

1 Description of national OSH regulatory framework

1.1 Description of OSH regulatory framework

Summary/citation

In France, the main legislation on occupational safety and health is available in the Part IV of the Labor Code entitled “Health and Safety at Work” completed by specific and technical decrees placed at the end of the Code. Health and safety at work legislation is supplemented by other parts of the Code (i.e. work time legislation, daily rest period, respect of fundamental freedoms, bullying, sexual harassment, discrimination, execution in good faith of the employment contract, work council competencies, employee delegates abilities...). The French Labour Ministry often produces circulars to provide guidelines on the application of the law. The Labour Code also incorporates transpositions of European Union legislation.

Health and safety legislation is interpreted by the Court of Cassation. Its role is to unify the interpretation of the law in France and to control its enforcement by low courts. Sometimes the Court of Cassation interprets French law in the light of the European Union legislation.

Collective bargaining is also a source of health and safety legislation (inter-branch agreements, branch agreements, company-level agreements). In this respect, the Law No. 2015-994 of 17 August 2015 on Social Dialogue and Employment has been adopted and it will enter into force on the 1st January 2016.

Employees from the public service sector are covered by the part IV of the Labor Code and by specific provisions.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative).

Occupational safety and health country profile of France

Loi n° 2015-994 du 17 août 2015 relative au dialogue social et à l'emploi 2015-08-18

2 Scope, coverage and exclusions

2.1 Health and safety covers physical and psychological health

Summary/citation

The employer shall take all necessary measures to ensure the safety and to protect the physical and mental health of workers.

The employer shall take all necessary measures to ensure the safety and to protect the physical and mental health of workers (art. L4121-1 of the Labor Code).

Employer must prevent bullying. According to the article 1152-1 of the Labor Code : “no employee should be subject to repeated acts of moral harassment which have as its purpose or effect a deterioration of his conditions of work liable to harm his rights and his dignity, to damage his physical or mental health or compromise his career”.

The mission of the Health and Safety Committee is to contribute to the protection of physical and mental health of workers (art. L4612-1 of the Labor Code).

The Occupational Physician can propose individual measures justified by the worker's physical and mental health condition (art. L4624-1 of the Labor Code).

The alert procedure of the employee delegate may be triggered on the basis of bullying, sexual harassment, discrimination, damages on physical and mental health in the workplace (art . L. 2313-2 of the Labor Code).

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4121-1)

2.2 Definition of worker

Summary/citation

Workers are paid employees, including temporary workers, trainees and all people placed under the authority of an employer.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4111-5)

2.2.1 Coverage of particular categories of workers

Remarks / comments

Disabled workers (art. L5211-1 and the followings of the Labor code), also journalists, occupations related to performing arts, advertising and fashioning (and kids in these fields) (art. L7111-1 and the followings of the Labor Code).

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L5211-1, L7111-1)

Décret n° 2015-259 du 4 mars 2015 relatif à la fiche de prévention des expositions des salariés temporaires.

Décret n° 2014-423 du 24 avril 2014 relatif à l'application des dispositions relatives à la santé au travail aux travailleurs éloigné:

2.2.1.1 Migrant workers

Summary/citation

Migrant workers are not excluded from the scope of the law. The provisions of the Labour Code are applicable to employers of private law and their employees.

They are also applicable to persons working for public sector entities employed under private law unless there are special provisions covering them.

The Labour Code covers all persons employed on the basis of an employment contract in the private and public sectors, in the liberal professions, trade unions and associations of all kinds.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L1211-1)

2.2.1.2 Domestic workers

Summary/citation

Domestic worker are workers who perform whether part-time or full-time work in a private house. Domestic workers are not excluded from the scope of the law. The provisions of the Labour Code are applicable to employers of private law and their employees.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L1211-1)

2.2.1.3 Home workers

Summary/citation

Home worker is any person who:

- 1 .Works for a salary, to one or more employers, in a task entrusted to him/her directly or through an intermediary;
- 2 .Works alone or with a partner under a civil solidarity pact, or dependent children (under conditions), or with an assistant.

Home workers are not excluded from the scope of the law. The provisions of the Labour code are applicable to employers of private law and their employees.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L7412-1, Art. L1211-1)

2.2.1.4 Self-employed persons

Summary/citation

Independents and those in liberal professions are not covered by the labour code as workers. Nevertheless certain provisions could be applicable to them, in particular, those related to contributions to social security and to training.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L6331-48/54)

2.3 Definition of employer

Summary/citation

In opposition to workers definition, employers are those that in exchange of remuneration and by virtue of a labour contract have the authority over employees, including temporary workers, trainees.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4111-5)

2.4 Exclusion of branches of economic activity

2.4.1 Agriculture

Summary/citation

Agriculture is not excluded from the scope of OSH legislation.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4111-1, Art. L4111-4)

Décret n° 2012-1043 du 11 septembre 2012 relatif aux conditions de fonctionnement des commissions paritaires d'hygiène, de

Décret n° 2012-706 du 7 mai 2012 relatif aux services de santé au travail et à la prévention des risques professionnels en agric

2.4.2 Construction

Summary/citation

Construction is not excluded from the scope of OSH legislation.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4111-1, Art. L4111-4)

Arrêté n° 2012-4077/GNC du 13 décembre 2012 relatif aux conditions d'habilitation des coordonnateurs santé et sécurité au tra

2.4.3 Services

Summary/citation

Services are not excluded from the scope of OSH legislation.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4111-1 Art. L4111-4)

2.4.4 Public sector

Summary/citation

The provisions of the Labour code are applicable to employers of private law and their employees.

They are also applicable to persons working for public sector entities employed under private law unless there are special provisions covering them.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative).

2.4.5 Other

Summary/citation

Are not subject to all the provisions of the Labour Code:

1 The mines and quarries and their dependencies;

2 The transport companies whose staff is governed by a particular statute.

However, these provisions can be made applicable by Decree to all or part of the companies mentioned in 2.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4111-1 Art. L4111-4)

Arrêté du 4 novembre 2013 relatif au contrôle de l'exposition aux poussières alvéolaires dans les mines et carrières.

2.5 Definition of occupational accident

Summary/citation

It is considered as occupational accident, whatever the cause, the accident which arises out of or in the course of work to any employee or working, in any capacity or in any place whatsoever, for one or more employers or entrepreneurs.

Remarks / comments

On the 2nd April 2013 the Court of Cassation ruled that the occupational accident can be defined as "an event or series of events raised at certain dates because of or in the course of work, which it is resulted bodily injury, regardless of the date of appearance thereof" (cass. Soc. 2 April 2013). It means that the Court of Cassation accepts that there may be a lag between the event and the onset of health problems. So bullying, depression, post-traumatic stress, work-related suicide can be recognized as occupational accidents.

References

Code de la sécurité sociale et Code de la mutualité. (Art. L411-1)

2.6 Definition of occupational disease

2.6.1 List of occupational diseases

Summary/citation

A list of occupational diseases is attached to the Social Security Code.

References

Code de la sécurité sociale et Code de la mutualité. (Art. L461-2 Table 1 Anex II)

Décret n° 2015-636 du 5 juin 2015 révisant et complétant les tableaux de maladies professionnelles annexés au livre VII du Co

Décret n° 2014-605 du 6 juin 2014 révisant et complétant les tableaux des maladies professionnelles annexés au livre IV du Cc

Décret n° 2012-1265 du 15 novembre 2012 révisant et complétant les tableaux de maladies professionnelles annexés au livre '

2.6.2 Mechanism for compensating other diseases as occupational ones**Summary/citation**

The table of occupational diseases may be revised and amended by decree.

A special procedure is provided for employees victims of occupational disease not recognized by the list of occupational diseases. The employees can go to the Regional Committees for Recognition of Occupational Diseases and prove the work causality and a partial disability rate of at least 25% or the death (art. L461-1 of the Social Security Code).

