



Article Content

Title : Act for Protecting Worker of Occupational Accidents CH

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Category : Ministry of Labor (勞動部)

Chapter I General Provisions

Article 1 Act for Worker Protection of Occupational Accidents (hereinafter referred to as the Act) is enacted to protect the rights of workers suffered from occupational accidents, strengthen the prevention of occupational accidents and promote employment security and economic development; matters not prescribed in the Act shall be governed by other statutes.

Article 2 The term “competent authority” referred to in the Act shall be the Council of Labor Affairs, Executive Yuan at the central level, the municipal government at the municipal level, and the county (city) government at the county(city) level.

Chapter II Source, Use and Management and Supervision of Fund

Article 3 The Central Competent Authority shall appropriate a special fund from the surplus of occupational accident insurance balance of the Labor Insurance Fund to strengthen the prevention of occupational accidents and subsidize workers participating in the labor insurance scheme and suffered from occupational accidents, and such fund shall not be subjected to the provision of Paragraph 2 of Article 67 of the Labor Insurance Act, and its accounting shall be processed separately.

The fund referred to in the preceding paragraph, except the amount appropriated in a lump sum according to budget procedures from the surplus of occupational accident insurance balance of the Labor Insurance Fund, includes also the amount appropriated from 40 percent to 60 percent of the surplus of occupational accident insurance balance of the Labor Insurance Fund of the previous year financial year by financial year.

Article 4 The Central Competent Authority shall prepare a budget of special fund for subsidizing workers not participating in the labor insurance scheme but suffered from occupational accidents; and its accounting shall be processed separately.

Administrative fine imposed in accordance with Articles 33 and 34 shall be allotted into the fund prescribed in the preceding paragraph.

Article 5 Matters concerning the revenues and expenditures, management and screening of special funds referred to in the preceding two articles shall be administered by the Bureau of Labor Insurance, Council of Labor Affairs, Executive Yuan, while the Labor Insurance Supervisory Committee, Council of Labor Affairs, Executive Yuan is responsible for supervision and review. Expenses required by the labor insurance institutions for handling various businesses prescribed in the Act shall be defrayed by the budget made in accordance with Article 68 of the Labor Insurance Act.

Article 6 When a worker not participating in the labor insurance scheme but suffered an occupational accident is not compensated by the employer concerned in accordance with provisions of Labor Standards Act, the worker may with reference to the standards of Labor Insurance Act apply for disability or death subsidies of occupational accident in accordance with the minimum grade of insured salary. The subsidy referred to in the preceding Paragraph shall be deducted from the amount of compensation already paid by the employer concerned. Residual physical impairment of an applicant for disability subsidy in accordance with Paragraph 1 shall conform to the items and benefit standards of category 1 to category 10 as set forth in the Disability Benefits Payment Schedule of labor insurance scheme. When the employer concerned compensates an occupational accident in accordance with the provisions of Labor Standards Act, subsidy referred to in Paragraph 1 may be deducted.

Article 7 An employer shall compensate for the damages to workers as a result of occupational accidents unless the employer can produce proof of non-negligence.

Article 8 If an insured person of labor insurance scheme suffers, after the enforcement of the Act, an occupational accident during the existence of insurance coverage, the person concerned may apply for the following subsidies:

1. When suffering an occupational disease and being lost of partial or full capability to work, the person concerned may apply for living allowance after having received various occupational accident benefits of labor insurance scheme.
2. Owing to residual physical impairment caused by an occupational accident and being lost of partial or full capability to work, the person concerned may apply for disability living allowance as long as residual physical impairment conforms to the items of category 1 to category 7 as set forth in the Disability Benefits Payment Schedule of labor insurance scheme.
3. After suffering an occupational accident, the person concerned

may apply for living allowance if having not received training subsidy or living allowances referred to in the preceding subparagraphs during the period of participating in vocational training.

4. Owing to residual physical impairment caused by an occupational accident and requiring assistant device, the person concerned may apply for device subsidy only when having not received device subsidy prescribed in other laws.

5. Owing to the loss of partial or full capability to live independently caused by an occupational accident and requiring care-taker, the person concerned may apply for care-taking subsidy only when having not received relevant subsidy prescribed in other Acts and Regulations.

6. In the case of death caused by an occupational accident, relatives of the person concerned may be given necessary subsidies.

