sixth paragraphs of the Article 69.
- ç) the Articles 77, 78, 79, 80, 81, 83, 84, 85, 86, 87, 88, 89, 95, 105 and temporary article 2.

The following expressions are left out of the text: “Saving for occupational health and safety provisions” in line (f) of the first paragraph of the Article 4 of the Law numbered 4857 and “under the scope of the article 85, onethousand New Turkish Lira per each worker employed”.

References

TEMPORARY ARTICLE 1

- (1) References included in other pieces of legislation to the Law numbered 4857 are considered as references to this Law.

Current regulations

TEMPORARY ARTICLE 2

- (1) Provisions in regulation which have been enacted pursuant to articles 77, 78, 79, 80, 81 and 88 of the Law numbered 4857 which are not in violation of this Law, shall remain in force until the regulations foreseen in this Law enter into force.

Medical reports

TEMPORARY ARTICLE 3

- (1) Periodic medical reports which were given out to workers previously in accordance with the Law numbered 4857 and other pieces of legislation shall remain valid until the expiry date.

Requirement to appoint occupational safety specialist

TEMPORARY ARTICLE 4

- (1) **(Amendment: 4/4/2015-6645/6 Article)** The requirement of employing an occupational safety expert with (a) class certificate in enterprises classified as very hazardous and mentioned in article 8 of this Law shall be deemed as met on condition that an occupational safety expert with (B) class certificate is employed in these enterprises until 1/1/2018; the requirement of employing an occupational safety expert with (B) class certificate in enterprises classified as hazardous shall be deemed as met on condition that an occupational safety expert with (C) class certificate is employed in these enterprises until 1/1/2017.
- (2) **(Annex: 12/7/2013-6495/55 Article)** The Ministry, with the condition to determine the procedures and principles, is authorized to make the necessary arrangements for whom have occupational expert certificate concerning the granting the right to a maximum two exams on the condition to be used within one year from the date of entry into force of paragraph taking into account the issues such as the days of premium have been paid to Social Security Institution and class of certificate that they have in order to get the certificate in the upper classes.
- 3) **(Annex: 4/4/2015-6645/6 Article)** The rights of occupational safety experts who enter the certificate upgrade exam and eligible to get the certificate according to second paragraph are reserved.

Existing certificates and documents, and warning points

TEMPORARY ARTICLE 5

- (1) Of the persons who hold occupational physician's, occupational safety specialist's and occupational nurse's certificate or document issued by the Ministry or occupational physician's certificate given out by the Turkish Medical Association before the date of issuance of this Law, those whose certificates were deemed invalid can exercise all rights and authority conferred upon by this Law on condition that they replace their existing document or certificate with the document to be issued by the Ministry within one year as of the issuance of this Law. Of the persons who completed

a training programme provided by training institutions for occupational physicians and occupational safety specialists before the above-mentioned date, those whose training was deemed invalid shall be awarded the right to enter the examination in accordance with the relevant piece of legislation. Records of the Ministry shall be deemed as privileged for determining the ownership of right.

- (2) Warning points given to training institutions and common health and safety units for which no final court order was delivered before the issuance of this Law shall be transferred to the upcoming new regulation exactly as they are in records.

Payments to physicians employed as occupational physicians in public institutions

TEMPORARY ARTICLE 6

- (1) Public sector employees cannot be subject to administrative or financial procedures or prosecution due to payments made to occupational physicians from public institutions and organisations as well as local governments; any initiated procedure or prosecution shall be annulled; these payments cannot be collected or compensated retrospectively.

TEMPORARY ARTICLE 7

- (1) As of the issuance of this Law, those persons who are assigned in the posts of Chief Labour Inspector shall be considered as assigned to the posts of Chief Inspector for Labour without requiring any procedure.

TEMPORARY ARTICLE 8

- (1) Duties of the persons holding the titles of the Director of the Institute for Worker's Health and Occupational Safety and the Deputy Director of the Institute for Worker's Health and Occupational Safety under the Central Directorate of Occupational Health and Safety on the date of the issuance of this Law shall end on the day this Law has been issued and they shall be reassigned to other posts suitable to their degrees and levels within at least one month. They shall, until they are reassigned to their new posts, continue to receive their salaries, additional indicators

and all kinds of raises and compensations as well as other financial rights related to their old posts. In the event that the total net amount (this amount is considered as a fixed value) of the salaries, additional indicators, all kinds of raises and compensations paid as well as additional payments and all other payments made under similar names (with the exception of overtime and additional course payments made for work performed actually pursuant to the relevant legislation) to the personnel in question within the last month related to their old posts as of their reassignment is higher than the total net amount of the salaries, additional indicators, all kinds of raises and compensations paid as well as additional payments and all other payments made under similar names (with the exception of overtime and additional course payments made for work performed actually pursuant to the relevant legislation) related to their new posts; the difference between the two amounts shall be paid separately as compensation as long as the difference remains without being subject to any tax or deduction. Payment of the reassignment compensation shall be stopped for those whose post titles were changed upon their own request and those who were reassigned to other institutions upon their own request.

- (2) Assignments may be made to the vacant posts, which are included in the annexed list of posts created for this Law, of 20 Occupational Health and Safety specialists, 100 Assistant Specialists on Occupational Health and Safety, 40 Civil Servants, 40 Data Preparation and Control Operators and 10 Engineers within the year 2012 without being subject to the limitations under the Central Government Budget Law for the year 2012 dated 21/12/2011 and numbered 6260.

TEMPORARY ARTICLE 9
(Annex: 4/4/2015-6645/7 Article)

- (1) Having added (ö) of the first paragraph of Article 26 of this Law shall be implemented by the date of 01.01.2016.

Enforcement

ARTICLE 38

- (1) a) **(Annex: 2/7/2013-6495/56 Article)** Articles 6, and 7 of this Law shall enter into force
- 1) The date of 01.07.2016 for public institutions excepting employees within the scope of (repealed) Article 81 of the Law numbered 4857 and enterprises where less than 50 workers and which are classified as less hazardous;
 - 2) One year as of the date of issuance for enterprises where less than 50 workers are employed and which are classified as hazardous and very hazardous;
 - 3) Six months as of the date of issuance for other enterprises,
- b) Articles 9, 31, 33, 34, 35, 36 and 38 as well as temporary articles 4, 5, 6, 7 and 8 shall enter into force on the date of issuance,
- c) Other articles shall enter into force six months as of the date of issuance.

Execution

ARTICLE 39

- (1) The provisions of this Law shall be implemented by the Cabinet.



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