

Mozambique Law Workman's Comp English

COUNCIL OF MINISTERS

Decree no. 62/2013

of 4 December

Since it is necessary to update the Legal Framework for Accidents at Work and Occupational Diseases, under the provisions of sub-paragraph f) of paragraph 1 of article 204 of the Constitution of the Republic and of article 269, in conjunction with paragraph 5 of article 233, both from Law 23/2003 of 1 August, the Council of Ministers orders the following:

Article 1. The Regulation establishing the attached Legal Framework for Accidents at Work and Occupational Diseases, which is an integral part of this Decree, has been approved.

Article 2. Legislative Diploma no. 1706 of 19 October 1957 and all legislation that is contrary to this Decree shall be repealed.

Article 3. This Decree comes into force 90 days after its

publication. Approved by the Council of Ministers on the

18th of June of 2013.

May it be published.

The Prime Minister, *Alberto Clementino António Vaquina*.

Regulation Establishing the Legal Framework for Accidents at Work and Occupational Diseases

CHAPTER I General Provisions

ARTICLE 1 Purpose

1. This Regulation shall establish the legal framework for accidents at work and occupational diseases.
2. The rules pertaining to accidents at work shall apply, mutatis mutandi, to occupational diseases.

ARTICLE 2 Scope

1. This Regulation shall apply to national and foreign employees , as well as to Board members, directors, managers or similar persons.
2. This Regulation shall not apply to Government and Local Authority employees and agents.

ARTICLE 3 Definitions

Definitions are included in the attached glossary, which is an integral part of this Regulation.

ARTICLE 4 Employees

For purposes of this Regulation, employees are all those individuals who are bound to an employer by an individual and collective employment contract, or similar persons, and any professional practitioners, apprentices and interns, as well as those individuals who, since they are legally and economically dependent on a particular person, provide a certain service to such person, either collectively or individually.

ARTICLE 5

Prevention of accidents at work and occupational diseases

The employer shall adopt the actions provided for in the legislation and regulations pertaining to the prevention of accidents at work and occupational disease and, among other measures, shall train workers on how to prevent occupational risks.

ARTICLE 6

Prohibition of remuneration deductions

The employer shall not deduct any sum from the remuneration of the employees in its employ as compensation for the charges arising from the application of this Regulation, and any agreements concluded with such purpose shall become null and void.

ARTICLE 7

Insurance system and unit

1. Employers shall be required to transfer the liability for covering their respective accidents at work and occupational diseases to legally authorized insurers in the Republic of Mozambique.
2. Employers may conclude more favourable supplementary insurance contracts.
3. On the date of admission to employment, the employer is required to have collective insurance covering the employee, for coverage of any accidents at work and occupational diseases.
4. Should any of the situations mentioned in article 57 of this Regulation occur, the liability provided for therein shall lie with the employer, and the insurer shall only be subsidiarily liable for normal benefits.
5. Where the remuneration that has been declared for insurance premium purposes is lower than the actual remuneration, the insurer shall only be liable in relation to the former, and the employer shall be responsible, in this case, for the difference and for the expenditure incurred in medical and medication assistance, and transportation, in the appropriate proportion.
6. Declaring remunerations lower than actual remuneration for purposes of insurance policy payment constitutes a breach of this Regulation and is punishable with sanctions.
7. For full compliance with the previous paragraphs of this article, the

responsible entity for insurance supervision in Mozambique shall adopt measures to prevent any fraud, omissions or shortcomings in declarations pertaining to staff and remuneration.

ARTICLE 8

Uniform policy

1. A uniform policy pertaining to insurance for accidents at work and occupational diseases suitable for various professions and activities, in line with the principles set out in this regulations, shall be approved by the responsible entity for insurance supervision in Mozambique, after hearing the associations representing insurers.
2. This uniform policy shall conform to the principle of insurance premium classification depending on the level of risk of accidents and occupational diseases, given the nature of the activity and conditions for preventing them in the workplace.
3. This uniform policy provides for the review of the premium amount, on the insurer's initiative or at the employer's request, based on the effective modification of the conditions for preventing accidents in the workplace and occupational diseases.
4. Any clauses that contradict the rights or guarantees established in the uniform policy provided for in this article shall be null and void.

CHAPTER II

Accidents at work and occupational diseases

SECTION I

Accidents at work

ARTICLE 1

Concept of accident at work

1. Accident at work is an incident which occurs in the workplace and during the working time, provided it directly or indirectly causes the employee to sustain a bodily injury, a functional disorder or a disease resulting in death or reduction of capacity for work or of earning capacity.
 - a) An accident at work is deemed to be any accident which occurs: When travelling to or from the workplace, when a means of transport provided by the employer is used or when the accident is a result of a specific hazard of the regular route or of other circumstances that may have increased the risk of that route;
 - b) Before or after work has been done, provided it is directly linked to the

- preparation or end of such work;
- c) When work is being done outside the normal workplace and working hours while the employee is carrying out orders or performing services under the direction and supervision of the employer;
 - d) When performing any services, even if they are non-professional services, outside the workplace and working hours, which have spontaneously been provided by the employee to the employer and which the latter may derive an economic benefit from;
 - e) At the location where any form of assistance or treatment must be provided the employee as a result of an earlier accident and whilst the employee remains in such location for such purpose.

