

PARLIAMENT OF THE REPUBLIC OF MOLDOVA

LAW ON PUBLIC SYSTEM OF SOCIAL INSURANCE

The Parliament adopts this organic law

CHAPTER 1. GENERAL PROVISIONS

Article 1. Terms and Definitions and their application

The following terms and definitions are used for the purpose of this law:

social insurance: the system of security, protection and support by means of delivering benefits, allowances, pensions, rest-home treatment during short- and long-term disability, job-related diseases or disability, or in other cases when such assistance is necessary;

funeral allowance: a sum of money delivered through the public system of social insurance in case pensioner or insured person dies;

unemployment benefit: a form of social protection in monetary form which is delivered on a monthly basis, depending on the category of the unemployed and length of contributing period;

the insured person: a natural person of a working age, resident of the Republic of Moldova, who is subject to mandatory public insurance in order to enjoy the rights, which prevent, restrict or eliminate social risks, as stipulated by this law.

national social insurance house: an autonomous public agency, a legal person expressing national interests, which administers and manages the national social insurance system;

local social insurance house: a public agency, a legal person subordinated to the National Social Insurance House;

personal social insurance number: a number, which is issued to the insured person;

collection of social security contributions: activity of organizing the transfer of social insurance contributions to the accounts of the National Social Insurance House.

mandatory social insurance benefits: mandatory sums of money which are due to the participants of the public social insurance system;

contract of insurance: a binding bilateral contract entered into by the employer, etc. on the one hand, and the social insurance agencies, on the other hand, which stipulates the rights and obligations of the parties in the area of social insurance;

declaration of insurance - a written declaration of the individuals to the national social insurance house - of contracting social insurance;

declaration of an individual account of the insured person: a written declaration of legal person -) to the national social insurance house - of contracting social insurance by each of its workers;

social insurance fund: a fund, which is set up by the National House of Social Insurance and is utilized for paying out certain social insurance benefits;

disablement: the state of the insured person due to loss of physical or mental ability, knowledge or skills to perform work, inflicted by a disease or accident;

temporary disablement allowance: social protection delivered in monetary form by means of social insurance for a certain period of time, during which the person is disabled;

maternity benefit: a form of social protection delivered by means of social insurance to insured women, including those, who had stopped paying social insurance contributions, as stipulated by law;

natal allowance and child-care benefit: assistance in monetary form, which is partly funded by social insurance, to the insured for bringing up a child or looking after a sick child;

allowance for temporary transfer to a different job and for shorter working hours: assistance in monetary form, which is funded by social insurance, to individuals who have individual employment contract for an unlimited period of time and who cannot, due to a job-related illness or an accident, continue working in the same job, where they had worked before the risk occurred; and who cannot work full working day for health reasons;

social insurance benefits: all benefits and pensions, including all elements, which are paid out of the social insurance funds;

state registry of individual accounts of the insured by the public system of social insurance: a comprehensive database, archive of documents, of all payers of mandatory contributions to the social insurance budget and all beneficiaries of social insurance funds - both legal and natural persons;

cancellation of social insurance contract: termination of a social insurance contract due to non-fulfillment of obligations by either party through its own fault; and it is not enforced after its cancellation;

insured risk: event, upon occurrence of which the agency of social insurance must make payment of social insurance benefit;

public system of social insurance: the organized aggregate of forms of social insurance, each of which depends on the others while retaining its specific characteristics and constituting an integral whole, and provides protection of the insured;

Article 2. Guarantee and implementation of right for social protection.

The right to social protection is guaranteed and implemented under law by means of a public system of social insurance (which is further referred to as public insurance system).

Article 3. Principles of formation and acting of the public system of social insurance.

The public system is organized and operates on the following fundamental principles, i.e.

- a) *principle of uniformity*, according to which the state shall organize and guarantee the public system of social insurance based on uniform legal standards; ;
- b) *principle of fairness*, that shall ensure a non-discriminatory treatment; in terms of rights and obligations, provided for by law to all participants of the public social insurance system both contributors and beneficiaries;
- c) *principle of social solidarity*, between and inside generations, under which the public system participants assume consciously and reciprocally obligations, and enjoy the right, which prevents, limits or removes social risks, as provided by law;
- d) *principle of mandatory execution*, according to which individuals and legal entities are committed under the law to participate in public system; rights to social benefits shall be exercised to the extent the obligations are fulfilled;
- e) *principle of contribution*, according to which the social insurance funds shall be created from the contributions payable by the individuals and legal entities - participants to the public system; the rights to social benefits are offered based on paid contributions to the social fund;
- f) *principle of distribution*, based on which the generated funds shall be re-distributed for mandatory payments the public system has to make under the law;
- g) *principle of autonomy*, based on self-governing (self-sustainability) of public system under the law.