7. Other subsidies approved by the Central Competent Authority for workers suffered occupational accidents.

Upon the termination of labor insurance coverage, the insured person of labor insurance scheme may apply for living allowance only when the person concerned being diagnosed by a physician of having occupational disease, which had been contracted during the existence of insurance coverage, and having not received labor insurance benefits and still incapable of working.

The maximal period of receiving subsidies for the workers described in Subparagraphs 1, 2 and 5 of Paragraph 1 and the preceding paragraph shall be up to five years in total.

Regulations concerning conditions, standards, application procedures and examination and issuance of subsidies referred to in Paragraph 1 and Paragraph 2 shall be prescribed separately by the Central Competent Authority.

Article 9 A worker not participating in the labor insurance scheme suffers an occupational accident after the enforcement of the Act may apply for subsidy if qualified with one of conditions prescribed in subparagraphs of Paragraph 1 of the preceding article. The maximal period of receiving subsidies for the workers prescribed in Subparagraphs 1, 2 and 5 of Paragraph 1 of the preceding article shall be up to three years in total. Regulations concerning conditions, standards, application procedures, and examination and issuance of subsidies prescribed in Paragraph 1 shall be prescribed separately by the Central Competent Authority.

Article 10 For strengthening the prevention of occupational accidents and rehabilitation of workers suffering occupational accidents, business entities, vocational training institutions and relevant groups handling the following matters may apply for subsidies from

the Bureau of Labor Insurance:

1. Research on occupational accidents.
2. Prevention of occupational diseases.
3. Cultivating and training of physicians in occupational disease and nurse practitioners in occupational health.
4. Improvement of safety and health facilities, establishment of management systems, and promotion of safety systems of mechanical essence.
5. Education, training and promoting of occupational safety and health.
6. Occupational rehabilitation of workers suffering occupational accidents.
7. Occupational evaluation of workers suffering occupational accidents.
8. Other matters concerning the prevention of occupational accidents and occupational rehabilitation.

Regulations concerning conditions, standards, application procedures, and examination and issuance of subsidies set forth in the preceding paragraph shall be prescribed separately by the Central Competent Authority.

Chapter III Determination and Appraisal of Occupational Diseases

- Article 11 A worker who is suspected of having an occupational disease shall be diagnosed by a physician. When disagreeing with the diagnostic result concerning the occupational disease, the worker concerned or the employer concerned may prepare relevant documents and information and file application to the municipal or county(city) competent authorities for determination.
- Article 12 In order to determine occupational diseases, to protect the rights of workers having occupational diseases, the municipal and county(city) competent authorities may establish a Committee on Occupational Diseases Determination.
The organization, determination procedures, and meeting of said Committee shall apply, mutatis mutandis, to the provisions of Article 14 to 16.
- Article 13 When the municipal or county(city) competent authorities have difficulty in determining an occupational disease, workers or employers disagree with the determination on an occupational disease rendered by the municipal or county(city) competent authorities, or labor insurance institutions deems it necessary in the case of determining an occupational disease, an application may be filed together with relevant documents and information with the Central Competent Authority for appraisal.
- Article 14 In order to appraise occupational diseases to protect the rights of workers having occupational diseases, the Central Competent

Authority shall establish a Committee on Occupational Diseases Appraisal (hereinafter referred to as the Appraisal Committee). The Appraisal Committee shall consist of 13 to 17 members, and the Central Competent Authority shall select members from the following persons, and appoint one of the members as the chairperson:

1. 2 delegates from the Central Competent Authority.
2. 1 delegate from the Department of Health, Executive Yuan.
3. 8 to 12 physicians specialized in occupational diseases.
4. 1 expert in occupational safety and health.
5. 1 expert in laws.

The term of service for members is 2 years, and may be extended by the expiration date; members who represent government agencies shall stay and quit with their duties.

Article 15 The Appraisal Committee may hold a meeting only when more than one half of members attend and only when physicians specialized in occupational diseases shall be no less than one half of the attending members of physicians; Members shall attend the meeting in person. For providing occupational disease-related data and information, the Appraisal Committee if necessary may ask relevant medical associations to provide data and information or to assign person(s) for attendance without voting right. Depending on the circumstances, the Appraisal Committee may also invite other specialists or the concerned parties or government agencies to attend.

Article 16 When receiving the application for occupational disease appraisal, the Central Competent Authority shall immediately send the relevant data and information to members of the Appraisal Committee for formal review, and the consensus of at least three-quarters of the committee members is required for the appraisal to be concluded.