ARTICLE 10

Proof of origin of injury

1. Subject to evidence to the contrary, the injury sustained under the circumstances mentioned in the previous article shall be presumed to be the result of an accident at work.
2. If the injury arising from the accident at work is not immediately visible, the injured employee or his legal beneficiaries shall be required to prove that it arose therefrom.
3. For the purposes of the previous article, the employee shall be referred to the National Health Board by the General Labour Inspectorate.

ARTICLE 11

Removal of classification as accident at work

1. The employer is not obliged to indemnify any accident that:
 - a) Has deliberately been caused by the injured employee himself;
 - b) Arises from gross and reckless negligence by the injured employee, due to an act or omission of express orders, received from individuals that he may professionally report to;
 - c) Arises from any acts of the victim that may reduce the safety conditions laid down by the employer or required by the specific nature of the work;
 - d) For any consequences from voluntary physical injuries, except if they have an immediate connection with another accident or if the victim has sustained such injuries due to the nature of the tasks that he performs;
 - e) Results from the loss of the injured employee's use of reason whether such loss is permanent or temporary, except if such loss is due to the performance of the work itself, or if the employer, being aware of the

state of the injured employee, agrees to such performance;

- f) Results from force majeure, except if it constitutes a normal occupational hazard or if it comes about while carrying out a task expressly ordered by the employer, under conditions of manifest danger.
- 2. The occurrence of the circumstances provided for in this article shall not release employers from the obligation to provide first aid to injured employees and from transporting them to a health facility.

ARTICLE 12

Pathological predisposition and disability

- 1. The pathological predisposition of the accident victim shall not exclude the right to full compensation, except where this has been hidden at the time of his admission to employment.
- 2. Where the injury or disease has been aggravated by a previous injury or disease, or where it has been aggravated by an accident, the disability shall be assessed as if everything derives from such accident, unless the injured employee is already receiving a pension or has received an amount pursuant to article 52 of this Regulation.
- 3. Should the injured employee be affected by a permanent disability prior to the accident, the compensation paid shall only correspond to the difference between the previous disability and any disability that is calculated as if everything is attributed to the accident.
- 4. Without prejudice to the previous paragraph, where the destruction or damage of the artificial parts of the body which the injured employee was already using arises from the accident, the injured employee shall be entitled to it being repaired or replaced.
- 5. The injured employee shall also be entitled to compensation for any injury or disease that shows up during the treatment of any injury or disease arising from an accident at work and that is a consequence of any medical malpractice.

ARTICLE 13

Incapacity for work

- 1. Any accidents at work may lead to a temporary or permanent incapacity for work.
- 2. The temporary or permanent incapacity may be partial or total incapacity.

ARTICLE 14

Entities responsible for pensions and compensations

The entities responsible for pensions, compensations and other charges are as follows:

- a) Natural persons and legal persons governed by private or public law, not covered by special legislation, which benefit from the claimant's work.
- b) The contractor or subcontractor, when it is bound, respectively, to the principal or the contractor to provide services and is not under their effective management.

ARTICLE 15

Right to assistance

All employees are entitled to immediate medical and medication assistance in case of an accident at work or occupational disease.

ARTICLE 16

Right to compensation

1. Every employee is entitled to compensation, in case of an accident at work and occupational disease, except when it arises from inebriety, drug use or voluntary intoxication of the victim.
2. The right to compensation due to an accident at work or occupational disease implies an effort by the employer to place the injured worker in a position that is compatible with his residual capacity.
3. Should it be impossible to place the employee under the terms described in the previous paragraph, the employer may terminate the contract, in which case he shall indemnify the employee according to the termination system on fair grounds, in accordance with the Labour Law.

ARTICLE 17

Dismissal during the temporary disability

1. Dismissal without fair grounds of an employee who is temporarily disabled as a result of an accident at work bestows upon him, without prejudice to any other rights enshrined in the law, should he elect not to be integrated back into the workplace, the right to a compensation equal to the one provided for in paragraph 3 of the previous article.

ARTICLE 18

Accident caused by another employee or any third parties

1. Where the accident has been caused by another employee or a third party, the right to compensation shall not prejudice the right of action against him, in accordance with the general legislation.
2. If the injured employee receives from another employee or third party a compensation higher than the one due by the responsible entity, the latter is considered to be released from its respective obligation and is entitled to be reimbursed by the injured employee in relation to any sums that it may have paid or spent.
3. If the compensation that has been awarded to the employee or third party in favour of the injured employee is lower than the total sum of benefits bestowed as a result of the accident or disease, the release from the liability shall be limited to such amount, and the responsible entity shall take on the amount pertaining to the difference.
4. The responsible entity that has paid the compensation for the accident has a right of recourse against the individuals mentioned in paragraph 1 of this article, if the injured employee has not legally demanded the compensation within one year from the date of the accident.
5. Both employer and insurer have the right to intervene as a principal party in the process where the injured employee demands the compensation that this article refers to from those responsible for the accident.
6. In any case one is not allowed to receive two compensations for the same accident.

