

Law no. 346 of June 5, 2002 regarding insurance for work accidents and occupational diseases

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The Romanian Parliament adopts this law.

CHAPTER I *General dispositions*

Art. 1. - The insurance for work accidents and occupational diseases is part of the social insurance system, it is guaranteed by the state and includes specific reports that ensure social protection against the following categories of occupational risks: loss, reduction of working capacity and death as a result of work accidents and occupational diseases.

Art. 2. - Insurance for work accidents and occupational diseases guarantees a set of services and benefits for the benefit of the insured persons, in order to:
a) promote health and safety at work and prevent work accidents and occupational diseases; b)
reducing and compensating the consequences of work accidents and occupational diseases.

Art. 3. - The insurance for occupational accidents and occupational diseases is based on the following principles:
a) the insurance is mandatory for all those who use the labor force engaged with an individual employment contract; b) the professional risk is assumed by those who benefit from the result of the work performed; c) the insurance fund for work accidents and occupational diseases is made up of contributions differentiated according to risk, borne by employers or natural persons who take out the insurance, according to the provisions of this law; d) increasing the role of prevention activities in order to reduce the number of work accidents and occupational diseases; e) social solidarity, through which the participants in the insurance system for work accidents and occupational diseases assume mutual obligations and benefit from rights for the prevention, reduction or elimination of the risks provided by law; f) ensuring a non-discriminatory treatment for the beneficiaries of the rights provided by law; g) ensuring transparency in the

h) distribution of funds in accordance with the obligations of the insurance system for work accidents and occupational diseases by this law.

Art. 4. - (1) Through the insurance for work accidents and occupational diseases, the civil liability of the natural or legal person for the services provided for in this law and for which the insurance contribution has been paid is taken over by the insurer.

(2) In the event that there is proof of damages that are not covered by the provisions of this law, in a subsidiary and complementary way, civil liability comes into play, according to common law.

CHAPTER II

Insurance reports and insured risks

Art. 5. - The following are mandatorily insured by the effect of this law: a) persons who carry out activities based on an individual employment contract, regardless of its duration, including civil servants; b) the persons who carry out their activity in elective positions or who are appointed within the executive, legislative or judicial authority, during the term of office, as well as the cooperative members of a craft cooperative organization, whose rights and obligations are assimilated, under the conditions of the present laws, with those of the persons provided for in letter a); c) the unemployed, throughout the duration of the professional

practice within the courses organized according to the law; d) persons who carry out activities exclusively on the basis of civil agreements for the provision of services and who realize a gross income per

calendar year equivalent to at least 3 average gross salaries for the national economy; e) apprentices, pupils

Art. 6. - (1) Persons who are compulsorily insured in the public pension system and who are in one or more of the following situations can be insured under the conditions of this law, on the basis of an

insurance contract: a) sole partner, associates , limited partners or shareholders;

b) administrators or managers;

c) members of the family association; d) persons authorized

to carry out independent activities; e) persons

employed in international institutions; f) owners of goods and/or lessees

of agricultural and forestry areas; g) persons who carry out agricultural activities within individual households or private

activities in the forestry field; h) members of agricultural societies or other

forms of association in agriculture; i) persons who carry out activities in cult

units recognized according to the law; j) other interested persons, who carry out their activity on the basis of other legal relationships than those previously mentioned.

(2) The content of the insurance contract is established in the methodological rules for the application of this law.

Art. 7. - (1) The provisions of art. 5 are also applicable to Romanian employees who perform work abroad at the disposal of Romanian employers, under the conditions of the law.

(2) Foreign citizens or stateless persons who perform work for Romanian employers, during the period in which they have, according to the law, their domicile or residence in Romania, also have the status of insured.

Art. 8. - (1) The National Insurance Fund for Work Accidents and Occupational Diseases, hereinafter referred to as the National Fund, has the capacity of insurer, according to this law.

(2) The National Fund exercises its powers through the territorial insurance funds for work accidents and occupational diseases or through the insurance associations for work accidents and occupational diseases, hereinafter referred to as territorial funds and professional insurance associations, respectively.

Art. 9. - (1) The insurance reports, resulting from the present law and from the insurance contracts, are established between: a)

employers and the insurer, for the insured persons provided for in art. 5 and 7; b) insured and insurer, for the insured persons provided for in art. 6.

(2) The quality of the insured is acquired, and the insurance ratios are established on the date of conclusion of the individual employment contract, the civil agreement, the start of professional practice or the individual insurance contract, as the case may be.

Art. 10. - (1) In order to obtain insurance for work accidents and occupational diseases and to establish the amount of the contribution due, the employer has the obligation to communicate to the insurer, through a declaration on his own responsibility, the number of employees, the field of activity according to the Classification The activities of the National Economy, the salary fund, as well as any other information requested for this purpose.

(2) The written declaration will be submitted to the insurer's headquarters at least 15 days before the conclusion of the insurance contract, in order to determine the contribution under the law.

Art. 11. - (1) In the case of putting a new unit into operation, the employer has the obligation to submit the declaration within 15 days from the start of the activity.

(2) In case of any change regarding the level of the salary fund or the activities carried out, the employer has the obligation to notify the insurer within 15 days.

(3) The insurance contract concluded between the employer and the insurer is renewed for each notified change.

Art. 12. - Persons insured according to art. 6 have the obligation to submit the income statement within the term stipulated in art. 10 para. (2) and to notify the insurer of any change made regarding the insured income, within 15 days from its date.

Art. 13. - The right to insurance benefits and services for work accidents and occupational diseases arises from the date of establishment of the insurance reports and ceases with the date of these reports.

Art. 14. - If the insurance contribution for work accidents and occupational diseases was not paid due to the fault of the employer, the cost of the benefits and insurance services provided by this law shall be borne by the employer.

Art. 15. - (1) In the case of occupational diseases, declared under the conditions of the law, during the professional activity, the right to insurance benefits and services is maintained even after the termination of employment and insurance contracts.

