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CHAPTER I. GENERAL PROVISIONS

Division 1. Basic principles

Section 1. (1) In the application of this Act, the term occupational safety and health refers to the system of legal, organizational and institutional rules aimed at ensuring safe and healthy conditions for organized work, at achievement of the aims of this Act, and at their application.

(2) All those working on the territory of the Republic of Hungary have the right to safe and healthy working conditions.

Section 2. (1) The State shall define, after consultation with organizations representing the interests of employees and employers, the basic requirements of healthy and safe working conditions. It shall define the institutions responsible for the control and inspection of these conditions, and shall formulate a national programme for the preservation of health and working ability, for occupational safety and for the working environment. It shall monitor from time to time the carrying out of this programme.

(2) It shall be the obligation of the employer, taking into consideration the employees' responsibilities in this matter, to ensure the existence of healthy and safe working conditions.

(3) The manner in which healthy and safe working conditions are accomplished shall be established by the employer, with due attention paid to regulations and standards.

(4) The employer shall be responsible for ensuring that all employees have the possibility to learn the applicable rules for healthy and safe working conditions in a language they understand.

Section 3. The State shall assist and monitor the application of rules applying to healthy and safe working conditions through inspection organizations set up for this purpose.

Section 4. Rules for healthy and safe working conditions shall be set up in such a way that their enforcement provides appropriate protection not only to employees but also to all those present in the area affected by the performance of the work and to those benefiting from the work performed. Work equipment must be installed in such a way that its proper use outside organized work should exclude, as far as possible, accidents and health hazards.

Section 5. This Act assures the conciliation of interests in matters dealing with occupational safety and health as well as the safeguarding of the safety and health of employees. It defines the rights and obligations of safety and health representatives, but it does not deal with the rights of employee representatives related to occupational safety and health regulated by other legislation, in particular by the Labour Code and the Acts concerning the legal status of civil servants and public employees.

Section 6. Employers, employees and state bodies shall cooperate in the exercise of the rights and the carrying out of obligations specified in this Act and in other legislation concerning occupational safety and health.

Section 7. During all proceedings connected with occupational safety and health, data (whether personal, special or public interest information, or state, service, industrial or business secrets) must be protected according to relevant legislation. Such data may be used for statistical purposes, and may be transmitted for statistical treatment as long as identification of the individual is not possible.

Section 8. If an activity is identified by this Act or a Regulation (section 11) as a safety professional activity, the employer may only have it performed by a person with appropriate safety qualifications (in mining with mining professional qualifications) as defined by separate legislation.

Division 2. Scope of the Act

Section 9. (1) The scope of this Act covers, with the exception of subsections (2) and (3) below, all organized work, independent of the organization or owner involved.

(2) Specific provisions of this Act (sections 28, 32, 40, 44, 45) shall be applied to those present in the area affected by the performance of the work (pedestrians, visitors, customers etc.).

(3) In the case of special working situations (e.g. rescue operations, disaster prevention activities), employment relationships with the armed forces, armed corps and police forces, and employment while under detention, the responsible minister may, taking into consideration this Act and in exceptional justifiable situations, issue separate regulations establishing different requirements and procedures concerning healthy and safe work conditions.

Section 10. The provisions of section 9 apply to work executed in Hungary (including duty-free zones), unless legislation, international agreements, or - in the absence of the latter - international civil law provides otherwise.

Division 3. Regulations concerning occupational safety and health

Section 11. The basic rules concerning occupational safety and health are in this Act. Its detailed rules are, under the authority conferred by this Act, in regulations issued by the Minister of Labour, the Minister of Public Welfare and in other separate regulations. Rules concerning specific dangerous activities (technologies) are in regulations (the "regulations") issued in ordinances of the minister concerned or in standards.

Section 12. Rules established by the employer under section 2(3) are to be considered as occupational safety and health rules as well.

CHAPTER II. OCCUPATIONAL SAFETY AND HEALTH RESPONSIBILITIES OF THE STATE AND RESPONSIBLE BODIES

Division 1. Responsibilities of the State

Section 13. The organization of occupational safety and health is the responsibility of the State. It shall accomplish this by providing guidance and by engaging in sectoral and institutional activities through its agencies.

Section 14. (1) Within the scope of guidance in occupational safety and health, it is the responsibility of the State to:

- (a) formulate a national programme for occupational safety and health;
- (b) define the basic requirements of healthy and safe working conditions, and of related rights and obligations;
- (c) promote the application of occupational safety and health rules, in particular by the issuing of economic regulations also in accordance with the aims of this Act, by the provision of incentives, by the granting of the material conditions necessary for the carrying out of safety and health research serving the interests of the national economy, and by the supply of information;
- (d) define the information needed for the teaching of safe behaviour at the level of education, and for the teaching of rules relating to healthy and safe working conditions at the level of occupational training;
- (e) review annually the occupational safety and health situation at the national level, to publish the results of this review, and to establish and operate a system for occupational safety and health information.

(2) The State shall participate in the work of international organizations involved with occupational safety and health, and shall collaborate with other States in order to harmonize occupational safety and health

responsibilities.

(3) The State shall accomplish its responsibilities defined in subsections (1) and (2) above in collaboration with the organizations defending the interests of employees and employers.

Section 15. Within the framework of sectoral occupational safety and health activities, it is the responsibility of the State to:

- (a) issue regulations;
- (b) conduct research and development in sectoral occupational safety and health matters in harmony with the national occupational safety and health programme, to engage in information activities, and to collaborate in the organization of further training programmes.