References

Code de la sécurité sociale et Code de la mutualité. (Art. L461-1,2)

3 Institutions and programmes relating to OSH administration and/or enforcement

3.1 Competent national authority for safety and health at work

Summary/citation

The Ministry of Labour, employment, professional training and social dialogue is responsible for the policymaking and implementation of the national policy in the areas of labour, employment, professional training and social dialogue; and in the prevention of occupational accidents and diseases.

References

Décret n° 2014-406 du 16 avril 2014 relatif aux attributions du ministre du travail, de l'emploi et du dialogue social. (Art. 1)

3.1.1 Objectives, roles and/or functions**Summary/citation**

The Minister of Labour, employment, professional training and social dialogue shall set up and implement regulations relating to working conditions, collective bargaining and workers' rights. Jointly with the Minister of Social Affairs and Health, the Minister of Labour is responsible for the policy making and implementation of legislation and for the management of social security institutions in the field of occupational accidents and diseases.

References

Décret n° 2014-406 du 16 avril 2014 relatif aux attributions du ministre du travail, de l'emploi et du dialogue social. (Art. 1)

3.1.2 Chairperson and composition

3.2 National OSH research programme or institute

Summary/citation

The National Institute for research and safety (INRS) is a French Institute competent in the area of occupational risk prevention: protecting workers' health and safety and preventing occupational accidents or diseases. Its missions include: anticipating needs (with studies and research programmes), raising awareness (via information products, prevention campaigns) and providing assistance (through technical guidance, information resources, training).

The French Agency for Food, Environmental and Occupational Health & Safety (ANSES) is a public authority reporting to the Ministries of Health, Agriculture, Environment, Labour and Consumer Affairs. This Agency shall undertake independent scientific research and provide expertise on labour, health and environmental issues. Its objective is to contribute to ensuring human health and safety in the environment, work and food.

The French National Agency for the Improvement of Working Conditions (ANACT) was set up in 1973 with the objectives of: improving the quality of working conditions and company efficiency, promoting the appropriation of methods of change by all the stakeholders and developing innovative projects in the labor-related field.

The network encourages companies to put work on the same level as other economic components such as products, markets, and technologies. It fosters the participation of all corporate stakeholders (managers, executives, employees) in development projects. Its aim is to help businesses to conceive, promote and implement public incentive policies, tools and innovative methods.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R1313-1)

3.2.1 Objectives, roles and/or functions

Summary/citation

The missions of the National Institute for research and safety (INRS) are:

Anticipating needs

From toxicological hazards to physical and psychological well-being, the INRS conducts study and research programmes to improve the health and safety of men and women at work.

It also determines future risk prevention needs by evaluating the measures and programme adopted.

Every five years, a plan defines INRS general framework for action.

Raising awareness

The Institute designs many information products: 4 magazines, 300 brochures, 150 posters, 70 videos, CD-ROMs. These are disseminated across a broad public of safety managers, occupational physicians, engineers, operators, trainers, among others.

In some cases, actions are coupled to prevention campaigns aimed at the general public.

Assistance

Each year, 40,000 requests are received for help in solving prevention problems, and the INRS' assistance departments respond with technical advice and information.

The Institute transfers i

ts know-how and expertise with the 70 training courses and teaching aids it offers, adapted to the needs of prevention organisers in the company.

INRS' experts participate in many working groups on the national, European and international levels to generate regulations and standards.

The functions of the French Agency for Food, Environmental and Occupational Health & Safety (ANSES) are:

1. Organize expertise in its field of competence based on the expert committees;
2. Set up a network of organisations and coordinate their work for assessment of health risks in its jurisdiction;
3. Promote information, training and dissemination of scientific and technical literature;
4. Contribute to the definition of research policies;
5. Create scientific and technical databases;
6. Organize supervisory systems and participate in toxic-watch systems;
7. Perform laboratory activities;
8. Provide the authorities with the scientific and technical expertise support for the assessment of chemical substances and others.

References

Code de la Santé Publique. /Public Health Code (Art. R1313-1)

3.2.2 Governance board constitution and chairmanship

Summary/citation

The National Institute for research and safety (INRS) operates on behalf of the employees and companies coming under the general Social Security scheme.

It is supported by the regional health insurance funds (CRAM) in metropolitan France and general Social Security funds (CGSS) in French overseas administrative departments, and provides its competence to other prevention partners such as occupational physicians and Labour inspectorate services.

To cope with occupational risks, the Institute can call on a wide range of abilities: researchers, engineers, physicians, trainers, and information specialists ranging from documentarists to journalists working in the field. Over 650 people are employed in 18 units or divisions.

Its activities are programmed in accordance with directives from the National salaried workers' health insurance fund (CNAMTS) and policies defined by the Ministry in charge of Labour.

It is managed by a joint board of directors representing employers (Medef) and employee trade unions (CFDT, CFTC, CGC, CGT, CGT-FO). 2 committees, subordinated to the Board of Directors, examine every year the INRS programmes and activity reports: the Application committee and the Studies, Research and Assistance Committee (CERA).

The French Agency for Food, Environmental and Occupational Health & Safety (ANSES) is composed of:

- The Board of Directors;
- The General Director;
- The Scientific Council;
- Members of expert committees;
- Ethics & conflicts of interest prevention committee.

The French National Agency for the Improvement of Working Conditions (ANACT) is organized as follows:

ANACT's head office is in Lyon and relies on a network of 26 regional associations or ARACTs (Agence Régionale pour l'Amélioration des Conditions de Travail).

The ANACT network gathers 287 employees in Lyon and in French regions.

It is a public office reporting to the Ministry of Labour

It is governed by a tripartite council. The board brings together representatives from employer and employee organisations, State authorities, and experts. It deliberates on the budget and the agency's programme of actions.

A scientific committee contributes to the follow-up and assessment of actions conducted by the agency.

References

Code de la Santé Publique. /Public Health Code (Art. R1313-4, Art. R1313-17, Art. R1313-24, Art. R1313-26, Art. R1313-28)

3.2.3 Source of funding

Summary / Citation

The budget of the National Institute for research and safety (INRS) is about 80 millions euros and comes almost entirely from the National occupational accident and disease prevention fund. This fund is provisioned by a share of the occupational accident and disease contributions paid by firms, and managed by the CNAMTS.

The INRS is a non-profit organisation, subject to State financial supervision, and created in 1947 under the auspices of the CNAMTS. It was originally named Institut National de Sécurité (INS, National safety institute) and took on its current name, Institut National de Recherche et de Sécurité (INRS, National research and safety institute), in 1968.

INRS has been ISO 9001 certified since December 2009, following an audit by AFNOR Certification. The certification covers all of our activities, both at the Paris centre and at the Nancy centre. The Institute's approach is based on having a good command of its research, assistance, training, information and communications activities. It contributes to tying its action increasingly tightly into the dynamics of continuous improvement, at the service of OSH.

<http://en.inrs.fr/>

The budget of the The French Agency for Food, Environmental and Occupational Health & Safety (ANSES) includes:

- a) subsidies from the State, local authorities and other public bodies;
- b) subsidies from international organizations and the European Union;
- c) others.

The French National Agency for the Improvement of Working Conditions (ANACT) is funded as follows.

Network activities are financed by public subsidies from the French Labour Ministry and by other resources such as the Social European Fund, Regional Development Agencies, or the Directorate for Labour, Employment and Vocational Training.

2009 Key figures

- 287 employees within the ANACT network: 80 at the head office in Lyon and 204 in ARACTs
- 155 specialist project leaders work with companies. They may be psychologists, sociologists, ergonomists, administrators or economists.
- 2328 missions in companies. 71% in companies with less than 250 employees.