(2) In the case of occupational diseases, declared in accordance with the law, after the termination of employment and insurance contracts, the right to insurance benefits and services is granted if the former insured proves, with medical documents issued in accordance with the law, that the disease was caused by professional factors specific to the workplace.

Art. 16. - The risks insured under the conditions of this law are work accidents and occupational diseases investigated, declared, registered and highlighted according to the provisions of the Labor Protection Law no. 90/1996, republished.

CHAPTER III

The objectives of insurance

Art. 17. - Insurance for work accidents and occupational diseases has the following objectives:

a) prevention of work accidents and occupational diseases; b) medical and socio-professional rehabilitation of the insured, victims of work accidents and occupational diseases, as well as the recovery of their work capacity; c) granting long-term and short-term monetary benefits, in the form of allowances and other aids, under the conditions provided by this law.

Art. 18. - The insurer has the obligation to organize its activity for the achievement of the objectives provided for in art. 17, as well as to maintain the confidentiality of all information to which it has access for the purpose of achieving these objectives.

CHAPTER IV

Benefits and insurance services for accidents of work and occupational diseases

Art. 19. - Insureds of the insurance system for work accidents and occupational diseases have the right to the following benefits and services:

a) medical rehabilitation and recovery of work capacity; b) professional rehabilitation and reconversion; c) allowance for temporary work incapacity; d) allowance for temporary transfer to another workplace; e) compensations for achieving integrity; f) compensation in case of death; g) expense reimbursements.

Art. 20. - (1) The basis for calculating insurance allowances for work accidents and occupational diseases is the average gross salary income of the insured from the last 6 months, based on which the insurance contribution for work accidents and occupational diseases was established in the respective months.

(2) If the contribution period is less than 6 months, the basis for calculating insurance allowances for work accidents and occupational diseases is the gross salary income from the last month of activity and which was taken into account when establishing the insurance contribution for work accidents and occupational diseases.

(3) For the calculation of insurance allowances for work accidents and occupational diseases, the number of working days in the month in which the medical leave is granted or, as the case may be, other social insurance rights are requested, is used.

(4) When determining the number of working days in the month in which the right to insurance for work accidents and occupational diseases is granted, the legal provisions regarding the days of legal holidays in which work is not done will be taken into account.

SECTION 1

Benefits and services for medical rehabilitation and recovery of work capacity

Art. 21. - The insured have the right to medical treatment, as well as benefits and services for medical rehabilitation and recovery of work capacity.

Art. 22. - (1) The insurer has the obligation to pay the value of the medical services provided until: a) the restoration of the state of health or the improvement of health deficiencies arising from an insured risk; b) preventing the reduction or loss of work capacity and the need for permanent care.

(2) The counter value of the tickets for spa treatment prescribed by the insurer's doctor for those who are temporarily unable to work, as a result exclusively of a work accident or an occupational disease, is borne entirely from the insurance budget for work accidents and occupational diseases .

Art. 23. - The insured have the right to medical treatment corresponding to injuries and ailments caused by work accidents or occupational diseases, as follows: a) emergency medical assistance at the scene of the accident, in specialized means of transport and in health facilities; b) outpatient medical treatment, prescribed by a doctor; c) medical tests and medicines; d) medical services, with priority in hospitals or specialized clinics for occupational diseases; e) functional recovery treatment in special units; f) plastic surgery and repair services; g) physiotherapy services; h) balneoclimate treatments prescribed by the insurer's doctor.

Art. 24. - In order to reduce or compensate for the consequences of health deficiencies suffered through work accidents and occupational diseases, the insured have the right to: a) sanitary materials for the correction of hearing and vision; b) prostheses, orthoses and orthopedic devices; c) auxiliary means: chair, wheelchair, as well as other such means; d) any other materials, products or means intended for such a purpose, the list of which is established by the insurer, at the proposal of the insurer's doctor.

Art. 25. - (1) For the recovery of working capacity, the insured benefits from individual recovery programs, established by the insurer's specialist doctor, depending on the nature and prognosis of the disease.

(2) The individual recovery program may include spa treatment, depending on the type of illness.

(3) The duration of the spa treatment is 15-21 days and is determined by the insurer's doctor, depending on the type of condition and the nature of the treatment.

(4) The criteria on the basis of which the tickets for spa treatment are granted are approved annually by the National Fund.

Art. 26. - (1) The insured have the obligation to follow and respect the individual recovery programs established by the insurer's specialist doctor.

(2) The right to insurance benefits for work accidents and occupational diseases is suspended if the insured does not follow or does not respect the individual recovery program.

Art. 27. - Medical treatment during the individual recovery program, as well as accommodation and meals in medical units, is covered by the insurer.

Art. 28. - (1) The medical staff and units providing medical services are established by the insurer in collaboration with the health insurance companies or, as the case may be, directly with specialized units, as well as with its own medical units.

(2) The rates for medical services are established between the contracting parties based on the provisions of the framework contract that will be established by the methodological rules for the application of this law.

SECTION 2

Benefits and services for rehabilitation and professional reconversion

Art. 29. - Benefits and services for professional rehabilitation and reconversion are granted by the insurer at the request of the insured who, although they have not completely lost their ability to work, can no longer carry out the activity for which they qualified, as a result of a work accident or occupational disease.

Art. 30. - The insurer assumes the expenses for the following benefits and services for rehabilitation and professional reconversion: a) expenses regarding medical and psychological services for the assessment of the physical, mental and aptitude state with a view to professional reconversion;

- b) the cost of qualification or conversion courses;
- c) payment of an allowance during the qualification and conversion courses.

Art. 31. - (1) Compensation for the duration of qualification or conversion courses is granted monthly and represents 70% of the gross basic salary of the insured person, on the date of the occurrence of the work accident or occupational disease. (2) The compensation is granted only if the insured person does not benefit, during the qualification or conversion courses, from compensation for temporary incapacity for work or third degree disability pension, granted according to the law.

Art. 32. - Compensation for the duration of qualification or conversion courses is granted only if the insured person complies with the insurer's provisions regarding: a) the institution where the course is to be held; b) the training program; c) the method of graduation.