ARTICLE 19

Type of payments

1. Payments for compensating any accidents at work and occupational diseases may be in cash or in kind.
2. Payments in kind are of a medical, surgical, pharmaceutical, hospital nature or of any other nature, whatever their form, provided they are necessary and suitable for the injured person's recovery of his state of health and capacity for work or earning capacity and his reintegration into active life.
3. Payments in cash are those intended for:
 - a) Compensation for total or partial temporary disability;
 - b) Compensation in cash or a lifelong pension corresponding to the reduction of his capacity for work or earning capacity, in the case of total or partial permanent disability;

- c) Survivor's pension for the injured person's family members;
- d) Funeral allowance;
- e) Death allowance;
- f) Additional indemnity

SECTION II

Occupational diseases

ARTICLE 20

Concept of occupational disease

1. For purposes of this Regulation, occupational disease is understood to mean every clinical situation appearing either locally or generally in the body, of a chemical, biological, physical and psychological nature, arising from the performance of duties and directly related thereto.
2. Occupational diseases are considered to be, among others included in the National Occupational Disease List, those resulting from:
 - a) Lead, lead alloy or lead compound poisoning, and direct consequences of such poisoning;
 - b) Mercury, mercury amalgam or mercury compound poisoning, and direct consequences of such poisoning;
 - c) Poisoning due to harmful pesticides, herbicides, colourants and solvents;
 - d) Poisoning due to dust, industrial gases and vapours, with internal combustion gases of refrigerating machines being defined as such;
 - e) Exposure to asbestos fibres or dust or of dust from asbestos-containing products in the air;
 - f) Poisoning due to the action of X rays or radioactive substances;
 - g) Carbuncular infections;
 - h) Dermatitis caused by the work environment.
3. If the disease that the employee is suffering from is not included in the National Occupational Disease List, but there is a relation between it and the work environment, the attending physician shall confirm the existence of such relation, after which the employee shall have the right to compensation, in accordance with the terms defined in this Regulation.
4. Any industries or occupations with greater tendency to cause occupational diseases shall be included in specific legislation.

ARTICLE 21

Updating of occupational disease list

The list of occupational diseases mentioned in paragraph 2 of the previous article shall be reviewed and updated, whenever necessary, by Order of the Minister responsible for the Health area.

ARTICLE 22

Joint Technical Commission

For the purposes of the previous article, the Ministers responsible for the Labour and Health areas shall set up, by joint Ministerial Order, a commission made up of specialists from both Ministries in order to undertake studies and a review of issues pertaining to occupational hygiene, safety and health, accidents at work and occupational disease.

ARTICLE 23

Proof of occupational disease

1. In order for the employee to benefit from the provisions of this Regulation with respect to occupational diseases, he will have to prove:
 - a) That he suffers from one of the diseases included in the National Occupational Disease List, and submit a document issued by the National Health Board, in triplicate; a copy shall be given to the company, another to the employee and the last to the Provincial Health Board record-office;
 - b) That he usually carries out one of the duties liable to cause occupational diseases or that he has been subject to the risk of such disease due to his work.
2. Evidence of these facts shall constitute a presumption that the disease the employee suffers from is related to the work provided.

ARTICLE 24

Action of the General Labour Inspectorate and the Public Prosecutor

1. For purposes of securing the evidence mentioned in paragraph 1 of the previous article, the employee shall request his employer to issue him a note¹ so that he can report to the Provincial Medical Board for medical tests.
2. Should the employer refuse to provide the employee with the note mentioned in the previous paragraph, the latter may appeal to the local Labour Inspectorate, which shall notify the company to report to it with the employee's individual file and note, duly filled in, within three days.
3. After the time limit mentioned in the previous paragraph has expired, without the employer reporting to it, the General Labour Inspectorate, on its own initiative, shall provide the employee with the note in order for him to report to the Provincial Health Board and shall immediately fine the offending party.
4. Without prejudice to the previous paragraphs, the Public Prosecutor may, after receiving a complaint, refer the employee to the Provincial Health Board for medical tests.
5. Any expenses incurred by the employee with the travelling mentioned in previous paragraphs shall be borne by the employer, either directly or as a right of recourse.

ARTICLE 25

Occupational disease shown after termination of the contract

1. If the occupational disease appears after the employment contract has terminated, the employee retains the right of assistance and compensation.
2. The burden of proof of the causal link between the work that was done and the disease he is suffering from shall lie with the employee.
3. If the occupational disease contracted at a company is aggravated at another company within the same field, there shall be a proportional share of liability.
4. For the purposes of the previous paragraph, the employee shall be referred to the National Health Board by the General Labour Inspectorate.
5. Should the occupational disease be found after the company's bankruptcy or closure, and should there be no insurance or should it be insufficient, the liability for the injured employee shall be taken over by the National Social Security Institute, provided the employee fulfils the requirements to benefit from such payment in accordance with the respective legislation.

CHAPTER III

Reporting an accident at work and an occupational disease

ARTICLE 26

Reporting an accident at work and an occupational disease

1. The occurrence of any accident at work or diagnosis of an occupational disease, as well as its consequences, shall be reported to the employer or its legal representative, verbally or in writing, within the next forty eight hours, by the injured employee or

¹ Translator's Note: "Guia" in the original Portuguese through an intermediary, unless the latter witnesses the accident or comes to know about it within the same period.

2. If the state of the injured employee or another impeditive circumstance does not allow the observance of the provisions of the previous paragraph, the time limit shall be counted from the date of removal of such non-compliance.
3. If the injury appears or is acknowledged at a date subsequent to the accident date, the time limit shall be counted from the date such injury appeared or was acknowledged.
4. Where the injured employee does not report the accident in due time and for that reason it is impossible for the employer or its legal representative to provide him the required assistance, the disability that has been legally established as a consequence of such non-compliance shall not confer entitlement to the payments provided for in this Regulation, in so far as it has derived from such non-compliance.