References

Code de la Santé Publique. /Public Health Code (Art. R1313-34)

3.3 National OSH programme

Summary/citation

The Steering Committee on Working Conditions (Conseil d'orientation sur les conditions de travail [COCT]), under the Ministry of Labour, participates in the policy- making of the national policy on the protection and promotion of safety and health conditions at work, as well as in the improvement of working conditions. The COCT is composed by Trades Unions, Employers Organizations, delegates from the State (Ministry of Labour), Delegates from the Occupational risks Division of the National Health Insurance Fund.

Remarks / comments

Every 4 years, The Ministry of Labor launches a National Plan for Health at Work. The aim is to promote health and safety at work, improving knowledge, decrease occupational accidents and diseases.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4641-1)

Décret n° 2008-1217 du 25 novembre 2008 relatif au Conseil d'orientation sur les conditions de travail

Arrêté du 26 Dec. 2008 relatif à la creation des commissions spécialisées du Conseil d'orientation sur les conditions de travail

Arrêté du 09 Avril 2009 portant désignation de représentants au Conseil d'orientation sur les conditions de travail

3.3.1 Consultation on the national OSH programme

4 Employers' duties and responsibilities to protect the safety and health of workers and others

4.1 Duty to ensure the health and safety of employees

Summary/citation

The employer shall take all the necessary measures to ensure safety and protect the physical and mental health of workers. These measures shall include:

- Actions to prevent occupational hazards;
- Provision of information and training;
- Implementation of specific OSH system and means.

The employer shall ensure the adaptation of these measures to the workplace and take into account the changes of circumstances to achieve improvements in the prevailing situation.

Nine OSH principles underpinning the application of the above measures are set out in the legislation:

1. Avoid risks;
2. Assess the risks that cannot be avoided;
3. Combat risks at source;
4. Adapt the work to the persons, especially in the design of workstations and the choice of work equipment; to methods of work and production, particularly in order to limit the repetitive work and clocked work and reduce the impact of these on health.
5. Take into account the state of technical development;
6. Replace the dangerous by not dangerous or less dangerous;
7. Create a prevention plan by integrating coherently technology, organization of work, working conditions, social relationships, environmental factors, including risk of bullying and sexual harassment.
8. Take collective protection measures giving them priority over individual measures.
9. Give appropriate instructions to workers.

The employer shall make all necessary arrangements for avoiding bullying at work.

Remarks / comments

In 2009, two Court of Cassation rulings recognized that moral harassment could occur even without malicious intent on the part of the perpetrator and considered that certain management methods constituted moral harassment when they consisted of repeated actions against an employee (Cass. Soc 10 November 2009).

The employer implements and writes in a "single document" the results of the risks assessment for health and safety at work (art. R4121-1 of the Labor Code).

The updating of the single document is conducted at least every years, when a major development decision alters health and safety conditions or working conditions in the company, and when additional information is received concerning the assessment of a risk in a work unit (art. R 4121-2 of the Labor Code).

According to the French Court of Cassation, the employer is under a strict obligation to ensure health and safety at work. The strict obligation was introduced into social law by the Asbestos rulings on 28 February 2002. Failure to fulfill this obligation is considered an inexcusable fault and facilitates its recognition, while opening up an additional remedy in social security law when the employer was, or should have been, aware of the danger to which the worker was exposed and did not take the necessary steps to protect him/her. This paved the way for full compensation of the damages suffered by the victim. The Court of Cassation considered that the strict nature of the obligation to ensure safety at work implied that the occupational risk should never have occurred. In light of the framework-directive 89/391/EEC dated 12 June 1989, the Court of Cassation also ruled on 28 February 2006 that employers are not only under a strict obligation to ensure and protect the health of worker s in the workplace, but are also liable for guaranteeing its effectiveness.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4121-1, Art. L4121-2, Art. L115

4.2 Duty to protect the health and safety of people other than their own employees

4.3 Collaboration among two or more employers at the same workplace

Summary/citation

When at the same workplace, workers from several undertakings are present, employers shall cooperate in the implementation of OSH legislation.

References

Décret n° 2014-406 du 16 avril 2014 relatif aux attributions du ministre du travail, de l'emploi et du dialogue social. (Art. L4121-1

4.4 Surveillance of workers' health in relation to work

Summary / Citation

The employer shall take the necessary measures to ensure the safety and protection of the physical and mental health of workers. These measures shall include actions to prevent and assess occupational hazards.

Employers shall organize occupational health services.

The OSH services at work have the exclusive mission to prevent the deterioration of workers' health by reason of their work. For this purpose, they shall ensure the surveillance of workers' health according to existing risks, the complexity of work and the age.

Workers exposed to specific occupational risk factors arising from physical work constraints, a risky workplace or particular rhythms of work which may impact on longterm health, and others, shall be recorded in a form by the employer. The form shall be sent to the Occupational Health Service who will forward it to the Occupational Doctor for its completion.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4121-1/3-1, Art. L4121-3-1, Art.

4.4.1 Specific hazards for which surveillance is required

Summary / Citation

Employers shall provide specific health surveillance to biological and chemical hazards, noise, vibration and radiation.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4412-44/57, Art.R4412-160, Ar

Décret n° 2015-567 du 20 mai 2015 relatif aux modalités du suivi médical postprofessionnel des agents de l'Etat exposés à une

Décret n° 2013-365 du 29 avril 2013 relatif au suivi médical post-professionnel des agents de la fonction publique territoriale ex

4.5 Surveillance of the working environment and working practices

Summary / Citation

Workers exposed to specific occupational risk factors arising from physical work constraints, a risky workplace or particular rhythms of work which may impact on longterm health, and others, shall be recorded in a form by the employer. The form shall be sent to the Occupational Health Service who will forward it to the Occupational Doctor for its completion.

The OSH services at work have the exclusive mission to prevent the deterioration of workers' health by reason of their work. For this purpose, they shall ensure the surveillance of workers' health according to existing risks, the complexity of work and the age.

The role of the occupational doctors is preventive. They shall prevent any damage to the health of workers by reason of their work. This includes monitoring their hygienic conditions at work, the risk of infection and their health condition.

When the occupational physician observes the presence of a risk to workers' health, he/she shall propose in writing measures to preserve it. The employer shall take into consideration these proposals and, in case of refusal, make known in writing the reasons which precluded him from taking measures (art. L4614-3 of the Labor Code).

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4121-3-1, Art. L4622-1/3, L461-

4.6 Duty to provide personal protective equipment

Summary / Citation

The employer shall provide workers, if necessary, with the appropriate personal protective equipment and, when the dirty or unsanitary nature of the work requires it, the appropriate work clothes.

The personal protective equipment and work clothing are provided at no charge by the employer who ensures the proper functioning and maintenance of those in hygienic conditions through the necessary maintenance, repairs and replacements.

References

Décret n° 2014-406 du 16 avril 2014 relatif aux attributions du ministre du travail, de l'emploi et du dialogue social. (Art. R4321-

Arrêté du 7 mars 2013 relatif au choix, à l'entretien et à la vérification des équipements de protection individuelle utilisés lors d'

4.7 Duty to ensure the usage of personal protective equipment

Summary / Citation

The employer shall ensure the effective use of personal protection by workers.

The employer shall determine, after consultation with the joint OSH committee, the conditions under which the personal protective equipment is available and used, particularly those concerning the duration of the use. The gravity of the risk, frequency of exposure, the characteristics of the workstation of each worker and the performance of personal protective equipment involved shall be taken into account.

A Decree from the Labour and Agriculture ministries shall provide the categories of personal protective equipment for which the employer shall take general periodic checks for the early detection of any defects that may result in dangerous situations or lack of accessibility.

The employer shall appropriately inform workers about the use of personal protective equipment.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4321-4, Art. R4323-97, Art. R4

4.8 Duty to provide first-aid and welfare facilities

4.8.1 Arrangements for first-aid

Summary / Citation

Different regulations set up guidelines concerning the provision of first-aid.

