

THE GOVERNMENT

No: 152/2006/ND-CP

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

Hanoi, December 22, 2006

DECREE

**GUIDING A NUMBER OF ARTICLES OF THE LAW ON SOCIAL INSURANCE
REGARDING COMPULSORY SOCIAL INSURANCE**

THE GOVERNMENT

*Pursuant to the December 25, 2001 Law on Organization of the Government;
Pursuant to the June 29, 2006 Law on Social Insurance;
At the proposal of the Minister of Labor, War Invalids and Social Affairs,*

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- This Decree guides a number of articles of the Law on Social Insurance regarding compulsory social insurance for Vietnamese cadres, public employees, public servants and laborers working under labor contracts.

Article 2.- Laborers participating in compulsory social insurance provided in this Decree include:

1. Cadres, public employees and public servants as defined by the law on cadres and public employees;
2. Persons working under labor contracts of indefinite term or labor contracts of a term of full 3 months or longer as defined by the labor law, including managers and laborers working for cooperatives or unions of cooperatives and enjoying wages under labor contracts of a term of full 3 months or longer;
3. Laborers who are defense workers and police workers working in armed forces enterprises.

4. Laborers who have participated in compulsory social insurance but have not yet received a lump-sum social insurance benefit before going to work overseas for a definite term in accordance with the law on Vietnamese laborers working overseas under contracts of the following types:

a/ Contracts signed with non-business organizations or enterprises permitted to provide the service of sending laborers to work overseas, enterprises sending laborers to work overseas in the form of probation and skill improvement, and enterprises making offshore investment and sending laborers to work overseas.

b/ Contracts signed with Vietnamese enterprises that have successfully bid for or entered into contracts to be executed overseas.

c/ Individual contracts.

The subjects defined in this Article are collectively referred to as laborers.

Article 3.- Employers participating in compulsory social insurance provided in this Decree include:

1. Enterprises established and operating under the Enterprise Law, including armed forces enterprises.

2. State agencies, non-business units of the State.

3. Political organizations, socio-political organizations, socio-professional-political organizations, socio-professional organizations, other social organizations.

4. Organizations and units operating in accordance with law.

5. Cooperatives, unions of cooperatives set up and operating under the Cooperative Law.

6. Individual business households, cooperative groups, other organizations and individuals hiring, employing and paying wages to laborers.

7. Foreign agencies, organizations and individuals, international organizations operating in the Vietnamese territory and employing

Vietnamese, unless otherwise provided for by treaties to which the Socialist Republic of Vietnam has signed or acceded.

Article 4.- Social insurance regimes provided in this Decree include:

1. Sickness.
2. Maternity.
3. Labor accident, occupational disease.
4. Retirement.
5. Survivorship allowance.

Laborers specified at Points a and c, Clause 4, Article 2 of this Decree shall only implement the regimes of retirement and survivorship allowance.

Article 5.- State management agencies in charge of social insurance defined in Article 8 of the Law on Social Insurance are specified as follows:

1. The Government shall perform the uniform state management of social insurance, direct the formulation, promulgation and implementation of legal documents, regimes and policies on social insurance.
2. The Ministry of Labor, War Invalids and Social Affairs shall take responsibility before the Government for performing the state management of social insurance, including:
 - a/ Assuming the prime responsibility for, and coordinating with ministries, branches and organizations in studying, formulating and submitting to competent state agencies for promulgation or promulgating according to its competence legal documents on social insurance;
 - b/ Assuming the prime responsibility for, and coordinating with ministries and branches in conducting statistical work, communicating and disseminating regimes, policies and law on social insurance;
 - c/ Inspecting the implementation of the law on social insurance;
 - d/ Performing the function of specialized inspection of social insurance;

e/ Undertaking international cooperation in the domain of social insurance in accordance with law;

f/ Organizing training in social insurance;

g/ Annually, reporting to the Prime Minister on the implementation of social insurance.

3. Ministries, ministerial-level agencies and government-attached agencies shall, within the ambit of their respective tasks and powers, perform the state management of social insurance, including:

a/ Coordinating with the Ministry of Labor, War Invalids and Social Affairs and concerned ministries and branches in formulating social insurance laws and policies;

b/ Overseeing and supervising the implementation of social insurance regimes, policies and law according to their respective competence;

c/ Reporting to competent agencies on social insurance issues within their respective ambit and powers of state management.

4. People's Committees of provinces and centrally run cities shall perform the state management of social insurance within their respective localities. Provincial-level Labor, War Invalids and Social Affairs Services shall assist People's Committees of provinces and centrally run cities in performing their function of state management of social insurance, including:

a/ Monitoring and deploying the implementation of the law on social insurance;

b/ Assuming the prime responsibility for, or coordinating with concerned agencies in supervising and inspecting the implementation of social insurance regimes and policies;

c/ Proposing concerned ministries and branches to settle social insurance issues falling within the latter's competence;

d/ Annually, sending reports to the Ministry of Labor, War Invalids and Social Affairs on the implementation of the law on social insurance.

Article 6.- The social insurance inspectorate defined in Article 10 of the Law on Social Insurance is specified as follows:

1. The Labor, War Invalids and Social Affairs Inspectorate conducting specialized inspection of social insurance shall have the following tasks:

a/ Inspecting the implementation of social insurance regimes, policies and law;

b/ Inspecting the sources of formation, management and use of social insurance funds;

c/ Verifying, concluding and proposing the settlement of social insurance-related complaints and denunciations in accordance with law;

d/ Sanctioning according to its competence acts of violation of the law on social insurance and proposing functional agencies to handle those acts;

e/ Providing professional guidance and training on specialized inspection of social insurance.

2. Subject to specialized inspection of social insurance are:

a/ Employers defined in Article 3 of this Decree;

b/ Laborers defined in Article 2 of this Decree;

c/ Social insurance organizations at all levels;

d/ Organizations and individuals involved in the implementation of the law on social insurance.

Article 7.- Prohibited acts defined in Article 14 of the Law on Social Insurance are specified as follows:

1. Regarding payment of social insurance premiums:

a/ Failing to pay social insurance premiums;

b/ Paying social insurance premiums not at prescribed levels;

c/ Paying social insurance premiums not on prescribed schedule;

d/ Paying social insurance premiums insufficiently for all persons eligible for social insurance.

2. Forging dossiers in the implementation of social insurance, including:

a/ Making false declarations or making modifications or deletions to falsify the contents related to the payment of social insurance premiums or enjoyment of social insurance benefits;

b/ Forging documents for insertion into dossiers for enjoyment of social insurance benefits;

c/ Issuing certificates in contravention of regulations as a basis for enjoying social insurance benefits.

3. Using social insurance funds for improper purposes and in contravention of policies and regimes.

4. Committing troubling and harassing acts, thereby causing damage to legitimate rights and interests of laborers and employers, including:

a/ Deliberately troubling and hindering the payment of social insurance premiums or enjoyment of social insurance benefits by laborers;

b/ Failing to issue or return social insurance books to laborers according to regulations.