In the event that no conclusion can be reached in the approach described in the preceding paragraph, the Central Competent Authority shall request the committee members to make a second formal review, and the consensus of at least two-thirds of the committee members is required for the appraisal to be concluded. In the event that no conclusion is reached at the second formal review, the chairperson of the Appraisal Committee shall call upon and hold an all-member meeting in which the attending members shall screen and come to a decision by a consensus of at least one half of the attending members vote.

Article 17 When the Appraisal Committee deems it necessary, the Central Competent Authority shall arrange committee members in collaboration with labor inspectors in accordance with the Labor Inspection Act to inspect the workplace concerned.

Chapter IV Promotion of Employment

- Article 18 Upon the termination of medical care for a worker suffering an occupational accident, the competent authorities may provide employment assistance to the worker concerned according to his/her willingness and capability to work; for those who are in lack of job skills, the competent authority may help them take vocational training and assist him/her to return to the employment place at the earliest time possible.
- Article 19 When conducting the training prescribed in the preceding paragraph, vocational training institutions shall arrange educational and training courses of appropriate hours on occupational safety and health.
- Article 20 When hiring workers suffering occupational accidents and providing them with necessary auxiliary facilities to work, business entities may apply for subsidies from the Bureau of Labor Insurance, provided that business entities have not received subsidies in accordance with relevant provisions of the Protection for the Physically and Mentally Disabled Act.
- Article 21 The competent authorities may grant incentives to business entities for their outstanding performance in hiring workers suffering occupational accidents.

Chapter V Other Protections

- Article 22 When discovering mental or physical disability in a worker who has gone through medical care after an occupational accident, the competent authority of the concerned municipality or county(city) shall inform the local competent authorities of social affairs to actively provide assistance.
- Article 23 Employers may not issue an advance notice to terminate the labor contract with workers suffering occupational accidents except under any of the following conditions:
1. The employer's business is in suspension or suffers serious loss and approval from the competent authority has been obtained.
 2. After the termination of medical care for a worker suffering an occupational accident, a public medical institution appraises that the worker concerned is mentally or physically disabled to be incapable of working.
 3. The employer's business cannot continue because of natural disaster, incident or other acts of God, and approval from the competent authority has been obtained.
- Article 24 A worker suffering an occupational accident may terminate the labor contract under any of the following conditions:
1. A public medical institution appraises that the worker

concerned is mentally or physically disabled to be incapable of working.

2. The business entity disappears due to its restructure or ownership transfer.

3. The employer does not abide by the provisions of Article 27.

4. The worker concerned cannot reach an agreement on job placement with the employer who follows the provisions of Article 27.

Article 25 When an employer terminates the labor contract in accordance with the provisions of Subparagraph 1, Subparagraph 3 of Article 23 or a worker terminates the labor contract in accordance with the provisions of Subparagraphs 2 to 4 of Article 23 terminates the labor contract, the employer shall pay the worker concerned severance as prescribed in the Labor Standards Act.
When an employer terminates the labor contract in accordance with the provisions of Subparagraph 2 of Article 23 or a worker terminates the labor contract in accordance with the provisions of Subparagraph 1 of Article 23 terminates the labor contract, the employer shall pay the worker concerned retirement payment as prescribed in the Labor Standards Act
A worker suffering an occupational accident can only claim one of the rights prescribed in the preceding two paragraphs and either severance or retirement payment in accordance with provisions of Labor Standards Act.

Article 26 When an employer terminates the labor contract with a worker suffering an occupational accident with advance notice in accordance with the provisions of Article 23, to notify worker set forth in Labor Standards Act shall apply, mutatis mutandis.
When a worker suffering an occupational accident terminates the labor contract in accordance with the provisions of Subparagraph 1 of Article 24, to notify employer in advance as set forth in Labor Standards Act shall apply, mutatis mutandis.

Article 27 Upon the termination of medical care for a worker suffering an occupational accident, the employer shall place the worker concerned with a suitable job according to in accordance with his/her physical conditions and capability and provide him/her with auxiliary facilities necessary for engaging in work.

Article 28 A worker suffering an occupational accident still retained after business restructure or ownership transfer of a business entity has become physically or mentally disabled and partially or entirely lost their capability to work as a result of occupational accidents, the original rights of the said worker as prescribed in related laws or the labor contract shall survive for the new employer.