Section 16. Within the framework of institutional activity, and following the rules of national administration, the State shall, as defined in Chapter VII:

- (a) promote and monitor the enforcement of occupational safety and health rules;
- (b) exercise the duties of licensing and registering prescribed by this Act, by ordinances of the Ministers of Labour and Public Welfare and by other regulations.

Division 2. Bodies responsible for the execution of State duties

Section 17. (1) Responsibilities connected with occupational safety and health at the national level shall be handled within their own scope of activity by the National Assembly, the Government, the Ministers of Labour, Public Welfare and Industry and Trade, and the central administrative bodies directed or supervised by them (the National Inspectorate for Occupational Safety and Labour, the State Public Health Service, the Hungarian Mines Office).

(2) The National Inspectorate for Occupational Safety and Labour (the "NIOSL") is an independent central institution whose tasks are the initiation, preparation and promotion of guidance programmes within the scope of occupational safety and defined in section 14, and the execution of agency tasks related to general occupational safety issues.

(3) The NIOSL, as well as institutions defined by separate legislation, shall have the responsibility to operate the occupational accident information system.

(4) The head of the NIOSL shall be a president appointed by the Minister of Labour. The area agencies of the NIOSL are the county (capital) chief inspectorates, which shall function through occupational safety and labour inspectors. The President of the NIOSL shall supervise the activities of the National Research Institute for Occupational Safety and Health and the National Training Institute for Occupational Safety and Health.

(5) As specified in separate legislation, other inspectorates (the State Public Health Service (the "SPHS") and the mining inspectorate) shall also act as occupational safety and health inspection agencies.

(6) In the management of occupational safety and health and in acting as executing agencies, the State bodies and inspection institutions concerned shall collaborate with each other, with other bodies of the public administration and with the organizations representing the interests of employers and employees.

(7) Sectoral occupational safety and health duties shall be the responsibility of the minister concerned.

CHAPTER III. REQUIREMENTS FOR HEALTHY AND SAFE WORKING CONDITIONS

Division 1. General requirements

Section 18. (1) The design, construction, putting into use and operation of a workplace, an installation or a technology, as well as the production, manufacturing, storage, handling, transportation, utilization, commercialization, importation and operation of work equipment, materials, and energy or personal protective equipment may only take place if the appropriate requirements as defined in occupational safety and health regulations, or - in their absence - as can be expected under the current state of scientific or technical knowledge.

(2) The employer may not replace compliance with the requirements of healthy and safe working conditions with monetary or other inducements to the employee.

(3) Work equipment may only be commercialized, imported, installed or operated if it satisfies the requirements of healthy and safe working conditions. This shall be attested by, or on behalf of, the manufacturer, or in the case of imported products the importer, or if there is no importer the operator, as part of general approval certification procedures.

(4) Work equipment specified by ordinance of the Minister of Labour, as well as any kind of personal protective equipment, may only be commercialized, installed or operated if it has (in the case of work equipment) an appropriate occupational safety certificate or (in the case of personal protective equipment) an approval certificate. Occupational safety certification must be performed according to quality control legislation and ordinances of the Minister of Labour.

(5) The Minister of Labour shall define, in consultation with the Minister of Public Welfare, the detailed rules concerning the issuing of approval certificates for personal protective equipment.

(6) When separate legislation has tied the manufacturing or installation of specific work equipment to the obtaining of a government permit, such a government permit shall be equivalent to a suitability certificate as specified in subsection (4) above.

Division 2. Requirements for setting up workplaces

Section 19. (1) Respect for occupational safety and health requirements during the setting up process is the responsibility of all those involved. Their collaboration in this matter is obligatory.

(2) Those involved in the setting up process (designers, contractors) shall declare in writing that all provisions of section 18(1) have been respected.

(3) During the development and outlay of workplaces and work equipment and the organization of work procedures, ergonomic considerations must also be taken into consideration.

(4) In the setting up of workplaces where physically handicapped workers are employed, the material environment must conform to their physical characteristics.

Section 20. In the case of temporary establishments (e.g. barracks, platforms) the provisions of this Act relating to workplaces shall be applied with the modifications given in the regulations (section 11).

Section 21. (1) The employer operating a dangerous establishment, workplace, work equipment or technology shall order its start-up of operations in writing (safety start-up).

(2) The conditions for the start-up of operations according to subsection (1) above are the preliminary safety inspection, and (in the case of work equipment) the issuing of an occupational safety certificate, or (in the case of establishments, workplaces, or work equipment subject to inspection by the authorities) the issuing of a government permit.

(3) The provision of subsections (1) and (2) above shall apply in the case of the restarting of dangerous work equipment or technology. A precondition for restarting is that the dangerous work equipment or technology satisfy at least the safety and health requirements in effect at the time of safety start-up preceding the restarting.

(4) Safety checks or inspections prescribed in the preceding subsections shall qualify as safety professional work.

(5) Employers operating dangerous work equipment or technology may do so on a trial or experimental basis (in the absence of legislation prohibiting such activity) for a maximum of 180 days preceding safety start-up.

Section 22. (1) At the time of a safety start-up, workplaces, work equipment and technology must satisfy the safety and health legislation in effect.

(2) In cases where the applicable safety and health legislation has become stricter between the design process and the start-up to such an extent that its implementation would result in a disproportionate economic cost, the competent authority (section 17) may accord an exemption from the provisions of subsection (1) if there is no danger to health or work safety.

Division 3. Material requirements for work

Section 23. (1) In order to ensure technological safety, dangerous technologies and work equipment specified by ordinance of the Minister of Labour shall be subject to periodic safety tests.