Article 4. Who must be Insured

The insurance of the following persons is mandatory under this law, i.e.

1. persons performing activities under private labour production agreements;
2. persons elected or appointed to work in the executive, legislative and judiciary bodies during the period of their mandate, whose rights and obligations are, under this Law, similar to those of the persons specified in paragraph (1);
3. persons, who are on unemployment benefits, which are paid out of the unemployment fund, hereinafter referred to as “the unemployed”;
4. persons, who receive natal allowances, temporary incapacity to work allowances, disablement benefits on condition the benefits are paid out of the proceeds of the respective funds;
5. persons with annual income less than 4 times average wage, provided they are:
 - a) entrepreneurs, pass-through partners, share-holders of, or managers of joint-stock companies, with whom individual employment agreements were not made ;
 - b) managers, working under the management agreement;
 - c) members of family enterprise (association);
 - d) the self-employed;
 - e) employees of international agencies, unless these are insured by their employer;
 - f) members of -handicraft co-operative societies;
 - g) persons employed by official church, who do not have employment agreement;

other persons aged 16, who are not otherwise excluded from the mandatory insurance system by this law.:(6) Persons with annual income of 3 times average salaries in the following cases, i.e.

- a) owners / lessees of agricultural land and forests;
- b) self-employed at farms / forest farms;
- c) members of farming societies or farming associations in agriculture, other forms;

(7) Persons, who have more than one job with gross income at least 4 average salaries, provided at least two conditions of article 4 are applicable.

Article 5. Individual Account Declaration of the Insured

1. Employers of the insured, both legal entities or individuals, as per art. 4(1) and (2), likewise the institutions which pay out unemployment benefits to the unemployed as per art. 4(3), must file monthly statements of individual accounts of the insured and the liabilities of the latter to the state social insurance budget.
2. Persons identified in art. 4(5 - 7) aged 16 shall personally file a declaration of insurance, within 30 days of occurrence of the said situation.
3. Persons identified in art. 4(5 – 7) shall be exempted from filing a declaration of insurance provided a condition of art.4(1),(2), and (3) is applicable.
4. Declarations identified in paragraphs (1) and (2) herein shall be filed with the local branch of the regional National Social Insurance House, further referred to as “local branch”, in which jurisdiction the legal entity’s, or the individual’s headquarters, or the place of residence of the insured is situated.

Article 6. Other Individuals’ Right to be Insured Under the Insurance Contract

Other groups of persons who are not listed in art. 4 may get insured in the public system under an insurance contract within the confines of this Law.

Article 7. Social insurance benefits

1. In the public system of social insurance benefits of social insurance, which are due to the insured, are delivered in monetary form or in kind, , under conditions of this law, conditional on mandatory payment of contribution.
2. Social insurance benefits are delivered in the following form: pensions, allowances, assistance, other services, as stipulated by law.
3. In the public system of social insurance benefits of social insurance are compensation of income, resulting from i.e., complete or partial loss of professional income, because of old age, disabilitylost of the place of work, job-related accident, job-related disease, maternity, or death (hereinafter called “insured risks”).
4. In the public system, the insured may not simultaneously benefit from two or more types of social insurance benefits for the same insured risk, except for the benefits to prevent disease and to recover the ability to work.

Article 8. Personal Social Insurance Number

1. In the public system the social insurance rights and obligations are recorded on the basis of the personal social insurance number.
2. A unique social insurance number shall be assigned to every person insured by the public system of social insurance.
3. The National House issues the personal number of social insurance and the procedure of assigning it.
4. Individual accounts of payers of social contributions (both legal and natural persons) are maintained in conformity with the regulation on the state registry of individual accounts in the public social insurance system adopted by the government of the Republic of Moldova.
5. The National Social Insurance House establishes and monitors the state registry of individual accounts of persons insured by the public system of social insurance.
6. The National Social Insurance House designs forms of individual accounts, develops filing procedures and instructions on how to fill in the forms.
7. The documents and data stored by the State registry of individual accounts of the insured are confidential.

Article 9. Agreements on Social Insurance made between the Republic of Moldova and other states

1. The period, during which a person paid contributions to the public system of social insurance of the Republic of Moldova and to that of other countries under the conditions of the international agreements or covenants to which the Republic of Moldova is a signatory, is included in the total contribution period.
2. The right to social insurance provided by the public system of social insurance of the Republic of Moldova shall be transferred to countries where the insured chooses to reside, as per conditions of international agreements and covenants, to which the Republic of Moldova is a signatory.
3. Social insurance benefits of paragraph (2) may be transferred to other countries on conditions regulated by international agreements and covenants, to which the Republic of Moldova is a signatory, in the currency of the country or any other currency agreed upon.