Employers have multiple obligations prescribed by law:

-Workplaces shall be equipped with first aid equipment according to the nature of the risks and it shall be easily accessible.

-A staff member shall have or receive the aid training required to provide first aid in case of emergency at:

1. Each workplace where hazardous work is performed;
2. Each site employing 20 or more workers for more than 15 days in hazardous work.

The trained workers shall not replace nurses.

-In the absence of permanent nursing, the employer shall take the necessary steps to provide first aid to injured and sick workers in external services from outside the workplace.

These measures shall be compiled in a document made available to the labour inspector.

Signs shall indicate where is the first aid equipment.

The employer shall, when the expected workforce is at least 200 workers in industrial establishments, or 500 workers in other institutions, provide a room for first aid, easily accessible with facilities and first aid equipment. If the health room is to be used as a first-aid room, it shall be subject to the fulfillment of legal conditions. The first aid room shall be marked

The building and civil engineering special security plan shall include provisions for evacuation and rescue, including the instructions of first aid to accident victims and sick persons.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4214-23, Art. R4224-14/16, Art

4.8.2 Sanitary installations

Summary / Citation

The sanitary installations in workplaces shall be conceived and made according to the law provisions.
Adequate sanitary facilities shall be available to disabled workers. The employer shall provide to workers the means to ensure their personal cleanliness, including changing rooms, toilets, sinks and, if necessary, showers.
The law provides standards in relation to changing rooms, sinks, showers and toilets.
It is forbidden to host workers in premises used for industrial or workplace use.

The law sets up provisions addressing dormitories: the necessary surface, habitable volume, temperature, ventilation and windows. Workers shall be able to access them freely.
Every couple shall have a bedroom.
Each person or couple shall have exclusive use of bedding and necessary furniture, which shall be kept clean and in good condition.

The rooms used as dormitories shall be occupied by persons of the same sex.
The number of persons per room is limited to 6.
The premises provided for the accommodation shall be kept in a constant state of cleanliness and hygiene.
The toilets shall be located near the dormitories.

Restrictions / obligations

There are exceptions for dormitory premises in agricultural workplaces.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4217-1 /2, Art. R4225-7, Art. R

4.8.3 Drinking water**Summary / Citation**

Employers shall make available to workers drinkable fresh water, at proximity to work stations and in a sanitary state. In certain situations, employers shall also make other drinks available.
Employers shall ensure the maintenance and functioning of water equipment, the distribution and good preservation and avoid its contamination.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4225-2/4)

4.8.4 Rest and eating areas**Summary / Citation**

The rest and eating areas in workplaces shall be designed and constructed in accordance with the provisions of the law.
Adequate rest and eating areas shall be available to disabled workers.
Workers are not allowed to have their meals in the premises assigned to work.
Non alcoholic beverages other than wine, beer, cider and perry are allowed at the work place.
The entry of drunk workers at workplace is prohibited.
Workplaces with more than 25 workers shall provide eating areas (with chairs, tables, tap water, refrigeration and a facility to warm food).
For workplaces with less than 25 workers the employer shall provide a place to eat in good conditions of health and safety.
After each meal, the employer shall ensure the cleaning of the eating area.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4217-1, Art. R4225-6)

5 Employers' duty to organize prevention formally along generally accepted OSH management principles and practices

5.1 Elements of an OSH management system

5.1.1 Policy or plan specifying responsibilities and arrangements for health and safety

Summary/citation

The employer shall take all the necessary measures to ensure safety and protect the physical and mental health of workers. These measures shall include:

- Actions to prevent occupational hazards;
- Provision of information and training;
- Implementation of specific OSH system and means.

The employer shall ensure the adaptation of these measures to the workplace and take into account the changes of circumstances to achieve improvements in the prevailing situation.

Nine OSH principles underpinning the application of the above measures are set out in the legislation:

1. Avoid risks;
2. Assess the risks that shall not be avoided;
3. Combat risks at source;
4. Adapt the work to the persons, especially in the design of workstations and the choice of work equipment; methods of work and production, particularly in order to limit the repetitive work, clocked work and reduce the impact of these on health.
5. Take into account the state of technical development;
6. Replace the dangerous by not dangerous or less dangerous;
7. Create a prevention plan by integrating coherently technology, organization of work, working conditions, social relationships, environmental factors, including risk of bullying and sexual harassment.
8. Take collective protection measures giving them priority over individual measures.
9. Give appropriate instructions to workers.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4121-1, Art. L4121-2)

5.1.2 Appointment of a person for health and safety

Summary/citation

Every employer shall organize at the workplace:

- A Health Service
- A Social Service

The Health Service shall be organized:

- 1 .As an autonomous service, provided by a business group of many companies which are an economic and social unit or of a workplace;
- 2 .As a Health Service Intercompany.

If the company has the choice between the two options, this choice is made by the employer.

The OSH Committee has access to expert advice. The experts fees are paid by the employer.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L 4621-1, Art. L4631-1, Art. L4632-1)

5.1.3 Written risk assessment

Summary/citation

Employers shall, taking into account the nature of the activities of the establishment, evaluate the risks to safety and health of workers, including the choice of manufacturing processes, work equipment, substance and chemical preparations, in the conditioning or reconditioning of workplaces or facilities and in the definition of workstations, also psychosocial risks at work.

(Art. L4121-3 of the Labour Code)

The employer shall implement and write in a "single document" the results of the risks assessment for health and safety at work.

(Art. R4121-1 of the Labor Code)

The updating of the single document is conducted at least every years, when a major development decision alters health and safety conditions or working conditions in the company, and when additional information is received concerning the assessment of a risk in a work unit.

(Art. R 4121-2 of the Labor Code)

Remarks / comments

According to the Court of Cassation and the "Sneema Case", the employer's strict obligation to ensure safety prohibited him from implementing measures with the purpose or effect of jeopardising workers' health. The courts are thus authorised to suspend any work organization that is hazardous to workers' physical and mental health (Cass. Soc. 5 March 2008).

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4121-3, R4121-1, R 4121-2)

5.1.4 Safe operating work systems and procedures**Summary/citation**

The employer shall take all the necessary measures to ensure safety and protect the physical and mental health of workers. These measures shall include:

- Actions to prevent occupational hazards;
- Provision of information and training;
- Implementation of specific OSH system and means.

The employer shall ensure the adaptation of these measures to the workplace and take into account the changes of circumstances to achieve improvements in the prevailing situation.

Workers exposed to specific occupational risk factors arising from physical work constraints, a risky workplace or particular rhythms of work which may impact on longterm health, and others, shall be recorded in a file by the employer.

According to modalities determined by a decree, the file will record the hazards to which the worker is exposed, the period of exposure and the preventive measures implemented by the employer to remove or reduce these factors during this specific period.

The individual file shall be established in line with the risk assessment. This file shall be sent to occupational health service which will forward it to the labour doctor. It complements the medical record of each worker. A copy of this file shall be given to the worker at his/her departure from the workplace in case of work leave or absence exceeding a period fixed by decree or when an occupational disease has been declared. The information contained in this document is confidential and shall not be communicated to any other employer to whom the worker might be seeking employment. In case of death of the worker, his/her family shall get a copy of the file.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4121-3-1, Art. L4121-1,)

5.1.5 Training and information on risks

Summary/citation

The employer shall organize and provide information to workers about the risks to health and safety and on the measures taken to address them.

The employer shall organize and provide information to workers about the risks posed by products or processes used or implemented at the workplace to public health or to the environment and the measures taken to address them.

The employer shall organize practical and appropriate safety and health training to the benefit of:

1. Workers hired;
2. Workers who change task or technical work;
3. Temporary employees, (with exceptions);
4. At the request of the occupational doctor.