5. Making false reports, supplying false information and data on social insurance.

Chapter II

SOCIAL INSURANCE REGIMES

Section 1. SICKNESS REGIME

Article 8.- Laborers specified in Clauses 1, 2, 3 and at Point b, Clause 4, Article 2 of this Decree are entitled to the sickness regime when:

1. Taking leave due to sickness or accident and having the certification of a medical establishment.

In case of taking leave due to sickness or accident because of self-infliction, drunkenness, abuse of drug or other addictives, laborers are not entitled to the sickness regime.

2. Taking leave to take care of under-seven children who get sick and have a certification of a medical establishment.

Article 9.- Period for enjoying the sickness regime under Article 23 of the Law on Social Insurance is specified as follows:

1. The maximum period for enjoying the sickness regime in a year defined in Clause 1, Article 23 of the Law on Social Insurance is calculated according to working days, excluding public holidays, New Year holidays and weekends. This period is counted from January 1 to December 31 of the calendar year, irrespective of laborers' time of starting to participate in social insurance.

2. For laborers working under normal conditions, doing heavy, hazardous or dangerous occupations or jobs or working regularly in regions with a regional allowance coefficient of 0.7 or higher the maximum period for enjoying the sickness regime in a year is specified in Clause 1, Article 23 of the Law on Social Insurance.

The lists of extremely heavy, hazardous and dangerous occupations and jobs and heavy, hazardous and dangerous occupations and jobs shall be promulgated by the Ministry of Labor, War Invalids and Social Affairs and the Ministry of Health.

The list of geographical areas with regional allowance coefficients of 0.7 or higher shall be promulgated by the Ministry of Home Affairs, the Ministry of Labor, War Invalids and Social Affairs, the Ministry of Finance and the Nationality Committee.

Article 10.- The period for enjoying the regime upon sickness of children under Article 24 of the Law on Social Insurance is specified as follows:

1. The period for enjoying the regime upon sickness of a child in a year shall be calculated according to the provisions of Clause 1, Article 9 of this Decree and depend on the number of days taking care of the sick child and be 20 working days at most if the sick child is under 3 years old, or 15

working days at most if the sick child is between full 3 years and under 7 years old.

2. When both parents are covered by social insurance, if their child is still sick after either of them has spent the whole period for enjoying the regime, the other parent is entitled to the regime according to the provisions of Clause 1 of this Article.

Article 11.- Salary or remuneration levels on which social insurance premiums are based serving as a basis for calculating the sickness regime under Clause 1 and Clause 2, Article 25 of the Law on Social Insurance are specified as follows:

1. The salary or remuneration level on which social insurance premiums are based serving as a basis for calculating the sickness regime is the salary or remuneration of the month preceding the leave on which social insurance premiums are based.

2. If a laborer enjoys the sickness regime right in the first month of participating in social insurance, the salary or remuneration level on which social insurance premiums are based serving as a basis for calculating the sickness regime is the salary or remuneration of that month.

Article 12.- Convalescence and health rehabilitation after sickness under Article 26 of the Law on Social Insurance are specified as follows:

1. Laborers who remain weak after the period of enjoying the sickness regime under the provisions of Article 23 of the Law on Social Insurance are entitled to convalescence and health rehabilitation.

2. The period of convalescence and health rehabilitation in a year includes also public holidays, New Year days, weekends and travel days, if laborers have convalescence and health rehabilitation at a rest home. The number of days for convalescence and health rehabilitation shall be decided by employers and the grassroots or provisional trade union executive committee, specifically as follows:

a/ Ten days at most, if laborers remain weak after the period of sickness due to a disease requiring a long period of treatment;

b/ Seven days at most, if laborers remain weak after a period of sickness and surgery;

c/ Five days for other cases.

3. The daily benefit level:

a/ Equivalent to 25% of the common minimum salary, if laborers have convalescence and health rehabilitation at home;

b/ Equivalent to 40% of the common minimum salary, if laborers have convalescence and health rehabilitation at a rest home; this benefit level covers travel cost, meals and accommodation.

Section 2. MATERNITY REGIME

Article 13.- The maternity regime covers laborers specified in Clauses 1, 2, 3 and at Point b, Clause 4, Article 2 of this Decree.

Article 14.- Conditions for enjoying the maternity regime under Clause 2, Article 28 of the Law on Social Insurance are specified as follows:

1. Female laborers who give birth and laborers who adopt children of under 4 months old must have paid social insurance premiums for full 6 months or more within 12 months before childbirth or child adoption.

2. A laborer who meets all conditions specified in Clause 1 of this Article but already stops working before the time of childbirth or adoption of a child of under 4 months old is still entitled to the maternity regime according to the provisions of Articles 31, 32, 34 and Clause 1 of Article 35 of the Law on Social Insurance.

Article 15.- The period of leave after giving birth under Article 31 of the Law on Social Insurance is specified as follows:

1. The period of leave under the maternity regime for female laborers depends on their working conditions, physical status and the number of infants per birth, specifically as follows:

a/ Four-month leave, if they perform occupations or jobs under normal working conditions;

b/ Five-month leave, if they perform heavy, hazardous or dangerous occupations or jobs; work under the 3-shift regime; or work regularly in a region with a regional allowance coefficient of 0.7 or higher;

c/ Six-month leave, for female laborers who are disabled persons suffering a working capacity decrease of 21% or higher;

d/ In case of giving birth to twin or more infants, in addition to the leave period specified at Points a, b and c of this Clause, the mother is entitled to an additional leave of 30 days for each infant from the second.

2. If the newborn child dies, the mother is entitled to take leave under the maternity regime as follows:

a/ If the newborn dies before 60 days of age, the mother is entitled to take leave for 90 days counting from the date of childbirth;

b/ If the newborn child dies 60 days or more of age, the mother is entitled to take leave for 30 days counting from the date her child dies.

The leave period specified in this Clause does not exceed the period of leave after giving birth specified in Clause 1 of this Article and is not counted into the period of leave for personal reasons as provided for in the labor law.

3. If only the father or the mother is covered by social insurance or both the father and mother are covered by social insurance and the mother dies in childbirth, the father or the person directly nursing the newborn child is entitled to the maternity regime until the child is full 4 months old.

Article 16.- The average of the monthly salary or remuneration on which social insurance premiums are based serving as a basis for calculating the maternity benefit under Clause 1, Article 35 of the Law on Social Insurance is the average of the monthly salary or remuneration of 6 months preceding the leave on which social insurance premiums are based.

For laborers who have paid social insurance premiums for less than 6 months, the maternity allowance they are entitled to when having prenatal checks-up, miscarriage, abortion, fetocytosis or stillbirth or taking contraceptive measures defined in Articles 29, 30 and 33 of the Law on Social Insurance is the average of the salary or remuneration of the months of paying social insurance premiums.

Article 17.- Convalescence and health rehabilitation after childbirth under Clause 1, Article 37 of the Law on Social Insurance are specified as follows:

1. Female laborers who remain weak after the leave period due to miscarriage, abortion, fetocytosis or stillbirth under Article 30 of the Law on Social Insurance or after the leave period after child birth under Article 31 of the Law on Social Insurance may take leave for convalescence and health rehabilitation.