CHAPTER II. THE BUDGET OF THE PUBLIC SYSTEM OF SOCIAL INSURANCE

Article 10. Formulation and adoption of the budget of the public system of social insurance

1. The budget of the public system of social insurance is a component part of public finances and is independent of the national (state) budget.
2. The budget of public social insurance system includes the revenue side, the expenditure side and financial results in the public system of social insurance.
3. The Government shall annually draft social insurance budget law based on proposals from the National House and shall submit it to Parliament for approval.
4. A report on execution of the budget of public social insurance is to be approved by the Parliament upon presentation by the National Social Insurance House before April 15 of the year following the reporting year.

5. If the budget of the public system of social insurance is not on the books at least 3 days before the expiration of the budget under realization the old budget is effective until the new one is finally adopted.

Article11. The Revenues of the Budget of Social Insurance

Revenues of the budget of the public social insurance comprise contributions, interest, penalties for late payment of contributions, other revenues , as established by law.

Article12. Expenditures of the Budget of Social Insurance

1. The expenditures of budget of public social insurance system shall comprise the expenditure of paying out benefits of the public system of social insurance, expenditure on organization and operation of the system, some own investment, other expenditures established by the law.
2. Up to 3% shall be drawn from the revenues of the budget of the public system of social insurance to establish a reserve fund.
3. The accumulated reserve fund may not be larger than 50 per cent of the expenditure side of the budget in any given year.
4. The reserve fund shall be used for delivering benefits of social insurance in authorized cases, or to cover other expenditure of public social insurance system, approved by the Law on Budget of Public Social Insurance.

Article13. Utilization of Budget Surplus of the Social Insurance Budget and Additions to the Reserve Fund

1. Annual surplus of the Social Insurance budget may be used (as the current year revenues) during the next year as provided by law.
2. Annual excess of the Social Insurance budget may be used for purchase of securities and/or may be kept in banks' deposit accounts according a special regulation approved by the government.
3. The reserve fund shall be carried forward to the following year and shall be accumulated as per art. 14(2) and (3).
4. A possible current deficit of the public system social insurance budget shall be covered with the sources of the social insurance budget of previous years and further on from the reserve fund.

Article14. Interest Rate on the Reserves of the public system of social insurance

The reserve funds of the social insurance budget earn interest, at rates linked to bank interest rates; the rates shall be established in the covenants between the National Social Insurance House and the State Treasury, or bank associations.

Article 15. How the Deficit of the Public System Social Insurance Budget shall be financed

1. In order to finance the deficit of the social insurance budget after the reserve fund has been used up, transfers from state budget shall be made to replenish revenues of the budget of social insurance .
2. Should the revenues of the budget of social insurance decrease pursuant to implementation of legislation acts of the Parliament, the deficit shall be covered by the resources allocated as established in item 1 above.

Article16. Currency of Contributions and Social Insurance Services

- (1) The public system of social insurance of the Republic of Moldova shall accept contributions and pay social insurance benefits in the domestic currency, i.e. in Moldavian leu.
- 2) Contributions and social insurance benefits established in currencies of other countries shall be paid in the territory of the Republic of Moldova in lei at the exchange rate of the National Bank of the Republic of Moldova on the day of payment.

CHAPTER III. SOCIAL INSURANCE CONTRIBUTIONS

Article 17. Who are the Contributors to the Public System of Social Insurance and Contribution Rates

- (1) Contributors to the public system of social insurance are the following persons i.e.,
 - a) the insured who must pay individual social insurance contributions;
 - b) legal entities;
 - c) legal entities of art. 4 (2), which for the purpose of this law are equal to employers;
 - d) unemployment benefits fund;
 - e) other funds under current legislation;
 - f) persons, who have entered into social insurance agreements;
 - g) persons hired under individual employment agreement by employers which are not registered residents of the Republic of Moldova.
- (2) The rate of social insurance contribution shall be differentiated depending on the conditions of work which shall be categorized as normal, specific.
- (3) The rates of social insurance contributions are subject to approval by the Law on the Social Insurance Budget on an annual basis.

Article18. Definition of Jobs which fall into the category of Specific Conditions

- (1) For the purpose of this Law, jobs with specific conditions are those which permanently or in certain period of time may affect significantly the faculty of the insured because of exposure to higher risk.
- (2) The criteria and methodology for defining job conditions as specific, before this Law becomes effective, shall be established by the Government Decision on the joint proposal of the Ministry of Labour, Social protection and Family and the Ministry of Health.