These trainings shall be repeated periodically.

The extent of the information and training required to the employer varies depending on the size of the workplace, the nature of the business, the nature of the risk identified and the type of work.

The training on safety is at the expense of the employer.

According to the risk identified, specific safety training at workplace is given with the assistance, if necessary, of professional OSH bodies and the regional health insurance prevention services.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4141-1 /L4142-4)

5.1.6 Review or assessment of the results of preventive measures

Summary/citation

The employer shall take all the necessary measures to ensure safety and protect the physical and mental health of workers. These measures shall include:

- Actions to prevent occupational hazards;
- Provision of information and training;
- Implementation of specific OSH system and means.

The employer shall ensure the adaptation of these measures to the workplace and take into account the changes of circumstances to achieve improvements in the prevailing situation.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4121-1, Art. L4121-2)

5.1.7 Consultation with workers in health and safety

Summary/citation

The OSH Committee or the OSH delegate shall be consulted on training programs and they shall ensure an effective implementation.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4143-1)

5.2 Obligation to implement a specific OSH management system or standard 6 Employers' duty to ensure availability of expertise and competence in health and safety

6.1 OSH competence

6.1.1 Requirement to access expert advice and/or support in health and safety

Summary / Citation

The OSH committee has access to expert advice. The experts fees are paid by the employer.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4616-12/13)

Décret n° 2014-798 du 11 juillet 2014 portant diverses dispositions relatives à la médecine du travail.

Décret n° 2014-799 du 11 juillet 2014 portant diverses dispositions relatives à l'organisation de la médecine du travail.

6.1.1.1 Qualifications of experts or professional services

6.2 Appointment of an OSH practitioner

Summary/citation

Every employer shall organize at the workplace:

- A Health Service
- A Social Service

The Health Service shall be organized:

- 1 .As an autonomous service, provided by a business group of many companies which are an economic and social unit or of a workplace;
- 2 .As a Health Service Intercompany.

If the company has the choice between the two options, this choice is made by the employer.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L 4621-1, Art. L4631-1, Art. L4632-1)

Arrêté n° 2012-4077/GNC du 13 décembre 2012 relatif aux conditions d'habilitation des coordonnateurs santé et sécurité au travail

6.2.1 Workforce size threshold for the appointment of OSH practitioners

Summary/citation

Concerning the organisation of the Health Services in an undertaking, when the number of workers reaches or exceeds 500, there shall be an autonomous Health Service at the workplace.

7 Workers' rights and duties

7.1 Duty to take reasonable steps to protect their own safety and health

Summary / Citation

Workers shall follow the instructions of the employer and internal regulations.

Workers shall take all the necessary steps to protect their own safety and health and that of others who may be affected by their acts or neglects at work, and they shall be trained taking into account all the possibilities.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4122-1)

7.2 Duty to take reasonable steps to protect the safety and health of others

Summary / Citation

Workers shall follow the instructions of the employer and internal regulations.

Workers shall take all the necessary steps to protect their own safety and health and that of others who may be affected by their acts or neglects at work, and they shall be trained taking into account all the possibilities.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4122-1)

7.3 Supervisors' duty to take reasonable steps to protect the safety and health of others

7.4 Senior officers' duty to take reasonable steps to protect the safety and health of others

7.5 Self-employed persons' duty to take reasonable steps to protect their own and other people's health and safety

7.6 Duty to comply with OSH-related requirements

Summary / Citation

Workers shall follow the instructions of the employer and internal regulations.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4122-1)

7.7 Right to enquire about risks and preventive measures

Summary / Citation

Workers' delegates shall conduct regular inspections and investigations about occupational accidents and diseases.

Workers' delegates are entitled to make comments during the visit of the labour inspector.

The joint OSH committee is of mandatory consultation on OSH issues and therefore there are several articles that stipulate the need to have access to OSH information.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4612-4/5, Art. L4612-7)

7.8 Right to remove themselves from a dangerous situation

Summary / Citation

Workers have the duty to immediately inform the employer of any situation that they believe presents an imminent or serious danger to the life or health of workers. They shall also inform of all shortcomings they have noticed in the protection systems.

Workers have the right to remove themselves from such situation without any sanction. This right is exercised in a manner that shall not create a new situation of serious and imminent danger for others.

In the situation that an imminent danger is perceived, and the employer and the OSH Committee do not agree on the level of the seriousness of the situation and on the decisions taken thereof, a Labour Inspector should be contacted who shall take a decision.

The employee shall immediately report to the employer any work situation which the employee has reasonable justification to believe presents an imminent and serious danger to life or health. The employee shall report also the defects found in the protection systems. He may withdraw from such a situation (art. L. 4131-1 of the Labor Code).

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4131-1 /L4132-5, L4131-1)

7.9 Right to be reassigned to non-hazard work

7.9.1 Right to withdraw with compensation when workers are not reassigned to non-hazard work

8 Consultation, collaboration and co-operation with workers and their representatives

8.1 National OSH committee, commission, council or similar body

Summary / Citation

The Guidance Council on Working Conditions (Conseil d'orientation sur les conditions de travail), under the Ministry of Labour, participates in the development of the national policy on the protection and promotion of safety and health, as well as in the improvement of working conditions.

(Labour Code, Art. R. 4641-1)

The Law No. 2015-994 of 17 August 2015 on Social Dialogue and Employment creates "Advisory Regional Committees on Working Conditions": they participate in the development and monitoring of regional public policies on health, safety and working conditions as well as the coordination of stakeholders involved in this matter at regional level.

(Labour Code, Art. L. 4641-4)

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Arts. R4641-1, L. 4641-4)

8.1.1 Objectives, roles and/or functions

Summary / Citation

The Conseil d'Orientation sur les Conditions de Travail is an advisory agency of the Ministry of Labour and shall be consulted on the following:

- The guidance of OSH public policy, and the national action on plan;
- Regulations related to OSH protection and promotion;
- Draft of decrees;
- Any issue related to international OSH legal instruments.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4641-2)

8.1.2 Constitution and chairmanship modalities

Summary / Citation

The Conseil d'orientation sur les conditions de travail is composed of :

1. A Permanent Committee chaired by the Minister of Labour;
2. A General commission chaired by the president of the social section of the Conseil d'Etat;
3. Specialized commissions.

The Committee and commissions shall be composed of representatives from different Ministries, equal number of workers' and employer's representatives, the administrations, national agencies with expertise in prevention, qualified representatives of professional associations or organisations of OSH prevention.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4641-3 /4)

8.2 Employers' duty to consult workers on risks

Summary / Citation

Regulations stipulate that when a joint OSH Committee is not constituted permanently or temporarily in a workplace with more than 50 workers, a worker's delegate has a role of an OSH representative with the same mission and obligations as the OSH committee's members.

Remarks / comments

The obligations to negotiate between social partners in the company is organised around 3 consultations on:

- the pay, working time and the distribution of added value. The negotiation is annual.
- the quality of work life. The negotiation is annual
- the jobs and careers management. The negotiation takes place every three years.

(The Law No. 2015-994 of 17 August 2015 on Social Dialogue and Employment)

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4611-2/3, Art. L2313-13/16)

8.3 Workers' right to select their representatives for health and safety matters

Summary / Citation

Regulations stipulate that when a joint OSH Committee is not constituted permanently or temporarily in a workplace with more than 50 workers, a worker's delegate has a role of an OSH representative with the same mission and obligations as the OSH committee's members.

The Law No. 2015-994 of 17 August 2015 on Social Dialogue and Employment introduces an universal right to representation for employees of small enterprises – less than 11 employees – through a joint regional committee.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4611-2/3, Art. L2313-13/16)

Loi n° 2015-994 du 17 août 2015 relative au dialogue social et à l'emploi 2015-08-18

8.3.1 Workforce size conditions for workers' representation in health and safety

Summary / Citation

In companies with less than fifty employees, employees' representatives are invested with the tasks assigned to members of the joint OSH committee. They are subject to the same obligations.