SECTION 3

Compensation for temporary work incapacity

Art. 33. - (1) Insureds benefit from an allowance during the period in which they are temporarily unable to work due to a work accident or an occupational disease.

(2) In the case of occupational diseases or accidents at work, the medical certificate is compulsorily endorsed, by the employer, by the county and Bucharest public health departments, respectively by the territorial labor inspectorate in whose jurisdiction the employer's headquarters are located or the domicile of the insured.

Art. 34. - (1) The amount of the indemnity for temporary incapacity for work represents 100% of the average of the gross salary income achieved in the last 6 months. (2) In the case of the insured provided in art. 6 the amount of the allowance for temporary work incapacity represents 100% of the insured monthly income.

Art. 35. - Compensation for temporary incapacity for work in case of work accident or occupational disease is borne by the employer for the first 3 days of incapacity, and from the 4th day of incapacity, from the insurance fund for work accidents and occupational diseases.

Art. 36. - The duration of granting the allowance for temporary incapacity for work is 180 days in the interval of one year, counted from the first day of medical leave.

Art. 37. - (1) In situations thoroughly motivated by the possibility of medical and professional recovery of the insured, the attending physician may propose extending the medical leave beyond 180 days.

(2) The insurer's doctor can decide, as the case may be, to extend the medical leave for the continuation of the recuperative program, the resumption of the activity in the same workplace or in another workplace or can propose disability retirement.

(3) The extension of medical leave beyond 180 days is done for a maximum of 90 days, according to the procedures established by the National Fund, in relation to the evolution of the case and the results of recovery actions.

Art. 38. - Compensation for temporary work incapacity due to work accidents and occupational diseases is granted based on the medical certificate issued according to the legal provisions.

Art. 39. - In the event that the social insurance expert from the public pension system decides to classify the person in a degree of invalidity, the allowance will be granted until the end of the month following the one in which the retirement notice was given, without exceeding the maximum duration of medical leave granted, provided for in art. 37.

SECTION 4

Compensation for temporary transfer to another job

Art. 40. - (1) Insureds who, due to an occupational disease or a work accident, can no longer carry out their work at the place of work prior to the manifestation of the insured risk, may temporarily move to another place of work.

(2) The compensation for the temporary transfer to another workplace is granted in the conditions where the insured's monthly gross salary income at the new workplace is lower than the average of his monthly income for the last 6 months, calculated from the moment the condition was detected.

Art. 41. - Compensation for the reduction of working time by one-fourth of the normal duration, as a result of ailments caused by accidents at work or occupational diseases, is granted to insured persons who, under these conditions, can no longer work the normal duration of the work.

Art. 42. - (1) The allowances provided for in art. 40 para. (2) and in art. 41 is granted at the proposal of the attending physician, with the opinion of the insurer's physician, for a maximum of 90 days in a calendar year, in one or more stages.

(2) The monthly amount of allowances provided for in para. (1) is equal to the difference between the average salary income of the last 6 months and the gross salary income achieved by the insured at the new job or by reducing the normal working time, without exceeding 25% of the calculation base.

SECTION 5

Compensations for achieving integrity

Art. 43. - They have the right to compensation for achieving the integrity of the insured who, following work accidents or occupational diseases, remain with permanent injuries, if these:

a) reduce work capacity below 50%; or b) do not reduce work capacity, but constitute a mutilation.

Art. 44. - The compensation is granted at the request of the entitled person, based on the decision of the insurer's doctor, with the fulfillment of the conditions stipulated in art. 43.

Art. 45. - (1) The compensation represents a fixed amount in money and is granted in full, once, without affecting the other rights or allowances to which the insured is entitled.

(2) The amount of compensation is determined according to the severity of the injury, within a maximum ceiling of 12 average gross salaries for the national economy.

(3) The criteria and grids on the basis of which compensation is granted are established by the National Fund, through methodological rules, with the approval of the Ministry of Health and Family.

SECTION 6

Compensation in case of death

Art. 46. - (1) In the event of the death of the insured as a result of a work accident or an occupational disease, only one person benefits from death benefit, which can be, as the case may be: the surviving spouse, the child, the parent, the guardian, the curator, the heir, under the conditions of common law, or, in its absence, the person who proves that he has borne the expenses caused by the death.

(2) The amount of the death benefit granted is 4 gross average salaries for the national economy.

Art. 47. - The application for obtaining the death benefit is submitted to the insurer's headquarters, accompanied by the documents from which the applicant's right results, according to the law.

Art. 48. - (1) The acceptance or rejection of the application is made by decision issued by the insurer within 20 days from the date of submission of the application.

(2) The decision is communicated in writing to the applicant within 5 days from the date of its issuance.

Art. 49. - Payment of the death benefit is made within 15 days from the date of communication of the decision.

SECTION 7

Reimbursement of expenses

Art. 50. - (1) The insurer grants reimbursement of expenses in the following situations: a) emergency transport, in thoroughly justified cases, when the rescue of the victim requires the use of means other than the usual ones; b) the manufacture of glasses, acoustic devices, ocular and dental prostheses, in the situation where they were damaged due to a work accident resulting in bodily injuries.

(2) The costs borne by the insurer are intended to ensure the recovery of the functionality of the body of the insured, and their amount will be established annually by the National Fund, through the Regulation on granting reimbursement of expenses, developed by the National Fund and published in the Official Gazette of Romania, Part I.

CHAPTER V
*Communication and detection of work accidents
and occupational diseases*

Art. 51. - (1) Employers have the obligation to notify the insurer of accidents resulting in incapacity for work or the death of the insured.

(2) The communication must be made as soon as the employer becomes aware of the accident.

(3) The obligation regarding communication also falls to the insured persons according to art. 6 or their descendants, if the work accident resulted in the death of the insured.

Art. 52. - If, following periodic medical checks, the staff of the company's medical services finds that there is a risk of an occupational illness, it has the obligation to report the case to the insurer immediately.

Art. 53. - (1) In order to ascertain the insured case and establish the insurance rights, the insurer has access to and resorts to the investigation minutes, drawn up, according to the law, by the competent authority that investigates accidents resulting in disability and death.