2. The period of convalescence and health rehabilitation in a year includes also public holidays, New Year days, weekends and travel days, if laborers have convalescence and health rehabilitation at a rest home. The number of days for convalescence and health rehabilitation shall be decided by employers and the grassroots or provisional trade union executive committee, specifically as follows:

a/ Ten days at most, if female laborers give birth to twin or more infants;

b/ Seven days at most, if female laborers undergo an operation during delivery;

c/ Five days, for other cases.

3. The daily benefit level is:

a/ Equivalent to 25% of the common minimum salary, if female laborers take leave for convalescence and health rehabilitation at home;

b/ Equivalent to 40% of the common minimum salary, if they have convalescence and health rehabilitation at a rest home; this benefit level covers travel cost, meals and accommodation.

Section 3. LABOR ACCIDENT AND OCCUPATIONAL DISEASE REGIMES

Article 18.- The labor accident and occupational disease regimes cover laborers specified in Clauses 1, 2, 3 and at Point b, Clause 4, Article 2 of this Decree.

Article 19.- Conditions for enjoying the labor accident regime under Clause 1, Article 39 and conditions for enjoying the occupational disease regime

under Clause 1, Article 40 of the Law on Social Insurance are specified as follows:

1. Suffering an accident at workplace and during working hours, including time for breaks, mid-shift meals, preparation and completion of work.
2. Suffering an accident outside the workplace or beyond working hours while on assignment by their employers.
3. Suffering an accident en route to and from residence and workplace within a reasonable time and on a reasonable route.

A reasonable time is the time needed for arriving at workplace before working hours or for returning home after working hours. A reasonable route is the route regularly traveled between permanent residence or registered place of temporary residence and workplace.

4. Suffering a disease on the list of occupational diseases while working in an environment or doing a job involving hazardous elements. The list of occupational diseases shall be promulgated by the Ministry of Health and the Ministry of Labor, War Invalids and Social Affairs.

Article 20.- Assessment of working capacity decrease under Article 41 of the Law on Social Insurance is specified as follows:

1. Laborers suffering a labor accident or an occupational disease are entitled to assessment or re-assessment of their working capacity decrease when falling into one of the following cases:

a/ Their health conditions have become stable after treatment of an injury or a disease;

b/ Their health conditions have become stable after treatment of a recurring injury or disease.

2. Laborers are entitled to thorough assessment of their working capacity decrease when falling into one of the following cases:

a/ Suffering both a labor accident and an occupational disease;

b/ Getting labor accidents repeatedly;

c/ Suffering from various occupational diseases.

Article 21.- Lump-sum allowance under Article 42 of the Law on Social Insurance is specified as follows:

1. Laborers suffering from a working capacity decrease of between 5% and 30% due to a labor accident or an occupational disease are entitled to a lump-sum allowance.

2. The lump-sum allowance level is calculated according to the following formula:

The lump-sum allowance level = The allowance level calculated based on the working capacity decrease level + The allowance level calculated based on the number of years of paying social insurance premiums.

a/ The allowance level calculated based on the working capacity decrease level is as follows: Laborers with a 5% working capacity decrease are entitled to 5 months' common minimum salary, which shall be added with 0.5 of the monthly common minimum salary for every additional 1% of working capacity decrease;

b/ The allowance level calculated based on the number of years of paying social insurance premiums is as follows: Laborers are entitled to an allowance level equivalent to 0.5 of the salary or remuneration of the month preceding the leave on which social insurance premiums are based, for one year or less of paying social insurance premiums, which shall be added with 0.3 of such salary or remuneration for every additional year of paying social insurance premiums.

Article 22.- Monthly allowance under Article 43 of the Law on Social Insurance is specified as follows:

1. Laborers suffering a working capacity decrease of at least 31% due to a labor accident or an occupational disease are entitled to a monthly allowance.

2. The monthly allowance level is calculated according to the formula provided in Clause 2, Article 21 of this Decree, in which:

a/ The allowance level calculated based on the level of working capacity decrease is as follows: Laborers with a 31% working capacity decrease are entitled to a monthly allowance equivalent to 30% of the common minimum salary, which shall be added with 2% of the common minimum salary for every additional 1% of decrease;

b/ The allowance level calculated based on the number of years of paying social insurance premiums is as follows: Laborers are entitled to a monthly allowance equivalent to 0.5% of the salary or remuneration of the month preceding the leave on which social insurance premiums are based, for one year or less of paying social insurance premiums, which shall be added with 0.3% of such salary or remuneration for every additional year of paying social insurance premiums.

Article 23.- Laborers who take leave and enjoy monthly labor accident or occupational disease allowances are entitled to social insurance assured by the social insurance fund.

Article 24.- Convalescence and health rehabilitation after treatment of injury or sickness under Article 48 of the Law on Social Insurance are specified as follows:

1. Laborers who remain weak though their health conditions have become stable after treatment of injury caused by a labor accident or of sickness caused by an occupational disease are entitled to take leave for convalescence and health rehabilitation.

2. The period of convalescence and health rehabilitation in a year includes also public holidays, New Year days, weekends and travel days, if laborers have convalescence and health rehabilitation at a rest home. The number of days for convalescence and health rehabilitation shall be decided by employers and the grassroots or provisional trade union executive committee, specifically as follows:

a/ Ten days at most, if laborers suffer a working capacity decrease of 51% or more due to a labor accident or an occupational disease;

b/ Seven days at most, if laborers suffer a working capacity decrease of between 31% and 50% due to a labor accident or an occupational disease;

c/ Five days, if laborers suffer a working capacity decrease of between 15% and 30% due to a labor accident or an occupational disease.

3. The daily benefit level is:

a/ Equivalent to 25% of the common minimum salary, if laborers take leave for convalescence and health rehabilitation at home;

b/ Equivalent to 40% of the common minimum salary, if they have convalescence and health rehabilitation at a rest home; this benefit level covers travel cost, meals and accommodation.

Section 4. RETIREMENT REGIME

Article 25.- The retirement regime covers laborers specified in Article 2 of this Decree.

Article 26.- Conditions for enjoying retirement pension under Clause 1, Article 50 of the Law on Social Insurance are specified as follows:

Laborers are entitled to retirement pension when falling into one of the following cases:

1. Being 60 years old for men or 55 years old for women and having paid social insurance premiums for full 20 years or more;

2. Being between full 55 years and full 60 years old for men or between full 50 years and full 55 years old for women, having paid social insurance premiums for full 20 years or more and, out of which, having performed heavy, hazardous or dangerous occupations or jobs for full 15 years or having worked in regions with a regional allowance coefficient of 0.7 or more for full 15 years;

3. Being between full 50 years and full 55 years and having paid social insurance premiums for full 20 years or more and, out of which, having worked in coal mines for full 15 years;

4. Being infected with HIV/AIDS due to an occupational accident and having paid social insurance premiums for full 20 years.