(2) If a workplace, a piece of personal protective equipment or work equipment, or a type of technology has, through its proper use, directly endangered the health or safety of an employee, or if there has been an occupational accident connected with its use, it must be subjected to a special safety check by the employer operating it. Until this test is finished, the operation or use of the workplace, equipment or technology in question shall be prohibited. The carrying out of the safety check shall qualify as safety professional work.

Section 24. All employees shall be entitled to:

- (a) have access to appropriate amounts of drinking water satisfying the requirements of public health laws;
- (b) access to changing rooms, and washing, health, eating, rest and warming-up facilities, as appropriate to the nature of the workplace and the work.

Section 25. As appropriate to the nature of the workplace and the work, order, cleanliness and the handling of polluting by-products, waste water and waste solids must be accomplished in such a way as not to cause danger, health hazards or environmental damage.

Section 26. As appropriate to the number of workers and the nature of the hazard, warning and alarm systems must be installed in the workplace.

Section 27. There must be sufficient space for movement in the workplace to ensure healthy and safe working conditions.

Section 28. (1) In workplaces where there is danger of falling into something or of falling down, or there is danger of objects falling on employees or others present in the working area, protection of persons shall be assured by fencing, covering or other appropriate means.

(2) The layout, positioning or fixing into the ground of work platforms (scaffolding, stages, footways) used in workplaces must be appropriate to the nature of the work and the expected use to which the platform is to be put. The platform should allow safe working conditions, the storage of materials and tools needed for the work and safe movements and access.

Section 29. Storage areas shall be laid out taking into consideration the physical, chemical and biological properties of the stored materials, as well as their interactions, their reactions to the environment, their effects on human health and the environment, and the methods used for their handling, transport and storage.

Section 30. Energy, pipe and public utility networks must be operationally safe, controllable, maintainable and identifiable. Electric vehicles must satisfy safety (contact protection, explosion protection) requirements.

Section 31. The natural and artificial lighting of a workplace should satisfy the requirements for the appropriate lighting of the work performed.

Section 32. Noise, vibration, dust, chemical substances, radiation, reduced or high atmospheric pressure in the workplace may not endanger the health of employees and others present in the working area, or endanger the safe performance of work.

Section 33. (1) Air of sufficient quantity and quality, as well as a microclimate of sufficient quality, not endangering health, must be provided in work premises, taking into consideration the number of employees, the nature of activity and the sources of risk.

(2) If the supply of air or climate as defined in subsection (1) above is not technically feasible, organizational measures, the use of personal protective equipment or the supply of protective beverages must be instituted in order to protect the health of employees.

Section 34. In open-air workplaces employees must be protected against the weather by work organizational methods, personal protection, the provision of warming-up facilities or the supply of protective beverages, as appropriate to the nature and the conditions of the work.

Section 35. (1) Workplaces may only be in buildings that satisfy appropriate structural and solidity conditions. In such buildings, walls and other limiting structures, interior spaces, movement areas and ways of access must be set out in such a way that they satisfy the requirements and nature of healthy and safe working conditions and of related cleaning needs.

(2) Windows, skylights and ventilation facilities must be safely openable, closable, adjustable and settable. When open, they may not pose a hazard to employees.

(3) In the case of transparent doors, gates and walls, there must be protective measures against breakage and distinctive danger signs must be installed.

Section 36. (1) Floors and access ways of a workplace must be suitable to the nature of the work and the related cleaning requirements, as well as to the maximum expected traffic. They must not be slippery, and they must be even and free of hazards that may cause stumbling or tripping. The width and free height of traffic routes must permit the safe movement of pedestrians and vehicles, as well as the safe performance of work next to them.

(2) In work or storage premises where there is pedestrian or vehicle traffic, or where there is regular materials transport, the paths followed by traffic or materials transport shall be marked or separated from each other.

Section 37. Exits and emergency exits, as well as the number, size, location and lighting of marked evacuation paths should permit the fast and safe evacuation of the workplace or danger zone.

Section 38. (1) In workplaces where healthy and safe working conditions require a smoking ban, a separate smoking area shall be designated.

(2) In order to protect non-smokers, smoking areas or rooms shall be designated or other organizational measures taken in every workplace in addition to the provisions given in subsection (1).

Section 39. (1) Every machine shall possess, as a permanent accessory, operating documentation in Hungarian necessary for its safe use. This documentation shall be supplied by the manufacturer, or in the case of imported machines by the importer, or if there is no importer by the operator.

(2) Whenever there is an employee in a workplace who does not know Hungarian, the employer shall also make available the operational documentation, warning signs, and prohibition and information signs in a language understood by the employee.

Division 4. Requirements concerning work processes, technology and materials

Section 40. (1) Work processes, technologies, work equipment and materials shall be selected in such a way that they do not endanger the health and safety of employees or others present in the work area.

(2) In workplaces where employees of different employers work at the same time, work procedures shall be coordinated in such a way that there is no danger to workers and others present in the work area. The responsible agent for this shall be the employer designated by contract among the interested parties, or, in the absence of such a contract, the principal entrepreneur, or, if one has not been designated, the employer on whose premises the work is taking place.

Section 41. (1) The movement of materials or products shall be permitted only with equipment that is appropriate and suitable for the properties of the materials or products, and only in designated places, using designated methods, with the observation of maximum permitted weight and size limitations.

(2) In the absence of regulations (section 11) specifying otherwise;

- -in-plant transport rules shall be the same as those for public highways;
- -in-plant rail transport rules shall be the same as those for railways.

Vehicles that do not enter public traffic shall conform to the technical rules applying to vehicles.