ARTICLE 27

Reporting from the employer

1. The employer shall report any accidents at work and occupational diseases to the General Labour Inspectorate pursuant to the Labour Law and the General Labour Inspectorate Regulation, as well as to the Ministry responsible for the sector the company operates in.
2. The employer that has taken out insurance for his employees shall notify the insurer, in writing, within the time limit laid down in the respective policy.
3. The employer that has not transferred its liability shall inform, in writing,

the Public Prosecutor at the Labour Court, of the occurrence of an accident at work or a diagnosis of occupation disease, regardless of the consequences resulting therefrom and of any assessment of the legal conditions for compensation, within eight days from the date of reporting that the previous article refers to or from the date the accident became known, where the injured employee has been unable to do it or have such reporting done within the legal time limit.

ARTICLE 28

Work on board ships

1. If the injured employee is a registered seaman, the report shall be done by the ship's captain to the harbour master where the accident occurred or where the ship first docked if the accident occurred at sea, and the time limit shall be from the date of the accident or arrival.
2. In the case of the previous paragraph, the harbour master shall immediately forward his report to the Public Prosecutor at the Labour Court.

ARTICLE 29

Reporting by insurers

Insurers shall report to the Public Prosecutor at the Labour Court, in writing, within three days from the hospital discharge, all accidents at work that may have resulted in total or partial permanent disability and immediately after becoming aware of any accidents resulting in death.

ARTICLE 30

Ability to report

1. Within the time limits mentioned in the previous articles, reporting the accident at work or occupational disease to the Public Prosecutor at the Labour Court may also be done:
 - a) By the injured employee, either directly or through an intermediary;
 - b) By the authority that may have become aware of the accident at work, when the injured employee is unable to do so;
 - c) By the director of the hospital, social security establishment or prison where the injured employee was, should the accident have been sustained at the service of another entity.

ARTICLE 31

Mandatory reporting in case of death

All health institutions are required to report to the Public Prosecutor at the Labour Court and to the General Labour Court the death of any injured employee and, likewise, to report to the person under whose care he was.

ARTICLE 32

Reporting formalities

Any reporting of an accident at work or occupational disease to the Public Prosecutor at the Labour Court shall comply with the procedures laid down in procedural rules and, in the case of death, such reporting shall be accompanied by a death certificate.

CHAPTER IV

Aid to injured employees and respective treatment

ARTICLE 33

Aid and assistance given to the injured employee

1. The employer or its legal representative are required to provide the injured employee with medical and medication assistance, secure transport and hospital stay under the conditions imposed by the nature of the injury or disease.
2. The hospitalization and treatments shall be carried out at hospitals suitable to the recovery and rehabilitation of the injured employee.
3. The provision or payment of transport and hospital stay covers any travelling and stay required for observation and treatment and also any travelling required for attending legal proceedings.
4. The right to transport and hospital stay shall be extended to the person who accompanies the injured employee when the nature of the injury or disease so require.

ARTICLE 34

Area of medical assistance

1. Medical and medication assistance shall be provided at the health facility of the area where the works where the accident occurred were taking place or at the health facility of the place of residence of the injured employee, depending on where the most suitable assistance may be found.
2. The medical and medication assistance mentioned in the previous

paragraph may, however, be provided at any other area due to the lack of suitable conditions at the accident site or by agreement between the injured employee and the responsible entity.

ARTICLE 35

Compliance with medical and surgical prescriptions

1. Injured employees shall undergo treatment and comply with the medical prescriptions required for healing the injury or for recovering the capacity for work, that have been issued by the designated doctor.
2. Any disability that has been legally established as a consequence of an unjustified refusal or non-compliance with medical prescriptions shall not confer entitlement to the payments set out in this Regulation.
3. The refusal of surgery shall always be considered as justified where, due to its nature or to the state of the injured employee, it endangers the latter's life, provided this is based on a duly reasoned opinion by the attending physician.

ARTICLE 36

Hospitalization expenses

Hospitalization expenses of any injured employee at the workplace shall be paid by the responsible entity. For such purpose, this entity shall sign a formal liability declaration accompanied by a guarantee deposit, or otherwise submit another type of guarantee.

ARTICLE 37

Formal liability declaration

1. Should the responsible entity refuse to sign the formal liability declaration, the attending physician shall attend to the injured employee and report the occurrence to the director of the health facility who will then immediately forward such notification to the General Labour Inspectorate and to the Public Prosecutor for subsequent action.
2. The Public Prosecutor shall initiate the necessary procedure in order to comply with the stipulations of the law regarding the right to assistance of the injured employee.

3. For purposes of payment of expenses by the responsible entity, the director of the health facility shall request the Public Prosecutor, within the prescriptive time limit of thirty days, that the bills pertaining to clinical fees and expenses incurred with the hospitalization be attached to the respective file.

ARTICLE 38

Medical assistance

1. The responsible entity shall be entitled to appoint the attending physician of the injured employee.
2. The injured employee may, however, use any doctor in the following cases:
 - a) If the responsible entity or whoever is representing it does not appoint an attending physician or while it does not do so;
 - b) If the responsible entity or whoever is representing it is not at the location of the accident and there is need for emergency first aid;
 - c) If the responsible entity renounces the right to choose the attending physician;
 - d) Where the injured employee is discharged without any clinical improvement, he shall request the clinical director of the health facility for a new assessment to confirm his state of health.
3. As long as there is no designated attending physician, for all legal purposes the doctor treating the injured employee shall be regarded as such.
4. If he is not happy with the assistance provided by the clinical director, the injured employee may lodge an administrative appeal or a litigious appeal or even a simple appeal to the Mozambican Medical Association.