Article 27.- Conditions for enjoying retirement pension upon working capacity decrease under Article 51 of the Law on Social Insurance are specified as follows:

Laborers who have paid social insurance premiums for full 20 years or more and suffered a working capacity decrease of at least 61% are entitled to retirement pensions lower than those for qualified persons specified in Article 26 of this Decree when falling into one of the following cases:

1. Being full 50 years old for men or 45 years old for women;
2. Having performed especially heavy, hazardous or dangerous occupations or jobs for full 15 years or more, irrespective of their age.

Article 28.- Monthly retirement pension under Article 52 and lump-sum allowance upon retirement under Article 54 of the Law on Social Insurance are specified as follows:

1. For qualified laborers under Article 26 of this Decree, the monthly retirement pension is equivalent to 45% of the average of the monthly salary or remuneration on which social insurance premiums are based specified in Article 31 of this Decree, corresponding to 15 years of paying social insurance premiums, which shall be added with 2% for men or 3% for women for each additional year of paying social insurance premiums; the maximum rate is equivalent to 75%.
2. For qualified laborers under Article 27 of this Decree, the monthly retirement pension shall be calculated as provided for in Clause 1 of this Article, which shall be then reduced by 1% for each year of early retirement as provided for in Clause 1 and Clause 2, Article 26 of this Decree.
3. The lowest monthly retirement pension is equivalent to the common minimum salary.
4. The lump-sum allowance level shall be calculated based on the number of years of paying social insurance premiums, counting from the thirty-first year on for men and the twenty-sixth year on for women. For each year of paying social insurance premiums, laborers are entitled to 0.5 of the average of the monthly salary or remuneration on which social insurance premiums are based.

5. When calculating the monthly retirement pension and the lump-sum allowance upon retirement specified in Clauses 1, 2 and 4 of this Article, if the period of paying social insurance premiums has less than 3 odd months, these months shall not be counted; if it has between full 3 odd months and full 6 odd months, these months shall be counted as half year; if it has between more than 6 odd months and full 12 odd months, these months shall be counted as one year.

Article 29.- Retirement pensions shall be adjusted on the basis of the rise in cost-of-living index and economic growth. The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with the Ministry of Finance in studying the adjustment level in each period and submit it to the Government for stipulation.

Article 30.- Conditions for enjoying and levels of lump-sum social insurance benefit for persons ineligible for enjoying retirement pension under Clause 1 of Article 55 and the levels of lump-sum social insurance benefit under Article 56 of the Law on Social Insurance are specified as follows:

1. Laborers are entitled to a lump-sum social insurance benefit when falling into one of the following cases:

a/ They reach the retirement age specified in Article 26 of this Decree while having paid social insurance premiums for less than 20 years;

b/ They suffer a working capacity decrease of at least 61% while having paid social insurance premiums for less than 20 years;

c/ They discontinue paying social insurance premiums after a 12-month leave and request a lump-sum social insurance benefit while having paid social insurance premiums for less than 20 years;

d/ They settle abroad.

2. The level of lump-sum social insurance benefit shall be calculated based on the number of years of paying social insurance premiums; for each year, laborers are entitled to one month and a half of the average of the monthly salary or remuneration on which social insurance premiums are based.

3. When calculating the level of lump-sum social insurance benefit, if the period of paying social insurance premiums has some odd months, these months shall be counted according to Clause 5, Article 28 of this Decree.

Article 31.- The average of monthly salaries or remuneration on which social insurance premiums are based for calculation of retirement pension and lump-sum allowance under Article 58, Article 59 and Article 60 of the Law on Social Insurance is specified as follows:

1. For laborers participating in social insurance before January 1, 1995:

a/ For laborers subject to the salary regime set by the State and having the entire period of paying social insurance premiums under this salary regime, the calculation shall be based on the average of monthly salaries or remuneration on which social insurance premiums are based in the last 5 years before their retirement.

b/ For laborers having the entire period of paying social insurance premiums under the salary regime decided by their employers, the calculation shall be based on the average of monthly salaries or remuneration on which social insurance premiums are based in the entire period.

c/ For laborers who have both a period of paying social insurance premiums under the salary regime set by the State and a period of paying social insurance premiums under the salary regime decided by their employers, the calculation shall be based on the average of monthly salaries or remuneration on which social insurance premiums are based in these periods, in which for the period of paying social insurance premiums under the salary regime set by the State, the calculation shall be based on the average of monthly salaries on which social insurance premiums are based according to Point a of this Article. If this period is less than five years, the calculation shall be based on the average of monthly salaries of the months of paying social insurance premiums.

2. For laborers participating in social insurance from January 1, 1995, to before January 1, 2007:

a/ For laborers subject to the salary regime set by the State and having the entire period of paying social insurance premiums under this salary regime, the calculation shall be based on the average of monthly salaries in the years of paying social insurance premiums before their retirement as follows:

- If they paid social insurance premiums for the period from January 1, 1995, to December 31, 2000, the calculation shall be based on the average of monthly salaries on which social insurance premiums are based in the last 6 years before their retirement;

- If they paid social insurance premiums for the period from January 1, 2001, to December 31, 2006, the calculation shall be based on the average of monthly salaries on which social insurance premiums are based in the last 8 years before their retirement.

b/ For laborers having the entire period of paying social insurance premiums under the salary regime decided by their employers, the calculation shall be based on the average of monthly salaries or remuneration on which social insurance premiums are based in the entire period;

c/ For laborers with both a period of paying social insurance premiums under the salary regime set by the State and a period of paying social insurance premiums under the salary regime decided by their employers, the calculation shall be based on the average of monthly salaries or remuneration on which social insurance premiums are based in these periods, in which for the period of paying social insurance premiums under the salary regime set by the State, the calculation shall be based on the average of monthly salaries on which social insurance premiums are based according to Point a of this Clause. If the number of years is less than that stipulated at Point a of this Clause, the calculation shall be based on the average of monthly salaries of the months of paying social insurance premiums.

3. For laborers participating in social insurance from January 1, 2007 on:

a/ For laborers subject to the salary regime set by the State and having the entire period of paying social insurance premiums under this salary regime, the calculation shall be based on the average of monthly salaries on which social insurance premiums are based in the last 10 years before their retirement;

b/ For laborers having the entire period of paying social insurance premiums under the salary regime decided by their employers, the calculation shall be based on the average of monthly salaries or remuneration on which social insurance premiums are based in the entire period;

c/ For laborers with both a period of paying social insurance premiums under the salary regime set by the State and a period of paying social insurance premiums under the salary regime decided by their employers, the calculation shall be based on the average of monthly salaries or remuneration on which social insurance premiums are based in these periods, in which for the period of paying social insurance premiums under the salary regime set by the State, the calculation shall be based on the average of monthly salaries on which social insurance premiums are based according to Point a of this Clause 1. If this period is less than 10 years, the calculation shall be based on the average of monthly salaries of the months of paying social insurance premiums.