Section 42. In the case of dangerous work processes or technologies, the following measures shall be taken in order to prevent hazards or reduce harmful effects:

- (a) the employees concerned shall be informed of the hazards, of the preventive measures to be taken and of the requirements for healthy and safe working conditions (including the provisions under subsection 40(2));
- (b) personal protective equipment against the hazards shall be identified and supplied to the employees, and their use shall be made obligatory;
- (c) depending on the characteristics of the workplace, the work equipment, the physical and chemical properties of materials and the number of employees, workplaces shall be furnished with appropriate equipment for fire fighting. If there is need, this equipment shall be also supplemented by fire alarms. Protective equipment and apparatus, warning apparatus, fire-fighting equipment, rescue apparatus, emergency switches and emergency lighting ("safety equipment") shall be maintained in an operational state ready for their proper utilization;
- (d) provision shall be made for employees to be able to stop working and leave their workplace for safety in case of serious and immediate danger to their health or safety;
- (e) periodically, as specified in regulations (section 11) or as required by the nature of the hazards, there shall be exercises of rescue and emergency procedures.

Section 43. The carrying out of certain work procedures may be subject to permits specified by legislation.

Section 44. (1) In the case of work procedures where employees might be exposed to danger, their effective protection shall be achieved by enclosure technology, or - when this is not possible - by the use (joint use when necessary) of safety devices, personal protective equipment or organizational actions.

(2) The provisions of subsection (1) shall be applied as necessary to others present in the workplace.

Section 45. (1) To provide for exceptional situations where the safety rules applicable during normal operations cannot be observed, rescue plans shall be prepared and rescue personnel shall be named, taking into consideration the nature, situation and size of the workplace and the potential effects of the hazards. Such a plan shall consider the possible presence of others in the workplace. Further legislation may prescribe compulsory rules in this connection.

(2) The provisions of the rescue plan applying to the workplace shall be made known to all employees concerned.

Section 46. The material, personal and organizational requirements of first aid in the workplace shall be ensured taking into consideration the nature and location of the workplace, the hazards, the number of employees and the organization of work.

Section 47. Detailed rules for the carrying out of work, for work processes, workplaces, technology, work equipment, personal protective equipment and protective beverages shall be established by separately issued regulations (section 11) and by standards.

Section 48. The employer is obliged to establish protective measures against hazards taking into consideration the provisions of this Act and of the regulations specified in section 47.

Division 5. Personal requirements of healthy and safe working conditions

Section 49. (1) Employees may be employed for work only if:

- -they have appropriate physical aptitude for the work to be performed;
- -their employment does not endanger their health or bodily integrity, and (in the case of young persons) does not have a deleterious effect on their healthy development;
- -they do not endanger the health or bodily integrity of others, and they have shown aptitude for the job, as defined by other legislation.

Medical aptitude for work shall be decided on the basis of preliminary and (in employment specified by separate legislation) periodic medical examinations.

(2) In the case of certain specific jobs (occupations), the competent minister may require that in addition to the provisions in subsection (1), employment is subject to an employment aptitude test. The competent minister shall determine the procedures for such a test in agreement with the Minister of Public Welfare.

Section 50. Employees may be assigned to a job only if they are medically fit for it, and they have the knowledge, motivation and experience necessary for the performance of healthy and safe work.

Section 51. (1) In order to achieve healthy and safe working conditions, a sufficient number of qualified personnel shall be employed.

(2) Where there is eminent danger, working alone shall not be permitted.

(3) If the job can endanger the bodily integrity or health of employees, the Minister of Labour may, in agreement with the Minister of Public Welfare and the minister responsible for the activity, order that the job may only be performed by persons possessing appropriate professional qualifications (training) or experience.

(4) If a certain job is performed simultaneously by two or more employees, in order to achieve healthy and safe working conditions one of them shall be entrusted with directing the work and the others shall be informed of this.

Section 52. (1) Students in schools shall be taught in the course of their education the basic rules of safe lifestyle and of healthy and safe working practices.

(2) During vocational training, students shall be taught the health and safety requirements necessary for the occupation they are being trained for. The curriculum necessary for this shall be determined by the competent minister, in agreement with the Ministers of Labour and Public Welfare.

Section 53. The requirements of the training of safety professionals shall be laid out in separate legislation.

CHAPTER IV. OBLIGATIONS AND RIGHTS OF EMPLOYERS AND EMPLOYEES IN SATISFYING THE REQUIREMENTS OF HEALTHY AND SAFE WORKING CONDITIONS

Section 54. In order to achieve healthy and safe working conditions, the employer shall ensure the presence of a person capable of fulfilling the duties of a safety professional, and:

- (a) shall transmit in a timely way appropriate instructions to the employee;
- (b) shall monitor regularly whether working conditions satisfy the requirements, and whether employees are familiar with and respect the rules applying to them;
- (c) shall furnish employees with work equipment suitable to the working conditions and the hazards associated with them;
- (d) shall discuss with employees or their safety and health representatives the effects of new technologies on health and safety well before their introduction;
- (e) shall immediately investigate irregularities and reports concerning healthy and safe working conditions that come to their attention. They shall also initiate appropriate action, notify the persons concerned, and - in case of immediate danger - stop work activities;
- (f) shall act according to the rules given in Chapter V in the case of occupational accidents or diseases;
- (g) shall ensure the proper use, protective capacity, satisfactory hygienic state, necessary cleaning, maintenance (reparation) and replacement of protective equipment.

Section 55. (1) The employer shall make sure, through training, that the employee:

- (a) at the time of starting employment,
- (b) at the time of changing workplaces or work responsibilities, or when there is change in health and safety conditions,
- (c) when work equipment is being modified, or when new work equipment is installed,
- (d) when new technology is introduced,

learn and, during the duration of their employment, be aware of the theoretical and practical knowledge, and the regulations, instructions and information necessary for the maintenance of healthy and safe working conditions.