(2) In order to ascertain the insured case and establish the insurance rights in the case of accidents resulting in temporary incapacity for work, the insurer participates in the accident investigation team or may carry out its own investigation, at the request of the employer.

Art. 54. - The insurance rights provided by this law are granted as follows:

a) for work accidents, based on the work accident investigation minutes, prepared, according to the law, by the competent authority; b) for occupational diseases, based on the form for the final declaration of the occupational disease, drawn up, according to the law, by the competent authority.

CHAPTER VI
Prevention of work accidents and occupational diseases

Art. 55. - The responsibility for ensuring the safety and health conditions at the workplace rests with the employers or, as the case may be, the persons insured according to art. 6.

Art. 56. - (1) Employers have the obligation to ensure the information, participation and collaboration of employees for the adoption and application of measures to prevent work accidents and occupational diseases.

(2) Employees have the obligation to participate in actions regarding the adoption of safety and health measures at work, when they are requested for this purpose by employers.

Art. 57. - The employees do not under any circumstances bear the cost of the preventive measures applied under the conditions of art. 56.

Art. 58. - Employers have the obligation to provide all the information requested by the insurer in relation to workplace risks.

Art. 59. - Employees are obliged to know and respect the technical and organizational measures taken by employers for the prevention of work accidents and occupational diseases, brought to their attention during the labor protection training.

Art. 60. - Employees have the right, without this having consequences for them, to notify the competent state authority, the insurer or the health and safety committees at work, established according to art. 31 of the General Labor Protection Norms, approved by Order of the Minister of Labor and Social Protection and of the Minister of Health no 578/DB/5.840/1996, on the employer's failure to take measures to prevent work accidents and occupational diseases.

Art. 61. - The insurer has the obligation to promote and stimulate the activity of preventing work accidents and occupational diseases, in order to: a) maintain the physical and mental integrity of the insured persons; b) improving working conditions; c) eliminating or reducing the risks of work accidents and occupational diseases.

Art. 62. - The insurer achieves the objectives in the field of prevention of work accidents and occupational diseases through its own services, with specialized staff, sized according to the number of insured persons.

Art. 63. - The technical staff of the insurer, who carry out work accident and occupational disease prevention activities, certified by the competent state authority according to the law, as well as the medical staff specialized in occupational medicine have

the following attributions: a) provide consultancy and technical and medical assistance in occupational medicine regarding preventive measures and means; b) initiates and elaborates studies and analyzes and ensures the documentation regarding the risks and working conditions in the units, in order to substantiate some preventive measures; c) propose the financing, from the insurance fund for work accidents and occupational diseases, of research projects or programs for the scientific substantiation of the necessary preventive measures; d) elaborate and propose prevention instructions and specific work procedures to employers; e) participate in the investigation of work accidents resulting in temporary incapacity for work, in the investigation commissions appointed by the employers; f) controls the application and observance of the preventive measures agreed with the employers; g) elaborate and propose forms and means of education and information for

i) propose to the insurer increases or reductions of the contribution, in order to stimulate the prevention activity; j) where appropriate, they can propose to the insurer the conclusion of agreements with employers, in order to improve the activity of preventing work accidents and occupational diseases.

Art. 64. - In the exercise of their duties, specialized technical and medical personnel are

authorized: a) to have free access to the employers' premises or to the workplaces organized by them and to be accompanied by the persons appointed by the employer; b) to benefit from the conclusions of the investigation of work accidents or occupational diseases, carried out by the competent state authorities; c) to notify the state authorities when they find violations of the legislation in force regarding labor protection; d) to propose to the employers the sizing of the labor protection compartments according to the risks at the workplaces; e) to consult the results of the medical

examinations upon employment and of the periodic medical examinations of the insured persons; f) to request any information and documents necessary to carry out the tasks of preventing work accidents and occupational diseases; g) to recommend to the employer measures to prevent work accidents and occupational diseases.

Art. 65. - In the activity carried out by the personnel for the prevention of work accidents and occupational diseases, they are obliged to keep confidential the data received from the employer regarding the organizational, technological and manufacturing aspects of the controlled unit, as well as the other data provided by the competent state authorities or any other body or person interested in the prevention activity, as well as the confidentiality of the employees' medical data.

**Art. 66. - (1) The insurer's expenses for the prevention of work accidents and occupational diseases are highlighted in a separate analytical account.
(2) The maximum amount allocated for this purpose cannot exceed 10% of the amounts collected as contributions during a calendar year.**

Art. 67. - Sums reinvested by employers from profit, in order to prevent work accidents and occupational diseases, are exempt from profit tax.

CHAPTER VII

Organization of the insurance system for work accidents and occupational diseases

**Art. 68. - (1) The National Fund is established as a public institution of national interest, with legal personality, subordinate to the Government.
(2) The National Fund administers, manages, coordinates and controls the entire insurance activity for work accidents and occupational diseases.
(3) The seat of the National Fund is in Bucharest.**

Art. 69. - (1) Territorial funds are public services with legal personality, subordinate to the National Fund.

(2) The specific attributions of insurance for work accidents and occupational diseases are exercised by the territorial funds.

Art. 70. - (1) The specific attributions of insurance for work accidents and occupational diseases, as service providers, can be carried out, under the conditions of this law, also by professional insurance associations, established for this purpose by sector activity of the national economy.

(2) Professional insurance associations operate on the basis of their own statute, in compliance with the provisions of Government Ordinance no. 26/2000 regarding associations and foundations and of this law.

Art. 71. - Employers or, as the case may be, the persons provided for in art. 6 can conclude the insurance, depending on their own option, either with the territorial funds or with the professional insurance associations.