(3) The collective labour agreements should stipulate which jobs are treated as having specific conditions, or, where the law does not require such agreements, the decision is made by the legal management, authorized by law, taking into account the criteria and methodology of paragraph (2) herein.

(4) The approval of the Local Inspectorate for labour protection shall be mandatory when employing people to jobs with specific conditions.

(5) For the purpose of this Law the following jobs shall be considered as having specific conditions, i.e.:

- a) jobs in mining enterprises, for the employees, who work underground at least 50% of the normal working time in a given month;
- b) jobs in civil aviation for flight personnel.

Article19. Procedure for paying social insurance contributions.

(1) Social insurance contributions are to be paid , when one of the situations listed in article 4 occurs, or from the date, when the social insurance contract is signed, on .

(2) Insured individual contributors, who work under individual labour agreements, shall pay one third of the total annual contribution established per one insured person, whose working conditions are normal.

(3) Social insurance contribution due from the employers shall be equal to the contribution at the established rate (which depends on job conditions) net of individual contribution paid by the employee.

(4) The insured persons of article 4 (4) and (5), as well as those who sign insurance agreements, shall pay the full contribution to the social insurance budget, the size of the contribution shall depend upon their job conditions.

(5) Contributions of social insurance due from managers, as stipulated in article 4(5)(b), shall be made either by the insured and their employers under the provisions of paragraphs (2) and (3), or entirely by the insured, based on the provisions of paragraph (4) in conformity with management agreement.

(6) Social insurance contributions for the unemployed shall be paid completely out of the unemployment benefits fund, at a rate established for normal working conditions. The contribution shall be paid out of other funds in a similar manner.

(7) The social insurance contributions, which are paid by contributors, stipulated in art. 17(1), shall not be subject to taxation.

Article20. Calculation and Payment of the Social Insurance Contributions

(1) Social insurance contributions due from both the insured employees, who work under individual labour agreements, and their employers shall be calculated and paid by employers on a monthly basis.

(2) The institution that pays unemployment benefits shall calculate and pay social insurance contributions on behalf of the unemployed on a monthly basis. Calculation and the payment of contributions from other funds shall be made in a similar manner.

(3) Both the insured identified in article 4(5) and (6) and those, who sign insurance agreements, shall pay social insurance contributions on a monthly basis as per computation made and declared by local branches, where the said persons are insured.

(4) In the case of the insured specified in the in art. 4(6) and art. 6 payment of social insurance contribution may be made at longer intervals, provided the period is not longer than 6 months and the deadlines of the declaration, or insurance contract are met.

Article 21. Monthly Tax Base for Calculation of Social Insurance Contributions of Individuals

(1) The tax base for calculating individual social insurance contribution shall be:

- a) the individual's monthly wage plus increments and bonuses in money and in kind, as per law or collective agreements, for those employed under individual labour agreements;
- b) the insured monthly income, specified in the declaration or insurance agreement, may not be less than 1/4 of the average monthly wage in the country

(2) For the citizens of the Republic of Moldova, who fill equate rank, sent by the legal entities of the Republic of Moldova on permanent missions abroad the monthly tax base for calculation of individual social insurance contribution shall be the monthly wage in the given country denominated in leiThe scheme of the ranks assimilation and the monthly average salary amount calculation method of these ranks approved by the Parliament.

(3) The tax base specified in paragraphs (1) and (2) herein may not exceed the ceiling of three average monthly wages.

(4) The average monthly wage is the projected average wage for every year, which shall be approved by a Government Resolution.

(5) The monthly tax base for calculation of the contribution of the unemployed shall be the amount of the unemployment benefit. The monthly tax base for calculation of contributions to the social insurance budget form other funds shall be defined in a similar manner.

Article 22. Tax Base for Calculation of Monthly Social Insurance Contributions Due from the Employers

(1) The average monthly tax base for calculation of the social insurance contribution of the employer shall be the aggregate monthly wage bill of all the insured employees who work under individual labour agreements.

(2) For public institutions, which send their employee on permanent missions abroad, the monthly tax base for calculation of contributions for such employees shall be their aggregate monthly wage, calculated for the equate ranks that are filled by these institution's employers, in the order, covered by chapter (2), article 21.