ARTICLE 39

Legal replacement of attending physician

During the hospitalization, the attending physician shall be replaced by a doctor at the hospital, although he retains the right to monitor the medical condition of the injured employee, in coordination with the substitute doctor.

ARTICLE 40

Dispute over the decisions of the attending physician

The injured employee or the responsible entity shall be entitled to not comply with the decisions of the attending physician or of whoever replaces him.

ARTICLE 41

Dispute resolution

1. Any disputes between the injured employee and the attending doctor or his legal substitute shall be forwarded to the clinical director of the institution.
2. If he is not happy with the decision of the clinical director, the injured employee may appeal to the specific medical college of the Mozambican Medical Association.
3. The decisions mentioned in the previous paragraphs shall be in writing and any interested parties may challenge them, in a reasoned statement, to the Public Prosecutor during the conciliatory stage and to the Judge during the litigious stage, both of whose decisions shall be final.
4. In the cases provided for in paragraphs 1 and 2 of this article, if a lawsuit arises from any accident at work, it shall be attached to such accident.

ARTICLE 42

Exam or release certificate

1. Upon the hospital admission of the injured employee, the attending physician shall issue an exam certificate, where he shall describe the diseases or injuries that he may find, any symptoms, treatments and expected timeframe for clinical healing.
2. When the injured employee's treatment has ended and he is capable of working or shows a probability of chronic illness, the attending physician shall issue a release certificate.
3. The responsible entity shall forward the release certificate to the Provincial Health Board for assessment of the degree of incapacity for work.
4. The results of the assessment mentioned in the previous paragraph shall be forwarded to the Public Prosecutor at the competent Labour Court, by the responsible entity, within three days from its receipt.
5. The filling out of medical certificates and of exam and release certificates concerning injured employees, as well as daily logbooks of the assistance that has been provided shall be mandatory and paid by the responsible authority.

ARTICLE 43

Duty of care

No doctor may refuse to provide aid to injured employees when required to do so by the responsible entity or by the injured employees themselves, where they are allowed to choose the attending physicians.

ARTICLE 44

Request by the Public Prosecutor at Court

The responsible entity, hospitals and similar facilities are required to provide the Public Prosecutor at the Labour Court, as soon as they are requested to do so, all the information and documentation pertaining to medical and medication assistance and additional diagnostic tests related to accidents at work or occupational diseases.

CHAPTER V

Pensions and compensation

SECTION III

Death benefits

ARTICLE 45

Survivor's pension

1. If death results from any accident, the annual pensions shall be as follows:
 - a) 60% of the injured employee's annual remuneration for his spouse or non-marital partner;
 - b) 60% of the % of the injured employee's annual remuneration for his legally separated spouse on the date of the accident and with entitlement to maintenance up until the limit of the maintenance amount determined by a court;
 - c) 25% of the annual remuneration for his children, including unborn and adopted children at the time of the accident, until the age of 18, 21 or 25 years, if they attend basic, secondary or tertiary education, respectively, or without an age limit when they have been affected by physical or mental illness that makes them unable to work: 30% of the injured employee's annual remuneration if it is just one child, 50% if there are two or more children and double these amounts, up to a limit of 80% of the injured employee's annual remuneration, if they are orphans who have lost both parents;
 - d) To their offspring and any relatives entitled to inherit on the date of the

- accident until they are 18, 21 or 25 years, whilst attending attend basic, secondary or equivalent course or tertiary education, respectively, or without an age limit when they have been affected by physical or mental illness that makes them unable to work, provided the injured employee had regularly contributed towards their sustenance: to each one, 15% of the injured employee's annual remuneration, but the pension total may not exceed 80% of such annual remuneration.
2. If there is no spouse, non-marital partner or children entitled to a pension, each of the relatives included in sub-paragraph d) of the previous paragraph and in the conditions mentioned in such sub-paragraph shall receive 15% of the injured employee's remuneration, but the pension total may not exceed 80% of the injured employee's remuneration, for which a pro-rata apportionment shall be done, if necessary.
 3. Any of the individuals mentioned in sub-paragraphs a) and b) of paragraph 1 who has married or entered into a non-marital partnership shall receive, on an once-off basis, double the annual pension and this shall cancel the entitlement to the respective pension, unless the pension has already been redeemed in its entirety.
 4. If, upon the death of the injured employee, there has been concurrence between the beneficiaries mentioned in sub-paragraphs a) and b) of paragraph 1, the pension shall be split proportionally to their respective rights.
 5. For purposes of sub-paragraph c) of paragraph 1, the injured employee's stepchildren shall be treated as equivalent to children, provided he was under an obligation to pay maintenance, in accordance with the relevant legislation.

ARTICLE 46

Accumulation and pro-rata apportionment of pensions due to death

1. The pensions mentioned in the previous article are cumulative, but their total amount may not exceed 80% of the injured employee's remuneration.
2. If the pensions mentioned in sub-paragraph d) of paragraph 1 of the previous article, added to those provided for in sub-paragraphs a), b) and c), exceed 80% of the injured employee's annual remuneration, the benefits shall be subject to pro-rata apportionment, whilst such amount is exceeded.
3. If the surviving spouse passes away during the period the pension is due to the children, such pension shall be increased according to the final part of sub-paragraph c) of paragraph 1 of the previous article.
4. Every month, the pensions of the injured employee's children shall be

those corresponding to the number of children entitled to such pension who are alive that specific month.