The labor inspector shall require the creation of a joint OSH committee in undertakings with less than fifty employees if deemed necessary, particularly given the nature of the work and the office equipment. This decision could be appealed to the Regional Director of Labour, Employment and Vocational Training.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4611-3, Art. L2312-1)

8.3.2 Conditions of eligibility to represent workers in health and safety

Summary / Citation

Are eligible as workers' representatives (in general) those workers over 18 years old, having worked at least 1 year at a workplace with the exception of the members of the employer's family.

Employees working part-time in several workplaces simultaneously are eligible only at one of them.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L2314-16)

8.4 OSH representatives' functions, rights and powers

8.4.1 Right to inspect the workplace

Summary / Citation

The OSH committee shall, at regular intervals, conduct inspections.

The frequency of these inspections shall be, at least, the same as the regular meetings of the committee.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4612-4)

8.4.2 Right to access OSH information

Summary / Citation

The joint OSH committee is of mandatory consultation on OSH issues and therefore there are several articles that stipulate the need to have access to OSH information.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4612 2/16)

8.4.3 Right to be present at interviews

8.4.4 Right to receive professional assistance from OSH experts

Summary / Citation

OSH representatives' shall request advice to any qualified person at the workplace.

The joint OSH committee has access to expert advice. The experts fees are paid by the employer.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4612-8-1, Art. L4616-12/13)

8.4.5 Right to accompany inspectors

Summary / Citation

OSH representatives' are entitled to be informed of the labour inspectors visits and to present their observations.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4612- 12)

8.4.6 Right to use facilities

Summary / Citation

Employers shall allow workers' representatives with specific OSH responsibilities with adequate time off work, without loss of pay, and provide them with the necessary means to enable such representatives to exercise their rights and functions deriving from this Directive.

8.4.7 Right to have time off work with pay to perform duties

Summary / Citation

Employers shall allow workers' representatives with specific OSH responsibilities with adequate time off work, without loss of pay, and provide them with the necessary means to enable such representatives to exercise their rights and functions deriving from this Directive.

According to the Labour Code, the employer shall give the OSH committee the time required for the performance of their duties.

This time shall be at least of:

- 2 hours per month in establishments employing up to 99 employees;
- 5 hours per month in establishments employing from 100 to 299 employees;
- 10 hours per month in establishments employing from 300 to 499 employees;
- 15 hours per month in establishments employing from 500 to 1.499 employees;
- 20 hours per month in establishments employing at least 1.500 employees.

This time just shall be exceeded in exceptional circumstances.

Workers' representatives shall distribute the hours they have and inform the employer.

The time spent is considered as working time and paid by the employer.

It is also paid time, that of:

- 1 Meetings;
- 2 Investigations after an occupational accident;
- 3 Research of preventive measures.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative).

8.4.8 Right to issue remedial notices

8.4.9 Right to resolve OSH issues in consultation with employers

Summary / Citation

The joint OSH committee is of mandatory consultation on OSH issues and therefore there are several articles that stipulate the need to have access to OSH information.

The employees' delegate who finds, in particular via an employee, that there is an infringement of the rights of people working for the company, damages to physical and mental health of workers, shall bring the matter to the employer's attention or his or her representative. The latter must investigate immediately, and take any corrective steps which may be necessary. If the employer fails to take action by investigating and does not look for appropriate solutions, the staff representative may take the matter to the labour tribunal.

(Art. 2313-2 of the Labor Code)

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4612 2/16, Art. 2313-2)

8.4.10 Right to direct that dangerous work cease

Summary / Citation

OSH representatives do not have the right to direct that dangerous work cease. Nevertheless all workers have the duty to immediately inform the employer of any situation that they believe present an imminent or serious danger to the life or health and of all shortcomings noticed in the protection systems.

Workers have the right to remove themselves from such situation without any sanction. This right is exercised in a manner that it shall not create a new situation of serious and imminent danger for others.

In the situation that an imminent danger is perceived, when the employer and the OSH Committee do not agree on the level of danger and a decision has to be taken, a Labour Inspector should be contacted and shall take a decision.

The representative of the employees in the health and safety committee who finds that there is a cause of serious and imminent danger, in particular through a worker, shall report immediately to the employer.
(art. L4131-2 of the Labor Code)

The employer immediately shall undertake an investigation with the delegate from the health and safety committee who has reported the danger and take the necessary measures to remedy the danger.
(art. L4132-2 of the Labor Code)

Failing agreement between the employer and the majority of the health and safety committee members on the measures to be taken, the labor inspector is seized immediately by the employer.
(art. L4132-4 of the Labor Code)

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4131-1 /L4132-5)

Décret n° 2014-324 du 11 mars 2014 relatif à l'exercice du droit d'alerte en matière de santé publique et d'environnement dans

8.5 Right of workers' representatives from outside the undertaking to address OSH issues at the workplace

8.5.1 Right to enter the workplace

8.5.2 Right to investigate suspected non-compliance with OSH legislation

8.5.3 Right to consult with workers

8.5.4 Right to advise workers

8.5.5 Right to initiate enforcement action

8.6 Joint OSH Committee

Summary / Citation

A joint OSH committee shall be established in every undertaking with at least 50 workers during twelve months, be it consecutive or not, during the previous three years. In other cases, labour inspectors shall request to create them, according to the circumstances of the enterprise or undertaking.

The Law No. 2015-994 of 17 August 2015 on Social Dialogue and Employment allows the 50-300 employee companies to bring together Personnel Representatives, Works Council and Health and Safety Committee within a single personnel delegation. Companies with more than 300 employees which wants to group these instances shall conclude a majority agreement.

Remarks / comments

The obligations to negotiate between social partners in the company is organised around 3 consultations on:

- the pay, working time and the distribution of added value. The negotiation is annual.
- the quality of work life. The negotiation is annual
- the jobs and careers management. The negotiation takes place every three years.

(The Law No. 2015-994 of 17 August 2015 on Social Dialogue and Employment)

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4611-1, Art. L4611-4)

Décret n° 2012-1043 du 11 septembre 2012 relatif aux conditions de fonctionnement des commissions paritaires d'hygiène, de

Loi n° 2015-994 du 17 août 2015 relative au dialogue social et à l'emploi 2015-08-18

8.6.1 Participation of workers' representatives in joint OSH committee

Summary / Citation

The joint OSH committee is composed of the employer and of workers' representatives. The workers' representatives are appointed by a panel consisting of elected members of the company committee and of workers' delegates.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4613-1)

8.6.2 Conditions for establishing a joint OSH committee

Summary / Citation

There shall be a joint OSH committee in enterprises with more than fifty employees. In companies with less than fifty employees, employees' representatives are invested with the tasks assigned to members of the OSH committee.

The labour inspector shall require the creation of an OSH committee in undertakings with less than fifty employees if deemed necessary, particularly given the nature of work and the office equipment.

In workplaces with five hundred or more workers an agreement shall be reached with the employer on the number of OSH committees to be created.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4611-1, Art. L4611-4, Art. L461

8.6.3 Objectives, roles and/or functions of joint OSH committees

Summary / Citation

The joint OSH committee shall :

- Contribute to the protection of physical and mental health and safety of workers;
- Contribute to the improvement of working conditions, in particular of women and motherhood;
- Ensure compliance with legal requirements adopted in these matters;
- Undertake occupational risk assessment;
- Contribute to OSH preventive measures;
- Conduct inspections regularly;
- Conduct investigations on occupational accidents and diseases;
- Make observations during the visit of labour inspectors.

