

## LAW

## OCCUPATIONAL HEALTH AND SAFETY LAW

Law No. 6331Date of Issuance: 20/6/2012

## 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 in their own name and on their own account without employing workers.

d) Prison workshop, training, security and vocational course activities within the framework of improvements carried out throughout the enforcement services for convicts and inmates.

**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 and the like;

ç) Support staff: any person with appropriate equipment 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, universities and enterprises established by companies operating in accordance with the Turkish Code of Commerce authorised by the Ministry to provide training for occupational safety specialists, occupational physicians and other health-care personnel;

e) Young worker: any worker who is of at least fifteen years of age but less than eighteen years of age;

f) 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 physical or mental impairment 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;

ı) 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) Joint 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;
  - 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 class: 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) 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;
- d) take into consideration the worker's capabilities as regards health and safety where he entrusts tasks to a worker;
- e) take appropriate measures to ensure that workers other than those who have received adequate information and instructions are denied access to areas where there is life-threatening and special hazard.

(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.
- d) adapting the work to the individual, especially as regards the design of work places, the choice of work equipment and the choice of work and production methods, with a view, in particular, to avoiding or minimizing if cannot be avoided, the adverse effects of monotonous work and work at a predetermined work-rate on health and safety
- e) adapting to technical progress.
- f) 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
- h) giving collective protective measures priority over individual protective measures
- i) 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 joint health and safety unit to partially or fully provide these services. Provided that the employer has the required qualifications and documents, these services can be offered by the employer considering the hazard class and the number of workers.
- b) meet the need for means, space and time to help designated people or organizations fulfil their duties.
- c) ensure cooperation and coordination among all people and bodies responsible for providing health and safety services at workplaces
- d) implement measures related to occupational health and safety and that are in accordance with the legislation and notified in writing by the designated persons or organizations providing services
- e) 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.

#### **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.
- d) 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.
- e) 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 carry out 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.
- d) 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) Occupational physicians and occupational safety specialists shall inform the employer in writing of the main occupational health and safety measures required to be taken in the undertaking or enterprise. In case the employer fails to implement any of these measures against life-threatening hazards, the occupational physician shall

notify the Ministry of this situation.

(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 designated 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 sector-specific arrangements for the designation of occupational safety specialists and occupational physicians.

(6) In the event that it is required to hire full time occupational physicians and safety specialists due to the working hours, the employer 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 duration indicated in their contract and they have the required certification. 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 joint 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 class to enterprises.

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

#### **Risk assessment, control, measurement and research**

**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 be affected by certain risks.
- b) Choice of work equipment, the chemical substances or preparations used.
- c) Workplace organization and housekeeping.
- d) 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 the occupational health and safety measures to be taken as well as the protective gear or equipment to be used a consequence of the risk assessment.

(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 research are carried out to identify the risks which are linked to the working environment and to which the workers are exposed.

#### **Emergency plans, fire-fighting and first aid**

**ARTICLE 11** – (1) The employer shall;

a) assess the foreseeable emergency situations which could arise and identify those that might possibly and 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 adequately equipped 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.

d) 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) for as long as the situation remains unchanged and unless there is a strict necessity; not ask workers, except for those who are adequately equipped and specially assigned to do so, to resume work.

(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.

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 class of the enterprise.
  - (2) Workers to be employed in enterprises classified as hazardous and very hazardous shall receive a medical report before employment.
  - (3) Medical reports required to be received as per this law shall be obtained from occupational physician working in workplace health and safety unit or joint health and safety unit. Any objection to the medical reports shall be filed to an adjudicator hospital assigned by the Ministry of Health. The decision made by the hospital shall constitute the definitive judgement.
  - (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 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. Furthermore; 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 occupational health and safety, 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 enlistment, 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.

d) Worker information.

e) The planning of training to be provided to workers.

(3) Workers and/or their representatives are entitled to appeal 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 occupational health and safety. 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 related to occupational health and safety 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 and protect themselves.

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 occupational health and safety 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 main 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.

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 Services**

**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 occupational health and safety 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 occupational 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 joint 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 two 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 by the local authority. However, the cease of operations decision requiring urgent intervention is enforced by the local authority 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.

#### **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, twothousand 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, fivethousand 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) For the employer who violates the obligations laid down in the first seven paragraphs of the Article 17, onethousand Turkish Lira per each worker,

h) For the employer who violates the obligations laid down in the Article 18, onethousand Turkish Lira per each obligation,

ı) 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 joint health and safety units laid down in the second paragraph of the Article 24, fivethousand Turkish Lira,

l) For the employer who fails to comply with the cease of operations in accordance with the Article 25, in the whole workplace or any part of it, and maintains the operations without ensuring the conditions foreseen by the regulation, tenthousand Turkish Lira even if the act constitutes another crime, for the employer who violates the obligations laid down in the sixth paragraph, onethousand Turkish Lira per each worker subjected to violation, the same amount per each month until it is corrected,

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.

(2) The administrative fines, mentioned in this Law, shall be issued by the Provincial Director of Labour and Business. The issued administrative fine shall be paid in thirty days after it is communicated. Administrative fines can be issued on public institutions which do not have legal entity as well.

#### **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 class, 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 joint 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.

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 class 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.

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, controls, 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 location 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) Jointly with the Ministry of Interior, 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, 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.

#### **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 works”, “, 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 expression of “Director of Worker’s Health and Safety Institute” has been replaced by “Director of Occupational Health and Safety Institute” under the section of “4. In Prime Minister’s Office and Ministries” on the table (II) which is an annex to the Public Officers Law 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: “Without prejudice to the provisions for occupational health and safety” 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) The requirement of employing an occupational safety specialist 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 specialist with (B) class certificate is employed in these enterprises for four years as of the entry into force of this Law; the requirement of employing an occupational safety specialist with (B) class certificate in enterprises classified as hazardous shall be deemed as met on condition that an occupational safety specialist with (C) class certificate is employed in these enterprises for three years as of the entry into force of this Law.

#### **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 joint 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.

#### **Enforcement**

##### **ARTICLE 38** – (1)

a) Articles 6, 7 and 8 of this Law shall enter into force

1) Two years as of the date of issuance for public institutions 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.