(2) Until the employee acquires the knowledge specified in subsection (1), they may not be employed unsupervised.

Section 56. The internal rules for the furnishing of personal protective equipment shall be established in writing by the employer. Performing this duty shall be considered as professional safety activity.

Section 57. (1) The employer shall, in the interests of fulfilling the employers' responsibilities for the achievement of healthy and safe working conditions, employ a person with occupational safety and health professional qualifications, in functions of the enterprise belonging to a specific hazard category or having a certain number of employees defined in ministerial ordinance. Such persons shall be employed under qualification conditions and for periods specified in the ordinance.

(2) The employment of a safety and health professional prescribed in subsection (1) shall not release the employer from its responsibility to achieve healthy and safe working conditions as specified in this Act.

Section 58. (1) The employer shall, in addition to the obligations specified in subsection 57(1), and in accordance with the provisions of the ordinance by the Minister of Public Welfare, ensure the presence of persons with professional qualifications given in the ordinance (henceforward, the occupational health service). This service, which shall serve all employees, shall fulfil the obligations specified in subsection 21(4) (excluding work equipment), subsection 23(2), subsection 40(1), section 42, subsection 44(1), section 46, subsection 49(1), subsection 54(b) and section 56.

(2) The occupational health service shall, while leaving unaffected the responsibilities of the employer, contribute to the establishment of a healthy work environment and to the prevention of health damage.

(3) The employer shall ensure that their employees and their safety and health representatives receive from the occupational health service the necessary information in connection with their working conditions, and in particular in connection with the exercise of their rights specified under section 60.

(4) The professional supervision of the occupational health service shall be performed by the competent bodies of the SPHS. The employer may not give instructions in this matter to those employed in the occupational health service.

(5) Until the establishment of an accident insurance system, salaries and health-care material expenses of the occupational health service shall be paid, in areas already financed at the time this Act comes into force, by the Health Insurance Fund.

Section 59. Employees and the occupational safety and health representative (committee) shall be informed by the employer of the identity of the person(s) performing the employer's duties respecting healthy and safe working conditions.

Section 60. Employees may perform work only when they are capable of doing it safely, while respecting the rules of healthy and safe working practices. In particular, they shall:

- (a) make sure in a way that can be expected from them that work equipment entrusted to them is in a safe state, operate such equipment according to its purpose and the instructions of the employer, and perform maintenance duties assigned to them;
- (b) use personal protective equipment appropriately, and clean it as instructed;
- (c) wear clothing that does not endanger health or bodily integrity;
- (d) maintain discipline, order and cleanliness in the workplace;
- (e) acquire the knowledge necessary for performing their work safely, and apply this knowledge during the performance of their work;
- (f) attend prescribed medical examinations, and in the case of certain jobs, take prescribed occupational aptitude tests;
- (g) terminate unsafe abnormalities and malfunctions as can be expected from them, or demand from their supervisor that this be done;
- (h) report immediately all accidents, injuries and cases of malaise.

Section 61. Employees shall have the right to require their employer to:

- (a) assure healthy and safe working conditions and, in the case of dangerous activities, compliance with protective measures prescribed in occupational safety and health regulations;
- (b) supply information necessary for healthy and safe working conditions and provide the possibility to learn it;
- (c) furnish the apparatus, and the work and protective equipment necessary for the safe performance of their work, supply prescribed protective beverages and personal cleaning supplies and ensure access to washing facilities.

Section 62. Employees shall not be discriminated against because of their requests for the respect of healthy and safe working conditions, or because of any notifications made in good faith of apparent negligence by the employer.

Section 63. (1) Employees may refuse to perform their work if it can directly and seriously endanger their lives, health or bodily integrity. If following their employer's instructions may directly and seriously endanger others, they must refuse to do so.

(2) Dangers defined in subsection (1) shall include in particular the non-functioning or absence of necessary protective devices or personal protective equipment.

CHAPTER V. NOTIFICATION, INVESTIGATION AND REGISTRATION OF OCCUPATIONAL ACCIDENTS AND DISEASES

Section 64. (1) Occupational accidents and diseases, including cases of overexposure, shall be notified, investigated and registered.

(2) The provisions of subsection (1) shall be applied, in the case of occupational accidents, by the employer (unless legislation decrees otherwise), and, in the case of occupational diseases, by a body (person) defined by ordinance of the Minister of Public Welfare.

(3) During procedures of notification, investigation and registration of occupational accidents and diseases, the employer shall supply the following personal information: name, place and date of birth, and mother's name.

(4) Detailed instructions for notification, investigation and registration shall be supplied in the case of occupational accidents under this Act and by ordinance of the Minister of Labour, and in the case of occupational diseases by ordinance of the Minister of Public Welfare.

Section 65. (1) The investigation of occupational accidents and diseases shall include the investigation of the direct and contributing material, personal and organizational causes leading to the accident or disease. Based on the results of the investigation, measures shall be taken to prevent occupational accidents and diseases.

(2) The investigation of serious occupational accidents and of occupational accidents (caused by work equipment or technology) in which more than two persons suffer injury or health damage at the same time and place shall be considered as safety professional work.

Section 66. (1) An accident shall be reported immediately to the immediate work supervisor by the injured person or the person observing it.

(2) Employers shall determine whether an accident that has been notified to them or the occurrence of which they become aware of is an occupational accident or not. If they do not consider it an occupational accident, they shall inform the injured party (in the case of a fatal accident, the next of kin) of their decision and of the possibility of legal redress (section 68).