Art. 72. - In order to achieve its object of activity, the National Fund has the following

attributions: a) coordinates and controls the activity of territorial funds; b) guides and controls the activity of professional insurance associations; c) guarantees the execution of insurance benefits in case of insolvency of professional insurance associations; d) can subsidize programs and projects for the prevention of work accidents and occupational diseases, at the proposal of territorial funds or professional insurance associations; e) apply measures to improve services and insurance benefits for work accidents and occupational diseases; f) elaborates the criteria and methodology that are the basis for the calculation of the insurance contribution for work accidents and occupational diseases; g) guides and controls the activity of preventing work accidents and occupational diseases, carried out by territorial funds or professional insurance associations; h) controls the granting of insurance benefits for work accidents and occupational diseases, provided by this law; i) controls the way of granting incentives to encourage the application of prevention measures and reduction of the level of risk, established by the methodological norms for the application of this law; j) can organize at national level, at the proposal of territorial funds or professional insurance associations, the activity of functional recovery, prosthetics, reorientation and reconversion, with a view to professional reintegration for people who have suffered work accidents and occupational diseases; k) keep records of insured cases and insurance costs at the national level; l) issues and withdraws the operating authorization of professional insurance associations; m) finances applied research studies at the national level in order to develop solutions, devices and methods to prevent work accidents and diseases

professional;

n) organizes the training, training and improvement of personnel in the field of insurance for work accidents and occupational diseases;

o) makes proposals regarding the drafting of the insurance budget project for work accidents and occupational diseases;

p) administers the insurance budget for work accidents and occupational diseases and submits its budget execution report to the Government.

Art. 73. - The management of the National Fund is ensured by the president and the board of directors.

Art. 74. - (1) The President of the National Fund is appointed by the Minister of Labor and Social Solidarity for a 4-year term, has the rank of Secretary of State and represents the National Fund in relations with third parties.

(2) The President of the National Fund is the main authorizing officer of credits for the insurance budget for work accidents and occupational diseases. According to the law, the fulfillment of the duties of the National Fund is subject to the control of the Ministry of Labor and Social Solidarity.

Art. 75. - The mandate of the president of the National Fund ends by resignation, revocation by the Minister of Labor and Social Solidarity or other causes provided by law.

Art. 76. - (1) The Board of Administration of the National Fund consists of 15 members, of which: a) 5

representatives of the Government, appointed by the Prime Minister; b) 5 employee representatives, designated by consensus by the representative trade union confederations at the national level, according to Law no. 130/1996 regarding the

collective labor contract, republished; c) 5 representatives of the employers, designated by consensus by the representative employers' confederations at the national level, according to Law no. 130/1996, republished; (2) The members of the board of directors carry out their activities based on a mandate for a period of 4 years.

Art. 77. - (1) The operational management of the National Fund's activity is exercised by an executive general director, appointed by the president.

(2) The occupation of the position of executive general director is done by competition, under the conditions of the law.

Art. 78. - (1) The meetings of the board of directors of the National Fund are held monthly or whenever needed and are conducted on the tripartite principle, by rotation, by one of the members.

(2) The administrative board functions legally in the presence of two thirds of its members, provided that each party - Government, employees and employer - is represented.

Art. 79. - In fulfilling its duties, the National Fund constitutes specialized services for monitoring and ensuring:

a) the activity of preventing work accidents and occupational diseases; b) medical and socio-professional rehabilitation activities and medical treatment; c) records of contributions, benefits and services provided and insurance costs.

Art. 80. - (1) The National Fund draws up its own statute which is approved by a decision of the Government.

(2) The statute establishes the duties of the board of directors, of the president, as well as the way of organization and operation of the National Fund and the territorial funds.

Art. 81. - (1) The operational management of the activity of the territorial funds is ensured by an executive director, appointed by the president of the National Fund.

(2) The position of executive director is filled by competition, in accordance with the law.

Art. 82. - The attributions of specialized services are established by the statute of the National Fund.

Art. 83. - Territorial funds have the following main attributions: a)

provide services for the purpose of preventing work accidents and occupational diseases; b) prepares studies and evaluations regarding the risk of occupational injury and illness, at the local level; c)

grant the insurance benefits provided for in this law and draw up the necessary documentation in order to grant them;

d) submit to the National Fund for approval the documentation and proposals regarding the granting of incentives to encourage the application of prevention measures at the local level; e) controls the way of applying the economic incentives, in order to improve the prevention activity at the local level; f)

keep records of work accidents, occupational diseases and related costs at the local level; g) ensures

the provision of medical services through its own services or on the basis of a contract concluded with medical service providers, according to

the law; h) verify the way in which the monetary benefits granted for medical and socio-professional rehabilitation services are used.

Art. 84. - (1) Persons who owe insurance contributions for work accidents and occupational diseases may form associations at the level of the activity sectors of the national economy.

(2) Professional insurance associations are equal bodies, which are established and function as legal entities under the conditions of this law and Government Ordinance no. 26/2000.

(3) Professional insurance associations can develop their own regulations and instructions.

(4) In order to operate, professional insurance associations are obliged to request authorization from the National Fund.

Art. 85. - The request to obtain the operating authorization is submitted to the headquarters of the National Fund, accompanied by the following documents:

a) the constitutive act, a substantiating memorandum including the object, the purpose of the activity, as well as any other necessary elements, according to the requirements provided by the methodological rules for the application of this law; b) the status of the professional insurance association.

Art. 86. - The National Fund analyzes the request, taking into account the opportunity criteria, following that within 30 days from the date of submission of the request, it issues the authorization or rejects, through a reasoned decision, the authorization request.

Art. 87. - The application for granting legal personality for a professional insurance association is addressed to the territorially competent court, accompanied by the following documents: a) the constitutive act of the association; b) the statute of the association; c) documents proving the seat and patrimony; d) the opinion of the Ministry of Labor and Social Solidarity.

Art. 88. - Professional insurance associations exercise the following attributions: a) provide services for the purpose of preventing work accidents and occupational diseases; b) grant the insurance benefits provided for in this law and draw up the necessary documentation in order to grant them; c) prepares studies and evaluations regarding the risk of occupational injury and illness; d) keep records of work accidents and occupational diseases, benefits granted and related costs; e) ensures the provision of medical services through its own services or on the basis of contracts concluded with medical service providers, according to the law; f) verify the way in which the monetary benefits granted for medical and socio-professional rehabilitation services are used.