Article 23. What amount are not included in monthly tax base for calculation of social insurance contributions

(1) Social insurance contributions shall not apply to the following sums:

- a) social insurance benefits,- with exception of unemployment benefits, temporary illness benefits, disability pensions,- which are paid out of the social insurance funds, ;
- b) social insurance benefits, compensations which are paid out of the employers' funds
- c) severance pay in case of termination of labour agreements, as per current legislation;
- d)per diem, and transfer allowances;
- e) copy right or the rights obtained under a civil covenants for supply of services or works;
- f)other payments exempted by special laws.

(2) The amounts exempted from the contributions to the social insurance fund shall not be taken into account for calculation of the amount of social insurance benefit.

Article 24. Regulation and Payment of Social Insurance Benefits

- (1) Social insurance benefits, which employers pay to their employees under the provisions of this Law and other legislation, are paid on account of the social insurance contributions due in a given month.
- (2) Social insurance benefits, which employers pay to their employees under the provisions of this Law and other legislation and which are in excess of the contributions due from them in a given month, shall be refunded to them out of the social insurance fund by the respective local branch.
- (3) Where the monthly contributions to the social insurance fund paid by the contributor exceed the amount due, the settlement of the excess is made when the next payment is due.

Article 25. Transfer of the Individual Contributions

- (1) Individual contributions of the insured, who work under individual labour agreements, shall be deducted from the monthly wage of the insured and transferred on a monthly basis by the employer to the branch office within which jurisdiction the headquarters of this is located.
- (2) The employer shall calculate his contribution to the public social insurance budget and shall transfer it alongside with the individual contributions of his employees on a monthly basis.

Article 26. Timelines for Paying Social Insurance Contributions

The timelines for paying social insurance contributions shall be:

- a) date set for payment of the wages for current month, in the case of employees, who pay wages on a monthly basis;
- b) date for payment of the 2nd fortnightly pay in the case of employers, who pay salaries fortnightly;
- c) by the end of the month, for the current month, in the case of the insured identified in art.4(5) a), b), c), d), e);
- d) at latest on the date determined in declarations or insurance agreements, in the case of the insured identified in art. 4(6) a),b),c), and art. 6;
- e) by the of 20th of the month, following the month when the benefits are paid from the unemployment benefits fund, in the case of the insured identified in art. 4(3).

Article 27. . Change of the Timelines for Paying Social Insurance Contributions

If the deadlines for paying contributions in cases stipulated in art. 28 (a) and (b) are changed, the employer shall inform the branch office in a monthly declaration of individual accounts of the insured and liability to the social insurance budget confirming it with statement of the bank or the state treasury.

Article 28. Penalty for non-payment of contributions within the established timelines,

(1) Failure to pay contributions within the timelines identified in art. 28 leads to enforced collection of the amount due and a penalty for each day of delay, including the day when the payment is made.

(2) The penalty rate for delay stipulated in paragraph (1) hereto shall be established according to the regulations on payment of arrears to the budget.

(3) Amounts representing penalties for delay are the revenues of the public budget of social insurance.

(4) Employer or, agency that pays unemployment benefits, or other funds, which are responsible for transferring contributions to the social insurance budget, shall calculate the amount of penalties for delay, keep record of them in their accounts and monitor the transfer of the moneys.

(5) The insured, who operate under declaration or individual insurance agreements, shall either calculate penalties for delay themselves, or penalties shall be calculated on their behalf by local branch offices.

(6) controlling authorities of national social insurance house check the obligations fulfillment on the subject of calculation, accounting, deduction and transferring of social security contributions, and if it is necessary - fine calculation propriety.

(7) When overdue social insurance contributions are paid the National Social Insurance House exercises all the rights vested with the tax authority with respect to payment of arrears of taxes, fees, etc.

Article 29. Non-payment of social insurance contributions by the employer. Non-payment of social insurance contributions by the employer does not deprive the insured of the right to the benefit due.

Article 30. Enforced Collection

In case social insurance contributions are not paid on time as required by law, the district social insurance houses, or local agencies of the Ministry of finance shall apply measures to enforce collection pursuant to current legislation on budget execution.

Article 31. Payment of Contributions in Case of Restructuring or Bankruptcy of the Employer' enterprise

In case of legal reorganization or bankruptcy of the employer, his arrears of contributions to the budget of public social insurance shall be recovered as per procedure established by law.

Article 32. Benefits are not delivered when Social Insurance Contributions are not paid

Failure of the insured, who operated under declarations or individual insurance contracts, to pay contributions to the social insurance fund within established deadlines shall result in non-delivery of benefits, until and unless contributions due and penalties for delays are paid.

Article 33. Filing of the Standard Application Form to Withdraw the Insurance Declaration

The insured, who prove not to find themselves in the situation for which the insurance is mandatory under art. 4(5) and (6), must file a standard application form for withdrawal of the declaration with the local branch office within 30 days of the change of the situation.