2. The joint OSH committee shall be consulted:

- Before any major planning decision that modifies the conditions of health and safety or the working conditions is taken;
- About the introduction of new technologies or about major technological changes;
- About measures taken to facilitate the implementation or maintenance at work of injured or disabled workers;
- About the documents related to the committee or internal rules;
- About any OSH matter the employer considers;
- Others.

3.The joint OSH committee shall ask for advice to any qualified person at the workplace.

4.The joint OSH committee shall deliver an opinion on the annual OSH report and the OSH prevention programme presented by the employer.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4612-1/15)

8.6.4 Keeping record of the work of joint OSH committees

Summary / Citation

The minutes of the OSH committee meetings shall be available at the workplace to labor inspector, the medical labour inspector and social security officers.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4614-4)

8.6.5 Sharing the minutes of joint OSH committees meetings

Summary / Citation

The minutes of the OSH committee meetings shall be available at the workplace to labor inspector, the medical labour inspector and social security officers.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4614-4)

8.7 Mandatory training for members of joint OSH committee(s)

Summary / Citation

The OSH Committee is entitled to receive the necessary training for the exercise of its duties. The training should be updated every four years of duty. The cost of the training shall be paid by the employer.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4614-14/16)

8.8 Protection against reprisals

Summary / Citation

Employers shall allow workers' representatives with specific OSH responsibilities with adequate time off work, without loss of pay, and provide them with the necessary means to enable such representatives to exercise their rights and functions deriving from this Directive.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. 11.5)

8.9 Immunity from civil and criminal liability for exercising OSH related rights and duties

9 Specific hazards or risks

9.1 Biological hazards

Reference

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4421-1,

Décret n° 2013-607 du 9 juillet 2013 relatif à la protection contre les risques biologiques auxquels sont s

9.2 Chemical hazards

Reference

Décret n° 2012-746 du 9 mai 2012 fixant des valeurs limites d'exposition professionnelle contraignantes

9.2.1 Handling, storage, labelling and use

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4411-1/2/7 , Art. L4412-1 , Art.

Décret n° 2015-612 du 3 juin 2015 transposant la directive 2014/27/UE du Parlement européen et du Conseil du 26 février 2014

9.2.2 Duty of manufacturers, suppliers and importers of chemicals in relation to the safety and health of users

Summary / Citation

The manufacture, placing on the market, the use of substances as such or in mixtures or articles, and marketing mixtures are subject to the provisions of the Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, of the Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures.

Manufacturers, importers or persons responsible for the placing on the market of dangerous substances or mixtures intended for use in establishments employing workers shall provide to a competent authority designated by the administration all the necessary information about these products, including their composition.

Sellers or distributors of hazardous substances or mixtures, as well as employers who use them, shall proceed to the labeling of these substances or mixtures.

The law provides other specific regulations related to placing on the market chemicals substances and mixtures.

References

Code de la Santé Publique. /Public Health Code (Art. L4411-3/7, Art. L4412-1, Art. R4411-1/86)

Décret n° 2015-612 du 3 juin 2015 transposant la directive 2014/27/UE du Parlement européen et du Conseil du 26 février 2014.

9.2.3 Pesticides

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Annex I, Art. R4312-1, 2.4)

9.3 Ergonomic hazards

Reference

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4541-1,

9.4 Physical hazards

9.4.1 Ionising radiation

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4451-1 /2, Art. D4152-4, Art. R4451-1)

Code de la Santé Publique. /Public Health Code

Arrêté du 17 juillet 2013 relatif à la carte de suivi médical et au suivi dosimétrique des travailleurs exposés aux rayonnements ionisants.

9.4.2 Vibration and noise

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4441-1, Art. R4441-1/ R4447-1)

9.4.3 Working at height

Summary / Citation

The Labour Code includes provisions related to movable equipment, temporary work at height, access and circulation at height, scaffolding, ladders, stepladders and footstep and ropes.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4323-58/61, Art. R4323-65 /90)

Décret n° 2015-444 du 17 avril 2015 modifiant les articles D. 4153-30 et D. 4153-31 du Code du travail.

9.4.4 Working in confined spaces

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4222-23/26)

9.4.5 Risks arising from poor maintenance of workplace facilities

Summary / Citation

The regulation provides obligations for the building owner and for the employer in relation to specified aspects of the work environment, including ventilation, lighting, temperature, safety, design of work stations, electrical installations, fire risks and sanitary installations.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4211-1/2, Art. L4221-1, Art. R4

9.4.6 Exposure to extreme temperatures

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4213-7/9, Art. R4223-13/15)

9.4.7 Fire risks

Summary / Citation

The law provides rules regarding the following issues: risk of fire, explosion and evacuation; circulation; smoke; heating; storage and handling of flammable materials; fire in particular buildings; prevention measures and fight against fire; prevention of explosions; administrative issues; sanitary facilities; fire in basic nuclear installations and others.

References

Décret n° 2013-973 du 29 octobre 2013 relatif à la prévention des risques particuliers auxquels les travailleurs sont exposés lor

Arrêté du 19 avril 2012 relatif aux normes d'installation intéressant les installations électriques des bâtiments destinés à recevo

9.4.8 Tobacco

References

Code de la Santé Publique. /Public Health Code (Art. L3511-7)

9.4.9 Asbestos

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4731-1 3, Art. R4412-94/148)

Décret n° 2014-802 du 16 juillet 2014 portant abrogation du titre «Amiante» du règlement général des industries extractives.

Décret n° 2013-594 du 5 juillet 2013 relatif aux risques d'exposition à l'amiante.

Décret n° 2013-365 du 29 avril 2013 relatif au suivi médical post-professionnel des agents de la fonction publique territoriale ex

Arrêté du 11 avril 2013 modifiant et complétant la liste des établissements de fabrication, flocage et calorifugeage à l'amiante s

Arrêté du 7 mars 2013 relatif au choix, à l'entretien et à la vérification des équipements de protection individuelle utilisés lors d'

Arrêté du 6 février 2013 modifiant et complétant la liste des établissements de fabrication, flocage et calorifugeage à l'amiante :

Arrêté du 14 août 2012 relatif aux conditions de mesurage des niveaux d'empoussièrement, aux conditions de contrôle du resp

Décret n° 2012-639 du 4 mai 2012 relatif aux risques d'exposition à l'amiante.

Arrêté du 25 avril 2012 modifiant et complétant la liste des établissements de fabrication, flocage et calorifugeage à l'amiante s

Arrêté du 23 février 2012 définissant les modalités de la formation des travailleurs à la prévention des risques liés à l'amiante.

9.4.10 Risks related to nanotechnology

9.4.11 Contraction of HIV in the workplace

Summary / Citation

The law stipulates the principle of non-discrimination for health reasons.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L1132-1)

9.5 Psychosocial hazards

9.5.1 Psychosocial risks

Summary / Citation

The law provides protective measures for the mental health of workers.

Psychic diseases can be recognized as occupational diseases. The specific terms of handling these cases are set by regulation (article L. 461-1 of the Social security Code).

Remarks / comments

According to the French Court of Cassation, the employer is under a strict obligation to ensure health and safety at work. The strict obligation was introduced into social law by the Asbestos cases on 28 February 2002. Failure to fulfill this obligation is considered an inexcusable fault and facilitates its recognition, while opening up an additional remedy in social security law when the employer was, or should have been, aware of the danger to which the worker was exposed and did not take the necessary steps to protect him/her. This paved the way for full compensation of the damages suffered by the victim. The Court of Cassation considered that the strict nature of the obligation to ensure safety at work implied that the occupational risk should never have occurred. In light of the framework-directive 89/391/EEC dated 12 June 1989, the Court of Cassation also ruled on 28 February 2006 that employers are not only under a strict obligation to ensure and protect the health of workers in the workplace, but are also liable for guaranteeing its effectiveness. The Court of Cassation considers that the intensity of the safety obligation as defined in the Directive, related to the obligation "to ensure the safety and health of workers in every aspect related to the work" (art. 5 §1), necessarily constituted a strict obligation.