Art. 89. - The patrimony of the professional insurance association consists of: a) membership fees, established by mutual agreement by the associated members; b) donations and other liberalities; c) subsidies granted from the state budget for the fulfillment of the duties provided for in art. 88 lit. b); d) any other legal sources.

Art. 90. - Professional insurance associations can also carry out profit-making activities, according to the law.

Art. 91. - A delegate of the National Fund participates in the meetings of the management body of professional insurance associations, without the right to vote.

Art. 92. - Professional insurance associations have the obligation to annually submit to the approval of the National Fund the balance sheet and the income and expenditure budget.

Art. 93. - (1) In the event of the termination of the activity of the professional insurance association, the destination of the assets remaining after the liquidation and which were acquired from state subsidies is decided by the National Fund, unless the provisions of the statute provide otherwise.
(2) The sums existing in the accounts of professional insurance associations at the time of liquidation are taken over by the National Fund.
(3) In all cases, goods can only be attributed to a territorial fund.

Art. 94. - (1) The salary and other rights of the president and the staff of the National Fund's own apparatus and the allowances of the members of its administrative board, as well as the salary and other rights of the staff of the territorial funds and the allowances of the members of their advisory councils establish by law, the draft of which will be developed within 60 days from the date of establishment of the National Fund.

(2) Until the entry into force of the salary law provided for in para. (1) the salary of the president of the National Fund, the members of the administrative councils, as well as the staff employed by the National Fund and the territorial funds is established according to as follows:

a) the president's salary, at the level of the allowance provided by law for the position of secretary of

state; b) the meeting allowance for the members of the board of directors, with the exception of the president, at the level of 10% of the president's salary; c)

the salaries of the staff employed by the National Fund and the territorial funds are ensured within the limits stipulated in the annexes to Law no. 154/1998 regarding the system for establishing basic salaries in the budget sector and allowances for persons holding positions of public dignity, with subsequent amendments and additions.

(3) The total sums due to a member of the board of directors as a result of the participation in the meetings cannot exceed, in one month, 20% of the monthly salary of the president.

Art. 95. - The expenses related to the salary of the president, the members of the board of directors, as well as the staff employed by the National Fund and territorial funds are borne from the insurance budget for work accidents and occupational diseases.

CHAPTER VIII

Insurance contributions for work accidents and occupational diseases

Art. 96. - (1) The following insurance contributions are owed for work accidents and occupational diseases:

a) employers, for insured persons provided for in art. 5 and

7; b) natural persons, for insured persons provided for in art. 6.

(2) The insurance contribution for work accidents and occupational diseases in the case of the unemployed is borne entirely from the budget of the Fund for the payment of unemployment benefits, at the level of the 1% rate applied to the insured monthly income, but only for the fund intended for the unemployed during the period in which they follow qualification and professional reconversion courses.

(3) The monthly basis for calculating the insurance contribution for work accidents and illnesses

professional allowance for the unemployed is the amount of the unemployment aid and the professional integration aid.

Art. 97. - The contribution is established in such a way as to cover the cost of benefits and services for insured cases, expenses for the prevention of work accidents and occupational diseases, as well as administrative expenses.

Art. 98. - (1) Contributions are established according to tariffs and risk classes.

(2) The risk rate is determined for each sector of activity depending on the risk of occupational injury and illness within the respective sector.

(3) Within the framework of the risk tariffs, the differentiation by categories of activities is carried out by risk classes.

Art. 99. - (1) The rates and risk classes are established according to the methodological rules for calculating the insurance contribution for work accidents and occupational diseases, developed by the National Fund and approved by Government decision.

(2) Tariffs and risk classes are reviewed once every 4 years.

(3) For the first period of operation of the National Fund, the tariffs and risk classes can be changed at a time interval shorter than 4 years, but only once.

Art. 100. - The classification in the risk classes is done by the insurer, corresponding to the activities carried out in each unit.

Art. 101. - (1) The calculation base for the contribution owed by the persons provided for in art. 5 and 7 represent the annual gross wage fund.

(2) In the event that in a unit there are activities included in several risk classes, the basis for calculation is the salary fund corresponding to the activities included in each risk class.

(3) The contribution rates owed by employers depending on the risk class will be within the limit of a minimum percentage of 0.5% and a maximum percentage of 4% applied to the gross salary fund.

(4) The insurance contribution for work accidents and occupational diseases does not apply to the amounts representing: a)

social insurance benefits that are borne from the social insurance funds or from the employer's funds and that are paid directly by him, according to the law; b) the rights paid in accordance with the legal provisions in the case of termination of individual employment contracts, termination of the capacity of public official or cooperative member; c) per diems for travel, secondment and transfer allowances and copyrights; d) the amounts obtained on the basis of an agreement for the provision of services or the execution of works by the persons who have concluded individual employment contracts; e) the amounts representing the participation of employees in the profit; f) prizes and other rights excepted by special laws.

Art. 102. - (1) The contribution owed by the natural persons provided for in art. 6 is unique, regardless of the activity performed, and is approved by Government decision, at the proposal of the National Fund, from 0.5% to 1% applied to the insured monthly income.

(2) The calculation basis for these contributions is the insured monthly income stipulated in the insurance contract, which cannot be less than one quarter of the average gross monthly salary for the national economy.

Art. 103. - The risk class and the contribution rate due for each category of activities are communicated by the insurer to the employer annually or whenever needed.

Art. 104. - The insurer has the right to verify, through its own control services, the data communicated by the employer for classification in the risk classes.

Art. 105. - Contributions are collected by the territorial funds and transferred to the National Fund.

Art. 106. - The deadlines for the payment of insurance contributions for work accidents and occupational diseases

are: a) the date established for the payment of salary rights for the current month, in the case of employers who make the payment of salary

rights monthly; b) the date established for the payment of the second half-year, in the case of employers who make the

payment of salary rights half-yearly; c) until the end of the month for the current month, in the case of the insured

Art. 107. - Modification of the payment terms provided for in art. 106 lit. a) and b) is communicated by the employer to the territorial fund on the day of the change.