(3) The employer shall make it possible for the occupational safety and health representative to participate in the investigation of occupational accidents.

Section 67. The employer is not obliged by virtue of this Act to notify, investigate or register an accident more than three years after its occurrence.

Section 68. If the injured person, or in the case of a fatal accident the next of kin, objects to the actions of the employer related to the notification or investigation of an occupational accident, they may refer to the competent inspectorate of the NIOSL or the area mines directorate.

Section 69. If the occupational accident happens to a Hungarian employee of an employer headquartered in Hungary during a mission abroad, the employer shall comply with the notification and registration requirements specified by ordinance of the Minister of Labour.

CHAPTER VI. OCCUPATIONAL SAFETY AND HEALTH REPRESENTATION AND CONCILIATION OF INTERESTS

Section 70. (1) In order to provide for the protection of their rights and the representation of their interests connected with healthy and safe working conditions, employees have the right to elect from among themselves one or more representatives ("safety and health representatives"), as long as there are at least ten persons employed by the employer (20 when the only or largely predominant activity is of a non-physical nature).

(2) The number of occupational safety and health representatives, the way in which they are elected and recalled and their scope of activity shall be determined according to the provisions of the Labour Code I regarding members of the works council or the works delegate.

(3) When there are three or more occupational safety and health representatives, they may establish a workplace occupational safety and health committee ("committee"). If such a committee has been set up, the rights of occupational safety and health representatives (if they affect the totality of employees) shall be exercised by the committee.

(4) When asked to do so by the committee, the employer or its authorized representative shall be obliged to attend its meetings.

Section 71. In order to achieve healthy and safe working conditions, the occupational safety and health representatives ("committee") and the employer shall collaborate in the exercise of their rights and obligations.

Section 72. (1) The occupational safety and health representative shall have the right to monitor compliance in the workplace with the requirements of healthy and safe working conditions, and in particular to monitor:

- -whether workplaces, work equipment and personal protective equipment are in safe condition;
- -whether measures safeguarding health and the prevention of occupational accidents have been carried out;
- -whether employees have been trained and prepared for the achievement of healthy and safe working conditions.

(2) In the exercise of rights specified under subsection (1) above, the occupational safety and health representative may:

- (a) enter workplaces within the scope of their activities during working hours and obtain information from employees working there;
- (b) participate in the preparation of decisions by the employer that might have repercussions on employees' health and safety, including here as well decisions on the establishment of new workplaces;
- (c) request information from the employer concerning any question touching on healthy and safe working conditions;
- (d) express opinions and suggest necessary actions to the employer;
- (e) participate in the investigation of occupational accidents, and on the initiative of those having the right to do so may participate in the investigation of circumstances leading to occupational diseases;
- (f) refer in justified cases to the competent occupational safety and health inspectorate.

(3) The occupational safety and health representative may, on the basis of previous agreement with the employer, request expert advice on questions connected with healthy and safe working conditions, and furthermore have discussions with inspectorates concerning such matters.

(4) If the employer prepares rules on how to comply with occupational safety and health requirements as part of its responsibilities specified under subsection 2(3), these rules may only be issued with the agreement of the occupational safety and health representatives ("committee").

Section 73. (1) The employer shall initiate action subsequent to initiatives by the occupational safety and health representative under paragraphs (c) and (e) of subsection 72(2), or, alternatively, communicate a response within eight days.

(2) If the employer does not agree with the initiative, its reasons (except in cases requiring immediate action) shall be given in writing.

Section 74. The occupational safety and health representative ("committee") may propose to the employer that a workplace occupational safety and health programme be prepared. If the employer defined by ordinance of the Minister of Labour does not agree, the occupational safety and health representative (committee) may initiate a collective labour dispute as regulated under the labour code.

Section 75. (1) The employer shall ensure that occupational safety and health representatives ("committee") may exercise their rights, and in particular, that:

- (a) they have sufficient free time (remunerated at average wages) for justified activities;
- (b) necessary means are available;
- (c) they may participate in at least 32 hours of training per electoral cycle (8 hours if they have safety professional qualifications).

(2) Expenses connected with activities specified in subsection (1) shall be paid by the employer.

Section 76. (1) Occupational safety and health representatives (committee) shall exercise their rights as specified, without being disadvantaged in any way.

(2) The occupational safety and health representative (committee) shall act in the matter of making public data and information obtained during the exercise of their duties according to labour regulations applying to members of the works council (works delegate).

(3) In order to protect the labour rights of the occupational safety and health representative, the rules applying to elected union officers shall be applied appropriately with the proviso that the immediate superior labour union body shall be taken to mean the committee, or in its absence the employees who have elected the occupational safety and health representative.

Section 77. In the application of sections 70 to 76 of this Act, a person employed in detention and workers with the legal status of students and apprentices are not considered to be employees.

Division 1. The Occupational Safety and Health Commission

Section 78. The conciliation of interests at the national level connected with healthy and safe working conditions shall be assured by the Occupational Safety and Health Commission (*Munkavédelmi Bizottság*), a body functioning under its own rules of procedure, and consisting of representatives of organizations of employees and employers and of the government.

Section 79. Within the framework of its role in the conciliation of interests connected with the establishment of healthy and safe working conditions, the Occupational Safety and Health Commission shall:

- (a) have the right to negotiate and express opinions regarding all questions submitted to it by its members, as well as to express a preliminary opinion regarding drafts of legislation specified in section 11 and of other directives and decisions, and regarding reports and periodic programmes;
- (b) participate in the formulation and revision of the national occupational safety and health programme;

- (c) receive proposals for occupational safety and health requirements that go beyond those specified in occupational safety and health rules;
- (d) make proposals for the utilization of fines levied by inspectorates for the non-respect of occupational safety and health rules and paid into the Occupational Safety and Health Fund (*Munkavédelmi Alap*).