5. Pensions become due on the day after the death of the injured employee.

ARTICLE 47

Death allowance

1. The death allowance is equal to six times the injured employee's monthly remuneration, and the following is allocated:
 - a) Half to his spouse or non-marital partner and half to his children;
 - b) Full pension to his spouse or non-marital partner, should there be no children, or to his children, should there not be a surviving spouse or non-marital partner.
2. If the injured employee does not leave any beneficiaries as mentioned in the previous paragraph, the death allowance shall be split in equal parts among his descendants.

ARTICLE 48

Funeral allowance

1. The funeral allowance is equal to twice the minimum wage of the sector where the injured employee's company is operating, paid on a once-off basis to the surviving spouse or to whoever has proof of having borne the funeral expenses.
2. If death occurs when the employee was transferred to outside his usual residence, any expenses inherent to transportation of the body are for the account of the responsible entity.

ARTICLE 49

Pension review

1. Where there is a change in the injured employee's earning capacity resulting from it becoming worse, recurrence, relapse or improvement of the injury or disease that gave rise to the compensation, or resulting from any medical intervention or application of artificial parts of the body or from training or professional reconversion, benefits may be reviewed and increased, reduced or terminated, in accordance with the change that occurred.

2. Any interested party may request that the pension due to permanent disability be reviewed, citing a change in such disability, provided that, on the date the pension has been determined or of its last review, more than six months and less than five years have elapsed, by submitting a National Health Board disability assessment table.
3. In the case of occupational diseases of an evolving nature the provisions of the previous paragraph shall not apply, and a review may be requested at any time.

ARTICLE 50

Benefit calculations

1. Any compensation for total or partial temporary disability shall be calculated based on daily remuneration on the date of the accident, when it represents the remuneration that is normally received by the injured employee.
2. Death and total and partial permanent disability pensions shall be calculated based on the gross annual remuneration normally received by the injured employee.

ARTICLE 51

Remuneration

1. Monthly remuneration is understood to be the amount that, on the basis of an individual employment contract or collective labour agreement or contract of usage, the employee is entitled to in return for his labour.
2. This remuneration comprises his salary and all regular and periodic benefits paid, directly or indirectly, in cash or in kind.
3. Annual remuneration is understood to be the proceeds of twelve times the monthly remuneration that the injured employee is entitled to on a regular basis.
4. If the remuneration corresponding to the day of the accident does not represent his regular remuneration, this shall be calculated by the average remuneration based on days of work and corresponding to any remuneration earned by the injured employee within the period of one year before the accident. Should this information be non-existent, the calculations shall be made according to the prudent consideration of the Public Prosecutor, taking into account the nature of the work that has been provided, the injured employee's professional category and the usage of his occupation.
5. As regards any compensation arising from occupational diseases, any

compensation and pension shall be calculated based on the remuneration for the category of the patient on the date of the final diagnosis of a disease.

6. If the injured employee is an apprentice or intern, the pension he shall be entitled to shall be based on the average gross annual remuneration of an employee of the same company or similar company and a professional category corresponding to his training, apprenticeship or internship.
7. Under no circumstances may the remuneration be lower than the remuneration resulting from the law or any collective bargaining tools.
8. The provisions of paragraph 1 of this article shall apply to non-regular work and to part-time workers. Any absence from work in order to conduct any tests to pinpoint the accident or the disease, or to treat it, or further to acquire, replace or repair any artificial parts of the body shall not lead to loss of remuneration.

SECTION IV

Disability benefits

ARTICLE 52

Pensions

If the accident causes the injured employee any permanent incapacity for work, he shall be entitled to the following benefits:

- a) In the case of total permanent disability – an annual lifelong pension equal to 90% of the annual remuneration;
- b) In the case of partial permanent disability equal to or higher than 30% – an annual lifelong pension corresponding to 70% of the reduction of his general earning capacity;
- c) In the case of a partial permanent disability lower than 30% – the redemption capital of an annual lifelong pension corresponding to 70% of the reduction in his general earning capacity.

ARTICLE 53

Compensation

If the accident causes the injured employee any temporary incapacity for work, he shall be entitled to the following benefits:

- a) In the case of total temporary disability – daily compensation equal to 70% of his remuneration.
- b) In the case of partial temporary disability – daily compensation equal to 70% of the reduction of his general earning capacity.

ARTICLE 54

Remuneration on the day of the accident and due date of benefits

1. The remuneration corresponding to the day of the accident shall be paid by the employer.
2. Compensation for total or partial temporary disability shall become due on the day after the accident and pensions for total or partial permanent disability shall become due on the day after the hospital discharge.
3. Determining disability pensions and compensation shall not prejudice the injured employee's right to medical and medication assistance required for his complete recovery.

ARTICLE 55

Method of determining an interim pension

1. In the cases of permanent disability an interim pension shall be established between the day after the hospital discharge and the time the final pension has been determined.
2. Without prejudice to the Labour Procedure Code, an interim pension due to permanent disability equal to or higher than 30% shall be awarded by the responsible entity and calculated according to the previous article of this Regulation, based on the devaluation defined by the National Health Board.
3. Any interim pension due to permanent disability lower than 30% shall be awarded by the responsible entity and calculated according to the previous article of this Regulation, based on the devaluation coefficient defined by the National Health Board.
4. The amounts paid pursuant to the previous paragraphs shall be considered when the final pension or compensation is determined, and any eventual differences between the interim and the final pension must be corrected.