Art. 108. - (1) Failure to pay the insurance contribution for work accidents and occupational diseases by the terms established according to art. 106 generates the

payment of increases calculated for each day of delay, up to and including the date of payment of the amount owed

(2) The rate of late increases provided for in para. (1) is established according to the regulations regarding the execution of budget claims.

(3) The sums representing the delay increases are added to the insurance budget for work accidents and occupational diseases.

(4) The calculation of late fees, as well as the tracking of their payment, are done by the National Fund through the territorial funds.

Art. 109. - In case of non-payment within the terms stipulated in art. 106 of the due contributions, the National Fund, through the territorial funds, proceeds with the enforcement measures, according to the legal provisions regarding the execution of budget claims.

Art. 110. - In case of judicial reorganization or bankruptcy of the employer, the amounts owed by him for insurance will be recovered according to the law.

Art. 111. - Non-payment of the insurance contribution by the insured provided for in art. 6 at the established deadlines, leads to the non-granting of rights to benefits, until the due contributions and related late fees are paid.

Art. 112. - (1) The National Fund transfers to each territorial fund the sums necessary to establish their budgets.

(2) The professional insurance associations provide services according to the provisions of this law, following that their settlement is carried out by the territorial funds based on the supporting documents presented by these associations.

Art. 113. - (1) The insurer may approve increases or reductions of contributions.

(2) The value of increases or reductions is established mainly according to the

following criteria: a) the number of work accidents and occupational diseases during a reference period; b) the severity of the consequences of work accidents and occupational diseases; c) the volume of expenses for benefits and services.

CHAPTER IX

The insurance budget for work accidents and occupational diseases

Art. 114. - (1) The insurance budget for work accidents and occupational diseases includes income, expenses and financial results.

(2) The Government prepares annually, based on the proposals of the National Fund, the draft insurance budget for work accidents and occupational diseases, which it submits to the Parliament for approval.

Art. 115. - The revenues of the insurance budget for work accidents and occupational diseases are

made up of: a) the contributions of the legal and natural persons who take out the insurance; b) interest and increases for late payment of contributions; c) other incomes, according to the law.

Art. 116. - (1) From the revenues of the insurance budget for work accidents and occupational diseases, a share of up to 5% is taken to establish a reserve fund.

(2) The reserve fund can be used, in well-founded cases, only to cover benefits and insurance services for work accidents and occupational diseases.

(3) The reserve fund is replenished as incomes appear, so that it is replenished up to 5%.

Art. 117. - The expenses of the insurance budget for work accidents and occupational diseases are

made up of: a) expenses necessary to cover the value of insurance benefits and services and services for the prevention of work accidents and occupational diseases; b) expenses for the organization and operation of the insurance system for work accidents and occupational diseases, within the limit of a percentage of 3% applied to the total annual income provided in the insurance budget for work accidents and occupational diseases; c) expenses for the financing of own investments, in compliance with the legal provisions in the field.

Art. 118. - The annual surpluses of the insurance budget for work accidents and occupational diseases are used in the following year as follows: a) for the reserve fund, until it is reintegrated; b) for prevention-rehabilitation; c) for additional benefits; d) to cover the next year's deficit.

Art. 119. - The deficit of the insurance budget for work accidents and occupational diseases is covered, in order, from: a) budget availability from previous years; b) the reserve fund; c) the state budget.

Art. 120. - At the level of territorial funds, annual revenue and expenditure budgets are established, approved by the National Fund.

CHAPTER X

Legal responsibility

Art. 121. - Violation of the provisions of this law attracts disciplinary, material, civil, contraventional or criminal liability, as the case may be, according to the law.

Art. 122. - The act of the person who uses the sums intended for insurance for work accidents and occupational diseases for purposes other than those provided by law constitutes a crime and is punishable by imprisonment from 6 months to 2 years or a fine.

Art. 123. - The provision of false information when determining the due contributions or the due benefits according to this law constitutes the crime of intellectual forgery and is punished according to the provisions of the Criminal Code.

Art. 124. - (1) The following acts constitute contraventions, if they are not committed under such conditions that, according to the criminal law, they constitute crimes, and are sanctioned with a fine from 2,000,000 lei to

5,000,000 lei: a) failure to submit the declaration provided for in art. 10, art. 11 paragraph (1) and in art. 12; b) failure to comply with the communication obligation provided for in art. 11 paragraph (2) and in art. 51; c) refusal to provide the control bodies with the information

requested according to art. 58 and 104; d) non-compliance with the classification methodology in the risk classes provided for in art. 99 and 100; e) non-compliance with the provisions of art. 101 para.

(1) and (3) and of art. 102 para. (2) regarding the basis for calculating the contributions;

f) non-compliance with the provisions of art. 98, art. 101 para. (4)

and of art. 102 para. (1) regarding the establishment of the insurance contribution and the

rates of this contribution; g) providing erroneous information when determining the due contributions or due bene

h) failure to comply with the payment obligation provided for in art. 14.

(2) The amount of the fines provided for in para. (1) is updated in relation to the inflation rate, by decision of the Government.

Art. 125. - (1) Finding contraventions and applying sanctions are done by minutes by the persons empowered for this purpose by the National Fund.

(2) In case of finding a situation that falls under art. 122 and 123, the qualified persons provided for in par. (1) will immediately notify the competent criminal investigation bodies, according to the law.

Art. 126. - (1) The record of finding the contraventions and applying the sanction is communicated to the violator within 15 days of its preparation and constitutes an enforceable title from the date of communication.

(2) A complaint can be filed against the minutes, within 15 days from the communication, to the court in whose territorial area the contravention was committed.

Art. 127. - Contravention fines, applied according to the provisions of this law, are paid to the insurance budget for work accidents and occupational diseases.

CHAPTER XI

Jurisdiction of insurances for work accidents and occupational diseases

Art. 128. - The jurisdiction of the insurances for work accidents and occupational diseases is carried out by the social insurance sections or, as the case may be, by the specialized completes for social insurances, established at the level of the tribunals and courts of appeal, in compliance with the conditions provided by Law no. 92/1992 for judicial organization, republished, with subsequent changes and additions.