Article 32.- Adjustment of salaries and remuneration for which social insurance premiums have been paid under Clause 2, Article 61 of the Law on Social Insurance is specified as follows:

Salaries and remuneration for which social insurance premiums have been paid, which serve as the basis for calculation of the average of monthly salaries or remuneration on which social insurance premiums are based for laborers subject to the salary regime decided by their employers shall be adjusted on the basis of the cost-of-living index of each period.

The Ministry of Labor, War Invalids and Social Affairs shall assume the prime responsibility for, and coordinate with the Ministry of Finance in, studying the adjustment level in each period and submit it to the Government for stipulation.

Article 33.- Suspension from enjoyment of monthly retirement pension or social insurance allowance under Article 62 of the Law on Social Insurance is specified as follows:

1. Laborers enjoying a monthly retirement pension or social insurance allowance shall be suspended from enjoying this retirement pension or social insurance allowance in one of the following cases:

a/ They are subject to an imprisonment sentence, which is not suspended;

b/ They illegally leave the country;

c/ They are declared missing by the court.

2. Laborers who have completely served an imprisonment sentence, who return after being declared missing by the court or who lawfully return and settle in the country after leaving the country will continue enjoying their monthly retirement pension or social insurance allowance.

Article 34.- Persons on monthly retirement pension are entitled to health insurance assured by the social insurance fund.

Section 5. SURVIVORSHIP REGIME

Article 35.- Funeral allowance under Clause 1, Article 63 of the Law on Social Insurance is specified as follows:

When the following subjects die, the persons who take care of their funeral are entitled to a funeral allowance equivalent to 10 months' common minimum salary:

1. Laborers specified in Article 2 of this Decree, who are paying social insurance premiums;
2. Laborers who reserve a period of paying social insurance premiums;
3. Persons who are on retirement pension, monthly labor accident or occupational disease allowance and have stopped working.

Article 36.- Cases of eligibility for monthly survivorship allowance under Article 64 of the Law on Social Insurance are specified as follows:

1. When the following subjects die, their relatives specified in Clause 2 of this Article are entitled to a monthly survivorship allowance:
 - a/ They have paid social insurance premiums for full 15 years or more but have not yet received a lump-sum social insurance benefit;
 - b/ They are on retirement pension;
 - c/ They die of a labor accident or an occupational disease (even during first-time treatment);
 - d/ They are on monthly labor accident or occupational disease allowance for a working capacity decrease of at least 61%.

2. Relatives of the subjects specified in Clause 1 of this Article who are eligible for monthly survivorship allowance include:

a/ Children of under 15 years old (including natural children, lawfully adopted children, out-of-wedlock children recognized by law or natural children born after their fathers die); children of under 18 who are still going to school; children of full 15 years or older who suffer a working capacity decrease of at least 81%;

b/ Wives of full 55 years or older or husbands of full 60 years or older; wives of under 55 years old or husbands of under 60 years old who suffer a working capacity decrease of at least 81%;

c/ Natural fathers, natural mothers, fathers-in-law, mothers-in-law, other persons whom these subjects are obliged to nurture, who are full 60 years or older for men or full 55 years or older for women;

d/ Natural fathers, natural mothers, fathers-in-law, mothers-in-law, other persons whom these subjects are obliged to nurture, who are under 60 years old for men or under 55 years old for women and suffer a working capacity decrease of at least 81%.

The relatives specified at Points b, c and d of this Clause must have no income or have monthly incomes lower than the common minimum salary.

Article 37.- Levels of monthly survivorship allowance under Article 65 of the Law on Social Insurance are specified as follows:

1. The monthly survivorship allowance for each relative specified in Clause 2, Article 36 of this Decree is equivalent to 50% of the common minimum salary;

A relative who has no direct raiser is entitled to a monthly survivorship allowance equivalent to 70% of the common minimum salary.

2. For one dead person who is specified in Clause 1, Article 36 of this Decree, the number of relatives entitled to a monthly survivorship allowance shall not exceed 4; in case of 2 or more dead persons, their relatives are entitled to 2 times the allowance specified in Clause 1 of this Article.

3. The duration during which a relative enjoys a monthly survivorship allowance begins on the month following the month the subject specified in Clause 1, Article 36 of this Decree dies.

Article 38.- Cases of eligibility for lump-sum survivorship allowance under Article 66 of the Law on Social Insurance are specified as follows:

When the subjects specified in Article 35 of this Decree, who fall into one of the following cases, die, their relatives are entitled to a lump-sum survivorship allowance:

1. The dead persons do not fall into the subjects specified in Clause 1, Article 36 of this Decree.
2. The dead persons fall into one of the subjects specified in Clause 1 of Article 36 of this Decree but have no relative eligible for monthly survivorship allowance under Clause 2, Article 36 of this Decree.

Article 39.- Levels of lump-sum survivorship allowance under Article 67 of the Law on Social Insurance are specified as follows:

1. The levels of lump-sum survivorship allowance for relatives of laborers who are paying social insurance premiums or laborers who reserve a period of paying social insurance premiums shall be calculated based on the number of years of paying social insurance premiums, with each year equivalent to one and a half month of the average of monthly salaries or remuneration on which social insurance premiums are based; the lowest level is equivalent to 3 months' average monthly salary or remuneration on which social insurance premiums are based.
2. The levels of lump-sum survivorship allowance for relatives of laborers who are on retirement pension before their death shall be calculated based on the period of enjoying retirement pension. If they die within the first 2 months of enjoying the retirement pension, the allowance level is equivalent to 48 months of the retirement pension they are enjoying; if they die in subsequent months, for each additional month receiving the retirement pension, the allowance level is reduced by 0.5 of the monthly retirement pension; the lowest level is equivalent to 3 months of the currently enjoyed retirement pension before death.

Article 40.- Calculation of the retirement regime and survivorship allowance regime for persons who paid voluntary social insurance premiums then paid compulsory social insurance premiums under Article 68 of the Law on Social Insurance is specified as follows:

1. For laborers who paid voluntary social insurance premiums then paid compulsory social insurance premiums, the calculation of their retirement regime or survivorship allowance regime shall be based on the period of paying voluntary social insurance premiums plus the period of paying compulsory social insurance premiums.

2. For laborers specified in Clause 1 of this Article, the Ministry of Labor, War Invalids and Social Affairs shall guide the way of calculating the average of monthly salaries or remuneration or the average of monthly incomes on which social insurance premiums are based.

Chapter III

SOCIAL INSURANCE FUNDS

Section 1. SOURCES OF FORMATION OF FUNDS

Article 41.- Sources for formation of the funds and component funds under Article 88 and Article 89 of the Law on Social Insurance are specified as follows:

1. The sickness and maternity fund is formed from contributions from employers which are equivalent to 3% of the funds of laborers' salaries and remuneration on which social insurance premiums are based.

2. The labor accident and occupational disease fund is formed from contributions from employers which are equivalent to 1% of the funds of laborers' salaries and remuneration on which social insurance premiums are based.