ARTICLE 56

Pension update

1. Pensions provided for in this Regulation shall be periodically updated by the responsible entity whenever there is an alteration of the national minimum wage.
2. For the purposes of the previous paragraph, such updating may not be lower than 60% of the national minimum wage applicable in the business sector the injured employee was working in.

ARTICLE 57
Special redress cases

1. Where the accident has been caused with malicious intent by the employer or his representative, or occurs as a result of a lack of working conditions and safety, benefits shall be paid by the employer and determined according to the following rules:
 - a) In the case of total or partial temporary disability or death, they shall be equal to the injured employee's remuneration;
 - b) In the case of total or partial permanent disability, they shall be based on the reduction of capacity arising from the accident.
2. If the liability has been transferred, the insurer shall only be only be subsidiarily liable for normal charges arising from the accident, after the employer's assets have been attached, based on the stated remuneration.
3. The previous paragraph shall not prejudice the liability for moral damages pursuant to the general law nor any criminal liability that the employer or its representative may have incurred in.
4. If the employer pays out the benefits due to any accident caused by its representative, it will have right of recourse against the latter.

ARTICLE 58
Supply of artificial parts of the body

The injured employee shall be entitled to the supply and standard renewal, at the employer's expense, of the artificial parts of the body required for his use, or to an additional compensation for their cost.

ARTICLE 59
Agreement between employer and injured employee

1. The employer may conclude an agreement with the injured employee or his successors according to the law, pertaining to medical and medication assistance, pensions and legal compensations.
2. The Public Prosecutor shall forward the agreement to the Labour Court together with a report, within the ten following days, and it shall be accompanied by the exam certificate, if this has not yet been forwarded, and the release certificate, if this has been given, as well as the disability assessment table issued by the National Health Board.

ARTICLE 60

Obligation to provide surety

1. Employers are required to stand surety for the payment of pensions for accidents at work where they have been convicted, or which they were put under an obligation for by virtue of a confirmed agreement where there is no insurance, or the insurance is insufficient, unless they conduct a specific pension insurance contract at an insurer.
2. The surety may be done by cash deposit, public debt securities, allocation of resources or mortgage of property or bank guarantee.
3. The surety shall be at the order of the competent Labour Court within the time limits laid down by a trial judge.
4. For surety purposes, public debt securities shall be assessed based on the last share price and the immovable property and mortgage loans based on the corrected property register of the respective buildings; it is up to the Public Prosecutor to assess and give an opinion on the suitability of sureties.
5. All properties subject to this risk must without fail be insured against fire.
6. Where it is established that the surety provided is insufficient, it shall be strengthened, and the rules laid down in the previous paragraphs of this article shall be complied with.

ARTICLE 61

Intervention of the entity responsible for insurance supervision

1. It shall be incumbent upon the entity responsible for insurance supervision to determine the amount of pension surety, where there is no employers' liability insurance or where it is insufficient.
2. It is also incumbent upon the entity mentioned in the previous paragraph to give an opinion on the transfer of liability of pensions for accidents at work to insurers.
3. The amount of pension surety shall be calculated in accordance with the practical tables that article 66 refers to, plus 10%.

Article 62

Disability determination

Disability determination shall be made in accordance with the National Disability Table for Accidents at Work and Occupational Diseases, which shall be reviewed and updated by a commission whose composition, jurisdiction and working method shall be established by ruling from the Minister

responsible for the Health area.

ARTICLE 63

Mandatory forms

1. Any reports, exam and hospital release certificates and the other forms mentioned in this regulation that may be printed shall comply with the officially approved models, and be thoroughly completed in full in a permanent and intelligible manner.
2. All documents required for this ruling to be complied with shall bear stamp duty in accordance with the respective Code, as well as all fees, costs or charges issued at any government department.

SECTION V

Redemption and review benefits

ARTICLE 64

Redemption conditions

1. The following annual pensions shall be redeemed without fail:
 - a) Pensions due to injured employees and legal beneficiaries of lifelong pensions that are not higher than ten times the highest national minimum wage at the time the pension is determined;
 - b) Pensions due to injured employees, regardless of the amount of the annual pension, due to permanent and partial disability lower than 30%.
2. Annual lifelong pensions corresponding to a disability equal to, or higher than 30% or annual lifelong pensions of beneficiaries in case of death, may be partially redeemed at the request of pensioners or of responsible bodies and with the authorization of the competent court, provided they respect the following cumulative limits:
 - a) The remaining pension may not be lower than six times the highest national minimum wage;
 - b) The redeemed capital may not be higher than the amount that would have resulted from a pension calculated based on a 30% disability.

ARTICLE 65

Formalities for redemption

1. The injured employee or any parties interested in the redemption of any pension shall forward their claim, if such pension is not mandatory, to the judge of the respective case who, if he authorizes it, shall indicate the day for the injured employee or his proxy to receive the redeemed capital, via an instrument attached to the case record.
2. Such instrument shall include the injured employee's name, the amount that he received per year as pension and the name or business name of the responsible entity.
3. The redemption may also be carried out by agreement out of court in triplicate, always subject to confirmation of the judge of the respective case.