Art. 129. - In the first instance, the courts resolve disputes regarding:

a) the calculation method of the insurance contribution for work accidents and occupational diseases, as well as the increase or decrease of the contribution; b) registration and evidence of the contribution of work accidents and occupational diseases; c) placing the employer in a risk class; d) the unjustified refusal to resolve a request regarding insurance rights for work accidents and occupational diseases; e) the method of establishing and paying benefits due to insurance beneficiaries for work accidents and occupational diseases; f) complaints against the minutes of findings of contraventions, concluded according to this law; g) any other decisions of the insurer, in accordance with the provisions of this law.

Art. 130. - (1) Territorially competent are the courts in whose radius the domicile of the defendant is located.

(2) If, by way of exceptions, the object of the litigation forms an appeal against it

For the National Fund or territorial funds, the territorial competence rests with the court in whose jurisdiction the domicile or seat of the claimant is located.

Art. 131. - Against the decision of the tribunal, an appeal can be made to the competent court of appeal.

Art. 132. - The provisions of this law regarding the jurisdiction of insurances for work accidents and occupational diseases are supplemented by the provisions of the Code of Civil Procedure, of Law no. 92/1992, republished, with subsequent amendments and additions, as well as with any other relevant provisions.

Art. 133. - Actions in court and all procedural documents in connection with litigations having as object insurance rights or obligations for work accidents and occupational diseases are exempt from the judicial stamp duty.

CHAPTER XII

Transitional and final provisions

Art. 134. - For the purposes of this law, the average salary for the economy represents the average salary communicated by the National Institute of Statistics, in force on January 1 of the respective year.

Art. 135. - This law enters into force on January 1, 2004, with the exception of the provisions relating to the establishment of the initial insurance fund for work accidents and occupational diseases, which enters into force on January 1, 2003.

Art. 136. - (1) Within 12 months from the date of approval of the statute, by decision of the Government, the National Fund takes over from the Ministry of Labor and Social Solidarity the activities corresponding to the operation and organization of the public insurance system for work accidents and occupational diseases .

(2) The staff that will be taken over by the National Fund and the territorial funds will be transferred in the interest of the service from the Ministry of Labor and Social Solidarity and from its subordinate units.

Art. 137. - (1) The National Fund is organized and operates on the basis of the statute approved by Government decision, issued within 60 days from January 1, 2003.

(2) The National Fund is established within 12 months from January 1, 2003.

(3) Until the establishment of the National Fund, the Ministry of Labor and Social Solidarity, through its own structures, will logistically and organizationally ensure the development of the activities necessary for the collection of contributions and the management of the initial fund.

(4) During the period January 1, 2003 - January 1, 2004, the contributions are collected by the pension houses and other social insurance rights of the county or of the municipality of Bucharest, as the case may be, and are transferred to the National Fund.

Art. 138. - Territorial funds are established within 12 months from January 1, 2003.

Art. 139. - In the first 3 years of operation of the National Fund, the expenses for the organization and operation of the insurance system for work accidents and occupational diseases, with the exception of the provisions of art. 117 lit. b), will be set in values of: 5% for the first year of operation, 4.5% for the second year and, respectively, 4% for the third year of operation.

**Art. 140. - (1) In the period January 1, 2003 - January 1, 2004, employers owe a fixed contribution of 0.5% relative to the salary fund, intended exclusively for financing the organization of the National Fund's activity and the establishment of the initial fund for the operation of the insurance system for work accidents and occupational diseases.
(2) Until January 1, 2003, the Ministry of Labor and Social Solidarity and the Ministry of Public Finance will draw up instructions for the collection of the initial fund for the application of the provisions of para. (1). The instructions will be published in the Official Gazette of Romania, Part I.**

Art. 141. - Within 6 months from January 1, 2003, the Ministry of Labor and Social Solidarity, the Ministry of Public Finance and the Ministry of Health and Family will develop the methodological rules for the application of this law, which will be published in the Official Gazette of Romania , Part I.

Art. 142. - This law is supplemented by the provisions of the Labor Protection Law no. 90/1996, republished, of Law no. 87/1994 for combating tax evasion, of the legislation regarding the regime of contraventions, as well as with the provisions of the social insurance legislation.

Art. 143. - (1) On the date of entry into force of the provisions of this law, art. 100 para. (2), art. 102 and 110 of Law no. 19/2000 regarding the public pension system and other social insurance rights, with subsequent amendments, as well as any other provisions contrary to this law.

(2) The provisions of art. 98 para. (1) lit. a), b) and e) and para. (4), art. 104, art. 108 para. (2), art. 109 para. (1) lit. a), b), d), e) and f) and para. (2), of art. 111, 112, 114 and 115 of Law no. 19/2000, with subsequent amendments, will maintain their applicability for all situations provided for in the above-mentioned law, with the exception of those generated by work accidents and occupational diseases, which are taken over by this law.

This law was adopted by the Senate in the meeting of April 18, 2002, in compliance with the provisions of art. 74 para. (1) from the Romanian Constitution.

**p. THE PRESIDENT OF THE SENATE,
DORU IOAN TARACILA**

This law was adopted by the Chamber of Deputies in the meeting of May 9, 2002, in compliance with the provisions of art. 74 para. (1) from the Romanian Constitution.

**p. PRESIDENT OF THE CHAMBER OF DEPUTIES,
VIOREL HREBENCIUC**

Bucharest, June 5, 2002.

No. 346.

THE PRESIDENT OF ROMANIA

DECREE

for the promulgation of the Law on insurance for work accidents and occupational diseases

Pursuant to the provisions of art. 77 para. (1) and of art. 99 para. (1) from the Constitution of Romania,

The President of Romania decrees:

Single article: - The Law on insurance for occupational accidents and occupational diseases is promulgated and the publication of this law is ordered in the Official Gazette of Romania, Part I.

THE PRESIDENT OF ROMANIA

ION ILIESCU

Bucharest, June 4, 2002.

No. 490.