Division 2. The Occupational Safety and Health Fund

Section 80. (1) Monetary fines levied by inspectorates for the non-respect of occupational safety and health rules shall be paid into a separate fund set up for this purpose ("Occupational Safety and Health Fund").

(2) The funds in the Occupational Safety and Health Fund shall be used for the promotion of healthy and safe working conditions.

(3) Employers, employees, their organizations and the national budget may make contributions to the Occupational Safety and Health Fund, as a way to assume their responsibilities in the common interest.

(4) The Occupational Safety and Health Fund shall be administered by the NIOSL. The disbursement of its funds shall be decided, on the basis of applications submitted and following proposals from the Occupational Safety and Health Commission, by the Minister of Labour.

CHAPTER VII. GOVERNMENT SUPERVISION OF OCCUPATIONAL SAFETY AND HEALTH

Section 81. (1) The enforcement of occupational safety and health rules shall be promoted and monitored on a general level by the NIOSL, the SPHS and the mining inspectorate (the "inspectorate").

(2) Through the provision of information and advice, the inspectorates shall assist employers and employees, organizations representing them and occupational safety and health representatives with the exercise of their rights and the carrying out of their responsibilities in connection with occupational safety and health.

(3) The duties of the inspectorates extend to the monitoring of:

- (a) the fulfilment of the tasks and responsibilities of employers and employees in connection with healthy and safe working conditions;
- (b) respect of the requirements for the setting up of workplaces, the operation of work equipment, and the use of technologies, materials and personal protective equipment;
- (c) the investigation, notification and registration of occupational accidents and diseases, as well as measures for their prevention.

(4) The inspectorates may:

- (a) take measures as specified in this Act and separate legislation for the repair of defective safety and health conditions found during inspection as well as for the determination of fault;
- (b) grant exemptions specified under subsection 22(2).

Section 82. (1) The inspectorates shall levy occupational safety and health fines on employers who have failed to comply with the requirements of healthy and safe working conditions, thus seriously endangering the lives, bodily integrity or health of employees.

(2) The amount of the occupational safety and health fine shall be between HUF.50,000 and HUF.3,000,000.

(3) The amount of the occupational safety and health fine shall be decided in the first instance by the chief of the competent county (capital) authority (within the sphere of action of the SPHS by the Chief City Medical

Officer), based on the recommendations of the inspector who has discovered the fault leading to the serious hazard, and taking into consideration the degree of hazard and the personal and material circumstances of the fault.

Division 1. Special rules applying to the scope of action of the National Inspectorate for Occupational Safety and Labour

Section 83. As the authority of the first instance, the NIOSL shall:

- (a) license the activities of safety professionals, as specified by ordinance of the Minister of Labour, and maintain a register of the licences;
- (b) issue approval certificates for personal protective equipment.

Section 84. (1) Inspectors of the NIOSL have first-instance authority to:

- (a) conduct inspections in all workplaces within the area of their authority, without the need for special permits;
- (b) investigate occupational accidents (with the exception of those involving road accidents on public highways and aviation accidents), without touching on the question of the employer's liability;
- (c) call upon the employer to comply with the requirements of healthy and safe working conditions;
- (d) oblige the employer to correct the discovered faults within a specified period of time;
- (e) prohibit employees whose job involves serious transgressions of the rules for healthy and safe working conditions to continue working in the job concerned;
- (f) order the interruption of dangerous activities, the shut-down of plants and plant sectors, or the suspension of the operation or use of work equipment in the case of direct danger to the health or bodily integrity of an employee, until the disappearance of the danger;
- (g) order the investigation specified in subsection 23(2);
- (h) order the notification or investigation of an occupational accident if these actions have been omitted, or if they have not been performed according to legal requirements;
- (i) order the suspension of the operation or use of work equipment or personal protective equipment, if they do not possess the certification specified under subsection 18(4);
- (j) engage in procedures specified by other legislation in cases of the breaching of rules.

(2) The inspector shall investigate notified serious occupational accidents, without touching on the question of the employer's liability for the matter.

(3) The inspector may order the immediate execution of their decisions under paragraphs (e), (f) and (i) of subsection (1) above.

Section 85. (1) The president of the NIOSL shall act as the superior authority concerning decisions made by chiefs of county (capital) inspectorates or by the NIOSL itself.

(2) The superior authority for inspectors is the NIOSL.

Section 86. The NIOSL's scope of authority does not extend to:

- (a) the monitoring of occupational health and radiation protection measures specified by separate legislation, and the monitoring of radiation protection measures connected with the utilization of atomic energy;
- (b) matters under the authority of the mining inspectorate;
- (c) the armed forces, armed corps, and police forces.

CHAPTER VIII. INTERPRETATION PROVISIONS

Section 87. Under this Act, the terms below shall be defined as follows:

1. *Accident*: single effect on the human organism originating on the outside and occurring suddenly or during a relatively short period of time independently of the will of the injured person, and resulting in injury, poisoning, other physical or psychological damage to health or death.

2. *Setting up*: a process resulting in the establishment of a new plant or workplace, in the renovation, expansion or conversion of one that already exists, or in the introduction of a machine, independent of whether it will be used afterwards for productive or non-productive purposes.

3. *Occupational accident*: accident affecting an employee during or in connection with the performance of organized work, independent of where or when it happens, or of the extent to which the employee (injured person) contributed to its occurrence.

An accident occurs in connection with the performance of work if it occurs during any of the following activities connected with work performed as part of employment: transportation, materials reception, materials movement, washing, organized eating in a canteen, making use of occupational health services or of other services provided by the employer, etc.