Article 34. Termination of the Insurance Agreement

(1) The insurance agreement may be terminated upon initiative of both parties according to the terms of the contract.

(2) In case of termination of the insurance contract the contributions made to the social insurance fund shall not be refunded, whereas the payment period shall be taken into account for establishing the right to pension.

(3) The rights of the insured shall be re-established after a new insurance agreement is signed.

(4) After the rights of the insured are re-established, the right to social insurance benefits, other than pensions, shall be resumed after a new contribution period stipulated by law for such services is completed.

Article 35. Collection of and Accounting for Contributions to the Social Insurance Fund

(1) The collection of and accounting for contributions shall be made by local branch offices on the basis of individual social insurance numbers.

(2) The local branch offices of the National Social Insurance House shall keep and record data on contributions of each insured person.

(3) Contributions in any form, due to the National Social Insurance House, shall be monitored, like the state revenues, by the bodies of the Ministry of Finance and the specialized staff of the social insurance, consisting of tribunals and chamber of appeals.

Article 36. Length of the Contribution Period

In the public system of social insurance the contribution period is the sum total of the months in which contributions were paid to the budget of the public social insurance system.

Article 37. . In what cases period when contributions were not paid is treated as the contribution period

In the public social insurance system the period of non-contribution shall be treated as contribution period of the insured in the following cases i.e.,

- a) active military service ;
- b) the period when the insured (a parent, or guardian in case of death of both parents) took care of a child till the latter reached the age of two years.

Article 38. Confirmation of the Contribution Period

(1) The contribution period shall be certified by a statement of account, which shall be issued for free by the local branch offices to the insured on an annual basis.

(2) The statement of account shall be issued to the insured upon application for free any time.

CHAPTER IV. PENSIONS

Article 39 Pensions.

The following types of pensions shall be delivered by the public system:

- a) old-age pension;
- b) disability pension;
- c) survivor's pension.

Article 40 . The Procedure of Providing, Establishing and Paying Pensions

The procedure of providing, establishing and paying pensions is established by law.

CHAPTER V. OTHER SOCIAL INSURANCE RIGHTS

Article 41. Other Social Insurance Rights

- (1) In addition to pensions, those insured by the public system have the right to:
- a) allowances for temporary loss of capability to work caused by diseases or accidents, which occurred in non-working hours; occupational diseases and job-related accidents or injuries;
 - b) benefits to prevent diseases and recover faculty to work;
 - c) maternity benefits;
 - d) child-care benefit, or child sickness benefit;
 - e) ; unemployment benefit
 - f) death allowance

Article 42. Procedure for providing, establishing and paying other social insurance benefits

The procedure of providing, establishing and paying pensions is established by law.

CHAPTER IV. NATIONAL SOCIAL INSURANCE HOUSE

Article 43 . The Place of the National Social Insurance House in the Public System of Social Insurance

(1) The National Social Insurance House, established pursuant to Article 9 of this law, is an autonomous public institution of national interest, it has the status of a legal entity, which administers and manages the public social insurance system.

(2) The headquarters of National Social Insurance House are situated in Chisinau.

Article 44. Agencies Subordinated to the National Social Insurance House

- (1) The National Social Insurance House shall have social insurance funds and branches of the Social Insurance House under its subordination
- (2) The National Social Insurance House may found local social insurance houses, depending on the number of the insured, structure and the complexity of work on the territorial level, which shall function under the National House management and control.
- (3) Provisions of organization and functioning of territorial agencies approved by the National Social Insurance House.
- (4) The Social Insurance funds and local Houses are public institutions and have the status of legal entities.

Article 45. Administrative Structure

- (1) The National Social Insurance House is governed by the Chairman of the National House, who is appointed as per Government resolution.
- (2) The Chairman of National Social Insurance House has the main fund-managing authority of the social insurance budget and may delegate this authority as per law.
- (3) Supervision council, with membership of 12 persons, monitors the activities of the National Social Insurance House; the minister of labour and social protection is the chairman of the council.
- (4) Representatives of the Government, labour unions, pension unions and Patronage are members of the Council, the members are proposed by their respective agencies on the principle of proportional representation.
- (5) Decisions are passed by majority vote. In case of parity the Chairman has a decisive vote.

Article 47. The By-laws of National Social Insurance House

- (1) The National Social Insurance House shall formulate its own by-laws, which are subject to approval by the Government resolution.
- (2) The by-laws shall define the responsibilities of, the Council of administration, and those of the Chairman of National Social Insurance House and shall establish the structure and the procedures of the National Social Insurance House and social insurance houses on the sub-national level.