Article 29

Before the occupational accident is determined, the worker concerned may request for ordinary sick leave first, in accordance with Article 4 of the Regulations on Leave-taking of Workers. When the said ordinary sick leave expires, the employer shall regard the worker as on leave without pay and give the said worker occupational sick leave once the occupational accident is determined.

Article 30 When a worker participating in labor insurance scheme suffers an occupational accident, terminates the labor contract and withdraws from the insurance scheme during the period of medical care, the worker concerned may be insured under a labor organization or a relevant organization entrusted by the Bureau of Labor Insurance as the insured unit and continue to participate in the ordinary incident insurance under the labor insurance scheme until the date of being entitled to receiving old-age benefit not subject to the restriction set forth in Article 6 of the Labor Insurance Act. When a worker voluntarily continues to participate in the ordinary incident insurance in accordance with the preceding paragraph, regulations concerning insurance procedures, insured coverage, insured salary, insurance premium, and insurance benefits etc., shall be separately prescribed by the Central Competent Authority.

Article 31 A business entity contracts out its work to a contractor; the contractor concerned for the workers under the contract shall be severally and jointly liable with the business entity for the compensation of occupational accident. The same shall equally apply to subcontractors.
The business entity or the contractor referred to in the preceding paragraph may claim for reimbursement for the portion paid from the employer of worker suffering an occupational accident. Standards for compensating the occupational accident prescribed in the preceding two Paragraphs shall follow the provisions of Labor Standards Act. The expense that an employer of worker has already paid for the same incident in accordance with the Labor Insurance Act or other regulations may be deducted from the compensation.

Article 32 When a civil lawsuit is brought for an occupational accident, the court shall, upon the application filed by the workers suffering an occupational accident, rule the grant of lawsuit assistance, however, provided that the worker concerned is not obviously hopeless to win the lawsuit.
When a worker suffering an occupational accident requests for the order for safety protection or provisional execution, the court may reduce or waive the amount of guarantee for the worker concerned.

Chapter VI Penal Provisions

Article 33 When an employer violates the provisions of Article 17, Paragraphs 1 and 2 of Article 25, or Articles 27 to 29, the competent

authorities shall notify the employer concerned to improve within a given period and impose administrative fine of from N.T. Dollar 50,000 to N.T. Dollar 300,000. If improvement is not completed within a given period or within an extended period, an administrative fine can be imposed for each offence until the improvement is completed.

Article 34 When an employer fails to arrange a worker to participate in the labor insurance scheme as required by law, and the worker concerned suffers an occupational accident, the employer shall be imposed an administrative fine equivalent to 4 to 10 times the total amount of insurance premiums required to pay begin the date of hiring the date of accident occurrence, and the provision concerning administrative fine prescribed in Paragraph 1 of Article 72 of the Labor Insurance Act shall not apply herein. However, if a worker suffering an occupational accident is dead or has residual physical impairment in conformity with the items of categories 1 to 10 as set forth in the Disability Benefits Payment Schedule of the labor insurance scheme, the employer shall be imposed an administrative fine equivalent to the amount of subsidy prescribed in Article 6.

Article 35 When an administrative fine prescribed in the Act remains unpaid within a given period, the case may be referred to the court for compulsory execution.

Chapter VII Supplementary Provisions

Article 36 When the Bureau of Labor Insurance processes the matters prescribed in the Act, all relevant documents and operational revenues and payments shall be exempt from taxation.

Article 37 The Bureau of Labor Insurance in processing the matters prescribed in the Act shall establish a review committee. The organization and duties of the committee prescribed in the preceding paragraph shall be separately prescribed by the Central Competent Authority.

Article 38 After subsidies set forth in Articles 10 and 20 of the Act have being screened and approved by the Bureau of Labor Insurance, they shall be sent to the Labor Insurance Supervisory Committee for review. When the Labor Insurance Supervisory Committee reviews the subsidies set forth in the preceding paragraph, delegates of the competent authorities in health and vocational training, physician(s) specialized in occupational diseases, delegate(s) of organization for workers suffering occupational accident, and expert(s) in occupational safety and health shall be invited for attendance without voting right.

- Article 39 The government shall erect a Monument for the death of workers, appoint the 28th of April every year as Memorial Day for the death of workers, so as to promote safety and health education for workers.
- Article 40 The Enforcement Rules of the Act shall be prescribed by the Central Competent Authority.
- Article 41 The Act shall become effective on April 28, 2002.
The Amendments to this Act shall come into force from the date of promulgation.