ARTICLE 66

Capital calculation

The technical bases applicable to the redeemed capital calculation of pensions, as well as practical calculation tables of the redeemed capital, shall be laid down by order of the Minister responsible for the Finance area.

ARTICLE 67

Rights not affected by redemption

The redemption shall not prejudice:

- a) The right to benefits in kind;
- b) The injured employee's right to request that his pension be reviewed;
- c) The rights allocated to the legal beneficiaries of the injured employee, if he dies as a result of the accident;
- d) The updating of the remaining pension in the case of partial redemption or arising from a pension review.

CHAPTER VII

Lapse of rights

ARTICLE 68

Lapse of the right to benefits

1. The right to benefits set out in this Regulation shall lapse, if it is not demanded within one year from the date of the hospital discharge formally

notified to the injured employee, or from the date of the accident, if it causes death or leads to total or partial permanent disability.

2. Benefits set by a court decision, or by agreement between the parties, which are either due or falling due, shall lapse within three years from their respective due date. If no payment has been made, this time limit shall be from the time a final sentence has been passed or from the approval of the agreement between the parties.
3. The limitation period shall not begin nor continue to run if the employer, not having transferred its responsibility to an insurer, keeps the injured employee in its employ after the accident and whilst it does so.
4. The limitation period shall be suspended if the injured employee accepts from the responsible entity any benefit in cash or in kind, in return for what was legally due to him.

CHAPTER VIII

Monitoring and sanctions

ARTICLE 69

Jurisdiction

1. Monitoring of compliance with the provisions of this Regulation is the responsibility of the General Labour Inspectorate, as well as of the entity responsible for insurance supervision in so far as it concerns the latter.
2. It is a matter for the General Labour Inspectorate alone to draw up records of evidence for infringement of the provisions of this Regulation.
3. The records of evidence serve as proof of evidence and shall be submitted in court, unless there is proof otherwise.

ARTICLE 70

Destination of fines

1. The proceeds from fines imposed and collected in the course of cases initiated with the drawing up records of evidence by the General Labour Inspectorate shall be distributed as follows:
 - a) 40% for the National Treasury;
 - b) 60% for the fund for the promotion and improvement of services of the General Labour Inspectorate.
2. The rules for the implementation of the provisions of the previous paragraphs shall be set out in a separate piece of legislation to be approved by the Minister responsible for the Labour area.

ARTICLE 71

Hand-over of the proceeds from fines

The proceeds from fines shall be handed over by the investigating authority to the Directorate for the specific Tax area, by means of a general model B Note².

ARTICLE 72

Sanctions

² Translator's Note: "Guia" in the original Portuguese. A breach of articles 5, 6, paragraph 1 of article 7, article 15, paragraph 3 of article 16 and article 33 of this Regulation shall be punished with a fine of five to ten minimum wages in the business sector where the company is operating in, for each covered employee.

CHAPTER IX

Final and temporary provisions

ARTICLE 73

Transitional system

Pensions determined before this Regulation comes into force shall be updated up to at least 60% of the lowest minimum wage.

ARTICLE 74

Nullity procedures

1. All contracts or agreements concluded between the employer or insurers whom it has transferred its liability to and employees, whose object is the renunciation or reduction of pensions and compensations laid down in this Regulation, shall become null and void.
2. All simulated contracts concluded by a body responsible for any pensions and compensations due as a result of an accident at work or occupational disease with the aim of harming injured employees shall also be null and void.
3. All acts of the employer carried out after the date of the accident or unequivocal diagnosis of occupational disease or illness resulting from an accident at work that may involve a reduction of the company's property guarantee shall be presumed to be committed with the aim of prejudicing

the right of redress of injured employees or their relatives.

Annexure

Glossary

For purposes of this Regulation, the words below are understood to have the following meaning:

- Hospital discharge – Authorization to leave the hospital.
- Clinical – Medical activity on the patient's body.
- Force majeure – any situation which, due to inevitable forces of nature, independent from human intervention, does not constitute a normal professional risk and is not brought about when carrying out a job expressly ordered by the employer under evident dangerous conditions.
- Healing – Returning the patient to a healthy state.
- Chronic – Permanent.
- Chronic illness – Chronic state.
- Incapacity for work – Inability to render any service due to a disease or injury.
- Temporary disability – incapacity for work over a period of time due to an occupational disease or accident at work. It is partial if such incapacity is less than a full day of work and it is total if the disability period is at least a full day beyond the day when the accident occurred.
- Permanent disability – incapacity for work of a definitive nature due to an occupational disease or an accident at work. It is partial if the possibility of recovery of the physical or mental damages sustained is a partial one; it is total if such recovery is a remote or impossible one.
- Responsible entity – Entity which the responsibility for the accident or for it being redressed is attributable to.
- Injury – Injury, functional disruption or disease resulting from an accident at work.
- Voluntary physical injuries – Injuries intentionally caused to the employee by another employee, the employer or a third party.
- Pathological predisposition – capacity of the employee's body to contract certain diseases.
- Pro-rata apportionment of pensions – proportional distribution of the pension amount among the various existing beneficiaries.
- Relapse – reappearance of the symptoms of a disease which was deemed to be cured.
- Recurrence – reappearance of the symptoms of a disease that had already been extinguished.
- Refer – to direct.
- Pension redemption – once-off payment of the total lifelong pension .

- Injured employee – employee who has sustained an accident at work or an occupational disease.