3. The retirement and survivorship allowance fund is formed from the following sources:

a/ Social insurance premiums paid by laborers at levels specified in Article 43 of this Decree;

b/ Premiums paid by employers under Article 43 of this Decree;

c/ Funds transferred by the State from its budget to the social insurance fund to ensure full payment of retirement pensions and social insurance allowances to persons who enjoy retirement pensions and social insurance allowances before January 1, 1995; and payment of social insurance premiums for the working period before January 1, 1995, for laborers specified in Clause 4, Article 139 of the Law on Social Insurance.

4. Profits from activities of investment from the fund.

5. The State's supports.

6. Other lawful sources of revenues.

Section 2. LEVELS AND MODES OF PAYMENT

Article 42.- Levels and modes of payment by laborers under Article 91 of the Law on Social Insurance are specified as follows:

1. Monthly, laborers specified in Clauses 1, 2, 3 and at Point b, Clause 4, Article 2 of this Decree shall pay social insurance premiums into the retirement and survivorship allowance fund as follows:

a/ From January 2007 to December 2009, they shall pay social insurance premiums equivalent to 5% of the salaries or remuneration on which social insurance premiums are based;

b/ From January 2010 to December 2011, they shall pay social insurance premiums equivalent to 6% of the salaries or remuneration on which social insurance premiums are based;

c/ From January 2012 to December 2013, they shall pay social insurance premiums equivalent to 7% of the salaries or remuneration on which social insurance premiums are based;

d/ From January 2014 on, they shall pay social insurance premiums equivalent to 8% of the salaries or remuneration on which social insurance premiums are based.

2. Laborers enjoying salaries or remuneration according to production or business cycles in agricultural, forestry, fishery or salt-making enterprises shall pay monthly social insurance premium at the level specified in Clause 1 of this Article.

Payment shall be made on a monthly, quarterly or biannual basis.

3. The levels and modes of payment by laborers specified at Point a, Point c, Clause 4, Article 2 of this Decree are specified as follows:

a/ Levels of monthly payment into the retirement and survivorship allowance fund:

- From January 2007 to December 2009, laborers shall pay social insurance premiums equivalent to 16% of the salaries or remuneration they receive before going to work abroad on which social insurance premiums are based;

- From January 2010 to December 2011, laborers shall pay social insurance premiums equivalent to 18% of the salaries or remuneration they receive before going to work abroad on which social insurance premiums are based;

- From January 2012 to December 2013, laborers shall pay social insurance premiums equivalent to 20% of the salaries or remuneration they receive before going abroad on which social insurance premiums are based;

- From January 2014 on, they shall pay social insurance premiums equivalent to 22% of the salaries or remuneration they receive before going to work abroad on which social insurance premiums are based.

b/ Payment shall be made on a quarterly, biannual or annual basis or in a lump sum based on the term indicated in the contracts on sending laborers to work abroad. Enterprises and non-business organizations that send laborers to work abroad shall collect and pay social insurance premiums for these laborers and register the mode of payment with the social insurance organizations or laborers shall pay social insurance premiums through agencies, organizations or units where they participate in social insurance or directly to the social insurance organization of the place where they reside before going to work abroad.

When laborers have their contracts extended or renewed right in the host country, they shall pay social insurance premiums by the modes specified in

this Article or pay them to the social insurance organization after returning home.

Article 43.- Levels and modes of payment by employers under Clause 1 and Clause 3, Article 92 of the Law on Social Insurance are specified as follows:

1. Monthly, employers shall make payments calculated on the funds of monthly salaries and remuneration on which social insurance premiums are based and which are paid to laborers specified in Clauses 1, 2 and 3 and at Point b, Clause 4, Article 2 of this Decree as follows:

a/ Three per cent into the sickness and maternity fund, of which 2% shall be withheld by employers to pay in time to laborers entitled to the regime specified in Section 1 and Section 2, Chapter II of this Decree. Employer shall finalize this amount on a quarterly basis with social insurance organizations, specifically as follows:

- If the finalized amount is smaller than the withheld amount, the balance shall be refunded to the social insurance fund in the first months of the subsequent quarter.

- If the finalized amount is larger than the withheld amount, the social insurance organization shall grant an amount to offset the deficit in the first month of the subsequent quarter.

b/ One per cent into the labor accident and occupational disease fund;

c/ Payments into the retirement and survivorship allowance fund are as follows:

- From January 2007 to December 2009: 11%;

- From January 2010 to December 2011: 12%;

- From January 2012 to December 2013: 13%;

- From January 2014 on: 14%.

2. Monthly, employers shall make payments calculated under Clause 1 of this Article and make deductions from monthly salaries and remuneration of

their laborers at the levels specified in Clause 1, Article 42 of this Decree before remitting them at a time into social insurance funds.

3. Employers of agricultural, forestry, fishery or salt-making enterprises who pay salaries and remuneration according to production or business cycles shall make monthly payments at the levels specified in Clause 1 of this Article. Payments shall be made on a monthly, quarterly or biannual basis as registered by employers with social insurance funds.

Article 44.- Temporary cessation of payment into the retirement and survivorship allowance fund under Article 93 of the Law on Social Insurance is specified as follows:

1. Cases entitled to temporary cessation of payment:

a/ Meeting with difficulties and having to temporarily stop production or business;

b/ Meeting with difficulties due to natural disasters or crop failure.

2. Conditions:

a/ Employers falling into one of the cases specified in Clause 1 of this Article are entitled to temporary cessation of payment if meeting one of the following conditions:

- Being unable to arrange jobs for laborers of whom insured laborers, who must temporarily cease working account for at least 50% of the total number of currently employed laborers before the temporary cessation of production and business;

- Suffering from damage caused by natural calamity, fire, epidemic or crop failure, which is worth more than 50% of total assets (excluding the value of land).

b/ Payment can be temporarily ceased on a monthly basis for no more than twelve months.

3. Competence to decide on temporary cessation of payment:

a/ The Prime Minister decides, at the proposal of the Ministry of Labor, War Invalids and Social Affairs, on temporary cessation of payment for economic organizations established by the Prime Minister;

b/ The Ministry of Labor, War Invalids and Social Affairs decides on temporary cessation of payment for employers managed by ministries, branches or central agencies at the proposal of these ministries, branches or central agencies.

c/ Provincial-level state management agencies in charge of social insurance decide on temporary cessation of payment for employers managed by local administrations.

4. During the period of temporary cessation of payment into the retirement and survivorship allowance fund, employers shall still make payments into the sickness and maternity fund and the labor accident and occupational disease fund. Laborers are entitled to sickness, maternity, labor accident and occupational disease regimes according to regulations and may, when meeting all conditions, retire under the retirement regime.

Article 45.- Monthly salaries and remuneration on which compulsory social insurance premiums are based are specified as follows:

1. For laborers subject to the salary regime set by the State, their monthly salaries on which social insurance premiums are based are their rank- or grade-based salaries and position allowances, extra-seniority allowances or professional seniority allowances (if any).

These salaries shall be calculated on the basis of the common minimum salary applicable at the time of payment.

2. For laborers paying social insurance premiums according to the salary regime decided by their employers, their monthly salaries on which social insurance premiums are based are the salaries or remuneration stated in their labor contracts.