An accident is not to be considered to be in connection with the performance of work (i.e. not an occupational accident) if it occurs during transit between the home (residence) and the workplace or between the workplace and the home (residence), unless the accident happens during the use of the employer's own or rented vehicle.

Mine occupational accident: occupational accident occurring during mining activity with any employer.

An occupational accident (mine occupational accident) is serious which:

- (a) results in the death of the injured person (including situations where death occurs within 90 days of the accident, and according to medical expertise it is connected with the accident) or in the death of her foetus or newborn baby; also if it results in his or her permanent disability impeding independent life;
- (b) results in the loss or significant reduction in a sense organ (or sense) or in the loss or significant diminution of the ability to reproduce;
- (c) results in life-threatening injury or health damage, as determined by medical expertise;
- (d) results in serious mutilation, loss of a thumb, loss of the greater portion of two or more fingers or toes (and more serious cases);
- (e) results in loss of speaking ability, or in noticeable deformation, paralysis or mental disorder.

4. *Work equipment*: all machinery, apparatus, tools or equipment that are used during or in connection with work (with the exception of personal protective equipment).

5. *Workplace*: all open-air or enclosed spaces (including also underground establishments and vehicles) where there are employees for the purpose of or in connection with work.

6. *Employee*: person working within the framework of organized work.

7. *Safety start-up*: occupational safety and health activity during which the operator makes sure that a given establishment, workplace, technology or work equipment satisfies occupational safety and health requirements, and orders the starting up of its operation.

8. *Employer*: person employing an employee for the purpose of organized work.

An individual entrepreneur who does not employ others and performs work exclusively alone shall be considered as an employer for purposes of the provisions of subsection 9(2) of this Act.

In the case of voluntary work the employer is its coordinator.

9. *Organized work*: work performed while in employment, while having the status of public servant or public employee, while having the status of employee as a member of a cooperative enterprise, while engaged in practical training as a student or apprentice, while in detention (under preliminary arrest or under sentence), on the basis of public administrative decisions, while on service with the armed forces or an armed corps, while on service with professional fire-fighting units (of the state or the local government) or other forces of order, while performing civic service, and while performing volunteer work initiated, directed or approved by the employer.

10. *Restarting*: renewed start-up of work equipment or technology that had already undergone safety start-up procedures in the past, and had been out of operation for a continuous period of at least 30 days preceding the start-up, or one that had undergone repair work accompanied by complete disassembly.

11. *Dangerous*: establishment, work equipment, work process or technology that might have a seriously damaging effect on employees' health or bodily integrity in the absence of appropriate protection.

12. *Dangerous substance*: any substance or preparation that might become a hazard source through its physical, chemical or biological effects, and in particular material that is:

- - explosive;
- - oxidizing;
- - flammable;
- - radiating;
- - poisonous;
- - corrosive;
- - irritating;
- - sensitizing;
- - infectious;
- - carcinogenic;
- - mutagenic;
- - teratogenic;
- - embryotoxic (including those that cause spontaneous abortions, premature births or retarded development of the foetus);
- - otherwise harmful to health.

13. *Hazard source*: any factor present during or in connection with the performance of work that might endanger or harm employees or persons present in the area in which the work is being carried out.

In particular, the following are hazard sources:

- (a) physical hazard sources, including:
 - - work equipment, vehicles, equipment used for transport or the movement of materials, parts of all of these and their movement, movement of products and materials;
 - - upsetting of the equilibrium of mechanisms;
 - - slippery surfaces;
 - - sharp, ridged, uneven surfaces, edges, and corners;
 - - the temperature of objects;
 - - the position of the workplace relative to the ground (floor) level;
 - - differences in level;
 - - weightlessness;
 - - the pressure, temperature, humidity and ionization level of air, as well as air currents;
 - - noise, vibration, infrasound and ultrasound;
 - - lighting;
 - - electromagnetic radiation and fields;
 - - particular radiation;
 - - electric current and static electricity;

- - aerosols and dust in air;
 - (b) dangerous substances (see point 12);
 - (c) biological hazard sources, including;
 - - micro-organisms and their metabolic products;
 - - macro-organisms (plants, animals);
 - (d) physiological, nervous and psychic stress.
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FINAL PROVISIONS

Section 88. (1) This Act enters into force on 1 January 1994.

(2) The detailed rules relating to the matter in sections 19(3), 21(1, 2 and 4), 24, 25, 31 to 34, 40(1), 43, 44(1), 45(1), 50, 56 and 60 of this Act (without affecting the separate regulations dealt with in section 47) shall be determined by the Minister of Public Welfare in agreement with the Minister of Labour.

(3) [Repeals.]

(4) At the same time as this Act comes into effect, the following section 76/A shall be added to Government Ordinance No. 17/1968 (dated 14 April), already amended several times, concerning certain legal infractions:

(Violation of the interests of workers)

Section 76/A (1) An employer who deliberately prevents occupational safety and health representatives from the exercise of their legally-assured rights with regard to occupational safety and health, or who engages in discriminatory practices against occupational safety and health representatives because of the exercise of their rights, may be punished with a fine of up to HUF.30,000.

(2) Legal proceedings for infractions defined under subsection (1) may be instituted only after denunciation by the "occupational safety and health representative".

(5) Where a legal text mentions a "works health service", this shall mean "occupational health service"; where it mentions a "works physician", this shall mean an "occupational health physician".

(6) Where a legal text mentions the "National Inspectorate for Labour Protection and Labour", this shall mean the "National Inspectorate for Occupational Safety and Labour".



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