Article 47. Expenditures the setting up and operating of the Public System of Social Insurance

1. All expenses of the setting up of the public system and its operating shall be charged to the budget of social insurance.
2. The expenditure for this purpose is 5 per cent of the total annual expenditure established by social insurance budget law

Article 48. Labour compensation and Other Rights of the staff of the National Social Insurance House

The basic wage of the chairman of the National Social Insurance House, the basic wages and other rights of the staff of the National House, the staff of the local Houses, branches, funds, and pay to the members of the Council of administration shall be established by law.

PART 2

OPERATION OF THE NATIONAL SOCIAL INSURANCE HOUSE

Article 49. Functions, executing by the National Social Insurance House.

Upon implementation of this law, the National Fund shall perform the following functions, i.e.:

- (a) guidance and supervision of the implementation of legal provisions by local Houses, branches, funds and individuals and legal entities, which have rights and obligations pursuant to this law;
- (b) providing data necessary to formulate and substantiate the budget of social insurance;
- (c) submitting reports on the administering and management of the social insurance budget to the Government and the social partners;
- (d) publication of annual reports of the National Social Insurance House;
- (e) transfer of social insurance contributions, unemployment and other contributions, in accordance with current legislation;
- (f) monitoring of the receipt of revenues of the public social insurance budget, in conformity with the current legislation;
- (g) taking measures, as established by law, to improve and administer the public system efficiently, and maintain its integrity and comprehensiveness;
- (h) taking measures for protection of the social insurance funds;
- (i) accounting for all contributors to the public system of social insurance at the national level;
- (j) keeping records of rights for social insurance benefits and obligations at the national level based on the personal social insurance number ;
- (k) issue of annual certificate to each insured person confirming the period during which contributions have been made;
- (l) guidance, and monitoring of the activity of the board of medical experts, which certify recovery of capability to work;
- (m) providing data for updating benefits in the public system of social insurance in the course of execution of the social insurance budget;
- (n) ensuring the implementation of international conventions on social insurance, to which Moldova is a party;
- (o) developing relations with similar social insurance organizations of other countries;
- (p) selection, training and improvement of skills of the personnel in the sector of public social insurance;

- (q) provision for introduction, , expansion, maintenance and protection of computerized accounting systems;
- (s) representation in court in the cases it is involved following the implementation of the provisions of this law;
- (t) other functions defined by law.

CHAPTER VII. LEGAL LIABILITY
Article 50. Types of Liability for Violating the Law.

Violation of provisions of this law involves financial, civil, administrative or criminal liability.

Article 51. Administrative Crime

(1) The following actions are administrative crime, provided they are not treated as crime by the Penal Code i.e.,:

- (a) non-filing declaration **of an individual account of the insured person** on time as stipulated in Article 5(1);
- (b) non-filing insurance declaration on time as, stipulated in Article 5(2);
- (c) non-compliance with established rates of social insurance contributions, as established by Articles 17(3) and 19;
- (d) failure to comply with the procedure for defining job conditions as special, according to article 20, paragraphs (2), (3) and (4);
- (e) non-compliance with standards of articles 23 and 24 for calculation of tax base of social insurance contributions;
- (f) failure to notify of the change of payment deadlines, according to article 29;
- (g) failure to comply with standards of article 30(4) on penalties for late payment;
- (h) failure to observe provisions requiring to notify of any changes in establishing pensions;
- (i) refusal to submit documents, which support and prove the obligations of social insurance , to the auditing authority of the National Social Insurance House and local social insurance houses;

(2) Cases of administrative crime listed under paragraph (1) above are punishable by law;

(3) The auditing bodies of the Ministry of finance, of the National Social Insurance House and of the local Social Insurance Houses have the authority to establish the fact of administrative crime and apply penalties.

(4) All penalties applied for administrative crime, as established by this law shall be the revenues of the social insurance budget.

CHAPTER IX. TRANSITIONAL PROVISIONS

Article 52. Processing of Litigation

- (1) All disputes processed by courts upon enactment of this law shall be settled under the law, based on which the right was created.
- (2) All claims on social insurance, arising pursuant to this law, shall be filed with the competent Courts to be settled under the provisions of the previous law until the social insurance divisions are set up.

Article 53 . The National Social Insurance House Formation.

The National Social Insurance House is formed from the date of current law is published in the "Monitorul Oficial Al Republicii Moldova".

Article 54. Appointment of the Chairman, setting up of the Council of Administration and Approval of the By-laws of the National Social Insurance House

- (1) Within 30 days of the publication of this law in the official bulletin, the Prime Minister shall appoint, the President of National Social Insurance House.
- (2) The Council of administration shall be set up and the by-laws of the National Social Insurance House shall be approved within 30 days of the appointment of Chairman of the National Social Insurance House.