3. When the monthly salaries or remunerations specified in Clauses 1 and 2 of this Article are higher than 20 months' common minimum salary, the monthly salary or remuneration on which social insurance premiums are based is equivalent to 20 months' common minimum salary level.

Section 3. USE AND MANAGEMENT OF SOCIAL INSURANCE FUNDS

Article 46.- Use of compulsory social insurance funds under Article 90 of the Law on Social Insurance is specified as follows:

1. Payment of social insurance indemnities to laborers under the provisions in Chapter II of this Decree, specifically as follows:

a/ The sickness and maternity fund shall pay indemnities under the sickness regime according to the provisions of Section 1 and under the maternity regime according to the provisions of Section 2, Chapter II of this Decree;

b/ The labor accident and professional disease fund shall pay indemnities under the labor accident and sickness regime according to the provisions of Section 3, Chapter II of this Decree;

c/ The retirement and survivorship allowance fund shall pay indemnities under the retirement regime according to the provisions of Section 4 and under the survivorship allowance regime according to the provisions of Section 5, Chapter II of this Decree.

2. Payment of health insurance premiums from component funds, specifically as follows:

a/ The labor accident and occupational disease fund shall pay social insurance premiums for persons who take leave and enjoy monthly labor accident or occupational disease allowances;

b/ The retirement and survivorship allowance fund shall pay health insurance premiums for pensioners.

3. The labor accident and occupational disease fund shall pay rewards to employers who properly perform labor protection and prevention of labor accidents and occupational diseases.

4. Expenses for social insurance management.

5. Investment to preserve and develop the fund according to regulations.

Article 47.- Management costs under Article 95 of the Law on Social Insurance are specified as follows:

1. Annual compulsory social insurance management costs shall be deducted from the profits from activities of investment from the funds.

2. Compulsory social insurance management costs shall be equivalent to management costs of state administrative agencies, covering the following items:

a/ Regular expenses;

b/ Irregular expenses, including:

- Expenses for making social insurance books, papers and forms and for collection and spending work;

- Expenses for overhaul and procurement of fixed assets, scientific research and professional training.

Article 48.-

1. Annually, the state budget shall grant to Vietnam Social Insurance sufficient and timely funds for implementing social insurance and health insurance policies and regimes to the subjects enjoying retirement pensions and social insurance allowances before January 1, 1995, including the following items:

a/ Retirement pensions;

b/ Working capacity loss allowances;

c/ Allowances for persons suffering labor accidents or occupational diseases; caretakers of persons suffering labor accidents or occupational diseases; equipment and tools for persons suffering labor accidents and occupational diseases;

d/ Allowances for rubber workers;

e/ Survivorship allowances and funeral costs;

f/ Health insurance premiums according to regulations;

g/ Payment fees;

h/ Other expenses (if any).

2. Vietnam Social Insurance shall fully implement the provisions of the State Budget Law on elaboration of estimates, allocation of estimates and finalization of funds.

Article 49.- Activities of investment from the social insurance fund are specified as follows:

1. Vietnam Social Insurance shall take measures to preserve and develop the social insurance fund from temporarily idle money. Activities of investment from the social insurance fund must ensure safety, efficiency and recoverability when necessary.

2. The Board of Management of Vietnam Social Insurance shall decide on investment in the following forms:

a/ Purchase of debentures, bonds and bills of the State and state-owned commercial banks;

b/ Provision of loans to state-owned commercial banks;

c/ Investment in key national economic projects;

d/ Investment in Prime Minister-decided projects with great capital demands.

Article 50.- Financial activities of the social insurance fund shall be subject to the supervision and inspection by state management agencies in charge of finance and the audit by the state audit agency.

Chapter IV

PROCEDURES FOR IMPLEMENTING SOCIAL INSURANCE

Article 51.- Social insurance books under Article 109 of the Law on Social Insurance are specified as follows:

1. Social insurance books shall be granted by Vietnam Social Insurance.

2. Vietnam Social Insurance shall study electronic social insurance cards to gradually replace social insurance books.

Article 52.- Grant of social insurance books under Article 111 of the Law on Social Insurance is specified as follows:

1. Within 30 days as from the date of concluding a labor contract, a working or recruitment contract, the employer shall submit social insurance participation dossiers to the social insurance organization as provided for in Clause 1, Article 110 of the Law on Social Insurance.

2. The social insurance organization shall receive dossiers and finalize the contents of social insurance books. Within 30 days after the date of receipt of the valid dossiers from employers, it shall grant social insurance books to laborers. If refusing to grant a social insurance book to a laborer, the social insurance organization shall give a written reply clearly stating the reason for refusal.

Article 53.- Dossiers for enjoyment of the maternity regime

1. For laborers currently having labor relations, a dossier for enjoyment of the maternity regime after birth or adoption of a child shall be compiled according to the provisions of Article 113 of the Law on Social Insurance.

2. For laborers no longer having labor relations, a dossier for enjoyment of the maternity regime after birth or adoption of a child comprises:

a/ The social insurance book;

b/ A copy of the written birth certification or a copy of the birth certificate of the child or the death certificate in case the newborn dies in childbirth.

When laborers adopt children of under four months old, the law-specified certification is required.

Article 54.- For laborers specified in Chapter 2 of this Decree, dossiers for enjoyment of the social insurance regime shall be compiled according to the provisions of Articles 112, 113, 114, 115, 116, 119, 120, 121 and 127 of the Law on Social Insurance.

Chapter V

COMPLAINTS AND DENUNCIATIONS ABOUT SOCIAL INSURANCE

Article 55.- Complainants about social insurance under Article 130 of the Law on Social Insurance include:

1. Laborers specified in Article 2 of this Decree.
2. Persons on monthly retirement pension or social insurance allowance, persons currently reserving a period of paying social insurance premiums, persons temporarily suspended from enjoying monthly retirement pensions or social insurance allowances, persons enjoying lump-sum survivorship allowances, persons who take care of funerals and other persons with rights and interests related to social insurance.
3. Employers specified in Article 3 of this Decree.

Article 56.- Competence, order and procedures for settling complaints about social insurance under Clause 2, Article 131 of the Law on Social Insurance are specified as follows:

1. Competence to settle complaints about social insurance:
 - a/ Employers or heads of social insurance organizations at all levels shall settle first-time complaints about their social insurance-related decisions or acts.

When an employer with the complained social-insurance decision or act no longer exists, the district-level state management agency in charge of labor shall settle the complaint concerned.

- b/ Directors of provincial-level Labor, War Invalids and Social Affairs Services are competent to settle social insurance-related complaints about complaint settlement decisions which are issued by employers or heads of social insurance organizations but are disagreed with by complainants or complaints which are not settled after the expiration of the prescribed time limit while the complainants do not initiate a lawsuit at a court during this time limit.

2. Order and procedures for lodging and settling first-time complaints about social insurance.

a/ When discovering an illegal social insurance-related decision or act which infringes upon his/her legitimate rights and interests, the complainant shall send a written complaint to the person or organization that has issued that decision or taken that act;

b/ Upon receiving a first-time written complaint, the person or organization with the complained decision or act shall consider, receive and settle the complaint;

c/ The statute of limitations and procedures for lodging and the time limit for settling first-time complaints are in accordance with the law on complaints and denunciations.

3. Order and procedures for lodging and settling second-time complaints about social insurance.

a/ When a complainant disagrees with the first-time complaint settlement decision or his/her first-time complaint is not settled after the expiration of the prescribed time limit, the complainant may lodge a complaint with the director of the provincial-level Labor, War Invalids and Social Affairs Service or initiate a lawsuit at a court;

b/ If the complainant disagrees with the complaint settlement decision of the director of the provincial-level Labor, War Invalids and Social Affairs Service or his/her complaint is not settled after the expiration of the prescribed time limit, he/she may initiate a lawsuit at a court;

c/ The statute of limitations and procedures for lodging and the time limit for settling second-time complaints are in accordance with the law on complaints and denunciations.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 57.-

1. This Decree takes effect 15 days after its publication in "CONG BAO."

The provisions of this Decree are implemented from January 1, 2007.

2. This Decree replaces the Government's Decree No. 12/CP of January 26, 1995, promulgating the Regulation on social insurance, and Decree No. 01/2003/ND-CP of January 9, 2003, amending and supplementing a number of articles of the Regulation on social insurance promulgated together with the Government's Decree No. 12/CP of January 26, 1995.

3. To repeal the Government's Decree No. 61/2001/ND-CP of September 7, 2001, stipulating the retirement age of miners and the compulsory social insurance provisions in Article 5 of the Government's Decree No. 121/2003/ND-CP of October 21, 2003, on regimes and policies towards commune, ward and township cadres and public employees.

4. The provisions of this Decree also apply to laborers who are enterprise managers enjoying salaries and remuneration according to the law on salaries and remuneration.

Article 58.-

1. Persons who are enjoying monthly retirement pensions, working capacity loss allowances, labor accident or occupational disease allowances or survivorship allowances and persons suspended from enjoying social insurance due to their law offenses before the effective date of this Decree will still comply with the previous regulations and are entitled to the adjustment of the enjoyment levels in accordance with the Government's regulations.

2. Persons who are enjoying monthly retirement pensions, working capacity loss allowances, labor accident or occupational disease allowances before January 1, 2007, will, upon their death on January 1, 2007, or later, enjoy the survivorship allowance regime provided in this Decree.

3. Female laborers who give birth or laborers who adopt children under four months old before January 1, 2007, persons who receive medical treatment after suffering labor accidents or occupational diseases and are discharged from hospital before January 1, 2007, will still enjoy the regimes according to previous regulations.

4. Laborers who have paid social insurance premiums for 15 years or more, have received decisions on their job cessation pending their satisfaction of the age condition in order to enjoy retirement pensions before January 1,

2003, will enjoy retirement pensions when they reach full 60 years of age for men or full 55 years of age for women.

5. Laborers who reserve a period of paying social insurance premiums before January 1, 2007, may enjoy lump-sum social allowance benefits under the provisions of Article 30 of this Decree if they are ineligible for enjoying retirement pensions.

6. Full-time commune cadres who stop holding their positions before January 1, 2007, but have paid social insurance premiums for full 10 years or more, have five years at most to reach the retirement age and are voluntarily paying by themselves monthly social insurance premiums equivalent to the total of premiums payable by laborer and employer on the basis of their monthly salaries before they stop holding their positions into the retirement and survivorship allowance fund of the social organization of the place where they reside till they have full 15 years of paying social insurance premiums and reach 60 years of age, for men, or full 55 years of age, for women, will enjoy the retirement regime.

7. Laborers who stop working under the Government's Decree No. 41/2002/ND-CP of April 11, 2002, on policies towards laborers who are left redundant due to rearrangement of state enterprises before January 1, 2007, have paid social insurance premiums for full 15 years or more, have five years at most to reach the retirement age and are voluntarily paying by themselves monthly social insurance premiums equivalent to the total of premiums payable by laborer and employer on the basis of their monthly salaries before they stop holding their positions into the retirement and survivorship allowance fund of the social organization of the place where they reside till they have an adequate period of paying social insurance premiums and reach the retirement age will enjoy the retirement regime.

8. Spouses who, during the period of enjoying the spousal regime at overseas Vietnamese agencies, previously participated in compulsory social insurance, may continue paying monthly social insurance premiums during their stay abroad at the level specified at Point a, Clause 3, Article 42 of this Decree in order to enjoy the retirement and survivorship allowance regime.

9. When determining the condition on the period of paying social insurance premiums for enjoying the monthly retirement or survivorship allowance regime, a year is counted only if it has full 12 months. If a laborer lacks no

more than 6 months of paying social insurance premiums, he/she may further pay a lump-sum premium into the retirement and survivorship allowance fund for the number of months he/she still lacks at the level equivalent to the total of premiums payable by laborer and employer on the basis of the monthly salary or remuneration before they stop working.

Article 59.-

1. For laborers who have paid social insurance premiums for 15 years or more based on the salaries paid for extremely heavy, hazardous or dangerous jobs or for heavy, hazardous or dangerous jobs in the salary scale and table set by the State before switching to other jobs and paying social insurance premiums based on lower salaries or officers or professional army men in the people's army, professional and technical officers in the people's police, cipher officers who are salaried like people's army or police personnel before switching to work in agencies, organizations, units or enterprises where they are subject to the salary regime set by the State and pay social insurance premiums based on lower salaries, when they retire, the highest salary they received during the years of doing extremely heavy, hazardous or dangerous jobs or for heavy, hazardous or dangerous jobs or the rank- or position-based salary and seniority allowance (if any) before they moved to other branches corresponding to the number of years specified in Article 31 of this Decree will be used to calculate the average of salaries serving as a basis for calculating the retirement pensions they enjoy.

2. For laborers who pay social insurance premiums under the salary regime set by the State and enjoy the retirement regime from January 1, 2007 on, the total salaries of the months of paying social insurance premiums which serve as a basis for calculating the retirement pensions or social insurance allowances of the months according to the salary coefficient, position allowance and seniority allowance (if any) applicable before October 1, 2004, during the last five years before they stop working will be adjusted according to the salary coefficient, position allowance and seniority allowance (if any) prescribed in the National Assembly Standing Committee's Resolution No. 730/2004/NQ-UBTVQH11 of September 30, 2004, the Party Central Committee Secretariat's Decision No. 128/QĐ-TW of December 14, 2004, and the Government's Decree No. 204/2004/ND-CP of December 14, 2004, and Decree No. 205/2004/ND-CP of December 14, 2004.

Article 60.-

1. The Ministry of Labor, War Invalids and Social Affairs shall guide the implementation of this Decree.
2. The Ministry of Health shall guide the assessment of the working capacity decrease of laborers.

Article 61.- Ministers, heads of ministerial-level agencies, heads of government-attached agencies and presidents of People's Committees of provinces and centrally run cities shall implement this Decree.