Article 55. Take-over of Functions and Offices

- (1) Within two months of the approval of the by-laws, the National Social Insurance House shall takeover the following:
 - (a) all respective functions of the Social Fund, Department for Pensions and Social Security, Computer Bureau, local departments of the Ministry of Labour, Social Protection and Family, which have the authority to establish pensions and other social insurance benefits, and the functions of the Board of experts for medical examination subordinated to the Ministry of Health;
 - (b) all facilities, buildings, premises, public land, parcels, occupied by the entities, stipulated in paragraph (a), according to the list approved by the Government Decision.
- (2) Within the date of setting up of the Council of administration and to the date of enactment of this law, the National Social Insurance House and other local insurance houses shall:
 - (a) set up the Social Insurance House of Chisinau and its branches at the sub-national level;
 - (b) take over from the Social Fund, on the basis of minutes and accounts statement the budget of social insurance, data on staff expenses relative to the number of staff taken over, which are applicable until this law becomes effective and the budget of the public system social insurance is approved.
- (3) The staff, which shall be transferred to National Social Insurance House the local offices and branches, mentioned in point a) of part (1), shall be named "transferred staff".

- (4) Until the enactment of this law, the central and local governments shall provide the National Social Insurance House with the offices as required for proper operation of local social insurance houses and branches, set up under this law.
- (5) Until the enactment of this law, the National Insurance House shall establish the personal social insurance number and the procedure of how to assign it.
- (6) The form and contents of Declaration of individual records on behalf of insured individuals and their liability to the budget of social insurance, Declaration of insurance, insurance contract and other documents necessary to keep records of rights to social insurance and liabilities, shall be established by the National Social Insurance House.
- (7) Before the date of enactment of this law the National Social Insurance House shall announce the accounts, to which social insurance contributions must be remitted.
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- (8) As of the date of the enactment of this law, the National Social Insurance House shall take over, on the basis of minutes and the financial statement, all the free funds and debts to and of the social assistance system, which is transformed into the public system of social insurance.
- (9) As of the date of enactment of this law, the social insurance contributions to the public system made by the insured individuals, who work under an individual employment contract, shall not reduce their income.
- (10) The income of the insured in the public system of social insurance, who work under individual employment contract, shall be maintained by means of increasing their wages in proportion with the rate of increase of the social insurance contribution as per this law.
- (11) For the insured, who have monthly wages higher than the ceiling of 3 average wages, the increase identified in paragraph (2) shall be applied to the excess only.
- (12) The individual social insurance contribution owed by the insured shall not be included in the taxable monthly income, and, correspondingly, in the wage which is taken as the basis for calculation of the health insurance contribution and the individuals' contributions to unemployment fund.

CHAPTER IX. FINAL PROVISIONS

Article 60. The Refunding of undue benefits

- (1) Any amounts delivered unduly as social insurance benefits must be refunded by the Beneficiaries over three years, within a limitation period.
- (2) Refunding of social insurance benefits, other than pensions, identified in paragraph (1) shall be collected by the employer, or the institution which pays unemployment benefits.
- (3) The local Social Insurance Houses and branches shall collect the **undue benefits** from the contributors listed in paragraph (2) above.
- (4) Benefits unduly paid through local houses offices and branches shall be withdrawn from the Beneficiaries on the basis of a decision of the respective house, which is an enforceable decision.

Article 61. The Implementation of This Law

(1) This law shall be implemented from July 1, 2000 with the exception of chapters (2), (3) and (4), article 12, that shall become effective upon clearance of all arrears of pensions and other social insurance benefits due.

(2) The Government of the RM shall:

- within 3 months, the Government of RM shall prepare amendments to the Budget system act (Law No 847-XIII of May 24, 1996); the Tax Code (#1163 of April 24, 1997); Law on administration of income tax and on application of chapters I and II of the Tax Code (#1164 of April 24, 1994); and to the other acts.

- to harmonize its normative acts with the current legislation

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- within the year 2000 to accept regulations required for the operation of this law;

(3) Employers, individuals and legal entities must provide the national social insurance house, the local houses offices and branches with all the data and documents necessary for assigning the personal social insurance numbers and keeping records of the contribution period, according to the procedure developed by the National Social Insurance House.

The following law shall be abrogated after putting this Law into effect:

Law on State Social Insurance Budget, No. 1359-XIII of October 24, 1997.

Chairman of Parliament of the Republic of Moldova