The "single document" on occupational risks assessment shall take into account psychosocial risks.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4121-1, Art. L8123-1, Art. L115

Code de la sécurité sociale et Code de la mutualité.

Décret n° 2014-754 du 1er juillet 2014 modifiant l'article R. 4228-20 du Code du travail.

Loi n° 2015-994 du 17 août 2015 relative au dialogue social et à l'emploi 2015-08-18

9.5.2 Occupational violence

Summary / Citation

The law stipulates provisions against moral and sexual harassment.

Remarks / comments

On 21 June 2006, in the Propara case, the Court of Cassation ruled on the actions constituting moral harassment at work, linking them with the employer's strict obligation. This ruling thus opened the door to effective integration of mental health, on an equal footing with physical health, in the employer's strict obligation to ensure safety. As a result, employers cannot be exonerated from liability, even if they have implemented measures to prevent moral harassment in the company and its business units, including cases where other misconduct contributed to the harassment. The Court of Cassation considered that these actions should not have happened.

In 2008 (2 July), France transposed the European framework agreement on stress at work as an inter-branch agreement (2 July 2008 agreement). In 2010 (26 March), France also transposed the European framework agreement on harassment and violence at work as an inter-branch agreement. But an inter-branch agreement does not have the same executory force as other kind of agreements.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). ("Art. L4121-2.7 Art. L1151-1/L1155

9.6 Other hazardous substances

Summary / Citation

There are legal provisions related to gas and work in hyperbaric environments.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4461-17, Art. R4461-43)

Arrêté du 4 novembre 2013 relatif au contrôle de l'exposition aux poussières alvéolaires dans les mines et carrières.

Décret n° 2013-973 du 29 octobre 2013 relatif à la prévention des risques particuliers auxquels les travailleurs sont exposés lor

Décret n° 2013-797 du 30 août 2013 fixant certains compléments et adaptations spécifiques au Code du travail pour les mines

Décret n° 2012-530 du 19 avril 2012 relatif à la mise sur le marché et au contrôle des substances et mélanges.

9.7 Machineries

9.7.1 Risks related to machinery and tools

Summary / Citation

Work equipment shall not be put into service or used in workplaces if they have not been installed and maintained so as to preserve the health of workers, including any modifications that could be made.

The law provides specific regulations on different machineries, tools, work equipment, etc.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4311-1/ L4321-5)

9.7.2 Duty of designers and/or manufacturers of machineries in relation to the occupational safety and health of operators of machineries

Summary / Citation

Work equipment shall not be put into service or used in workplaces if they have not been installed and maintained so as to preserve the health of workers, including any modifications that could be made.

The law provides specific regulations on different machineries, tools, work equipment, etc.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4311-1/ L4321-5)

9.7.3 Duty of designers, manufacturers, importers or suppliers of machineries to provide machineries information

Summary / Citation

The administrative authority that controls the compliance of work equipments and machineries with law provisions shall require the manufacturer or importer to provide technical documentation.

The machineries manufacturer shall provide instructions including relevant technical documentation, which shall be written in French or in an official language of the European Union. The law provides principles and minimum contents to be specified in the instructions.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4313.1 Annex I , Art. R4312-1

9.7.4 Duty to purchase machineries from authorised/certificated suppliers or only if approved/certificated

Summary / Citation

The law provides the different procedures to certify machinery according to the type.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R. 4313-20/22, Art. R4313-23/42

9.7.5 Maintenance of machinery and equipment

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4321-1/5, Art. R4322-1/3, Art. F

9.7.5.1 List of equipment where applicable

9.8 Provisions to protect workers in specific condition of vulnerability

9.8.1 Protection of pregnancy at work

Summary / Citation

It is prohibited to employ pregnant women, post-partum or breastfeeding women for certain categories of work which, because of their condition, pose risks to their health or safety.

The employer shall offer to pregnant workers medically certified, workers after childbirth or lactating workers, occupying a position exposing them to hazards determined by regulation, another work position compatible with the health status.

Concerning maternity leave, the worker shall inform the employer of the date she intends to resume work. Eight weeks of the maternity leave are compulsory, of which at least 6 weeks shall be taken after childbirth. The general total duration is from 6 weeks before and 10 weeks after the expected date of birth. At her request and if her state of health as certified by a medical practitioner allows it, the woman may reduce the prenatal leave with up to 3 weeks with a corresponding increase of postnatal leave. Maternity leave may be extended on medical grounds arising out of pregnancy and confinement by a maximum of two weeks before and 4 weeks after the birth.

Workers have the right to parental leave at least one year on seniority in the enterprise at the date of birth of the child or at the date of the arrival in the household in case of adoption. The worker shall inform the employer of the starting date and intended duration of parental leave/period of part-time work, at least two months before the starting date.

The mother and the father (or adoptive mother and father) are entitled to take parental leave or to work part time (minimum 16 hours a week) until the third birthday of the child, or in case of adoption of a child below 3 years of age until the third anniversary of the child's arrival in the home.

No employer may take into consideration the fact that a woman is pregnant as a ground for refusing to recruit her, for terminating her contract of employment during any period of probation or for ordering her transfer. It is therefore unlawful for an employer to seek to obtain any information relating to her pregnancy or instruct others to obtain such information. No woman applying for, or employed in, any job may be required to reveal the fact that she is pregnant, except where she requests to benefit from any law or regulation governing the protection of pregnant women. In the event of a dispute, the employer shall communicate to the judge all the elements taken into consideration to reach a decision. The benefit of the doubt is given to the pregnant worker.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art.L4152-1/2, Art. L 1225-1/72, Art.

9.8.2 Protection of lactating women at work

Summary / Citation

It is prohibited to employ pregnant women, post-partum or breastfeeding women for certain categories of work which, because of their condition, pose risks to their health or safety.

The employer shall offer to pregnant workers medically certified, workers after childbirth or lactating workers, occupying a position exposing them to hazards determined by regulation, another work position compatible with the health status.

During one year following the date of birth breastfeeding mothers are entitled to breastfeeding breaks of one hour per day during working hours.

The breastfeeding breaks are divided into two 30-minutes breaks, one in the morning and one in the afternoon. The time of the break should be determined by agreement between the worker and the employer. In case no agreement is reached, it should be in the middle of each half of the working day.

The mother shall breastfeed her baby in the enterprise. Employers employing more than 100 women above the age of 15 years may be requested to install special breastfeeding rooms in or close to the enterprise.

The nursing facilities shall satisfy certain conditions: they shall be separated from the working premises, be provided with a sufficient quantity of water or be placed near a washbasin, be provided with chairs appropriate for breastfeeding, and maintained at a suitable temperature under hygienic conditions. Pregnant women and breastfeeding mothers shall have the possibility to lay down and rest under suitable conditions.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4152-1/2 Art. L 1225-30/33 Art.

9.8.3 Limits to women's access to specific occupations, undertakings or shifts

Summary / Citation

The employer shall inform women about the potentially harmful effects of exposure to certain chemicals on fertility, embryo, fetus and child.

The employer shall inform workers about the presence of carcinogenic, mutagenic or other toxics for reproduction in the workplace.

The employer shall ensure that containers of such agents are labelled clearly and legibly. The danger shall be reported by any suitable means.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R4412-89/90, Art. D4152-11)

9.8.4 Limits to workers' access to specific occupations, undertakings or shifts by reason of age

Summary / Citation

The minimum working age is 16 years.

Young worker is a person under 18 years of age.

It is prohibited to employ workers under 18 years for certain categories of work exposing them to risks to their health, safety, morals or exceeding their forces. These types of work are determined by a State regulation.

Young workers shall not be employed for more than 8 hours per day or 35 hours per week.

Young workers under 18 years of age who perform shift work are entitled to at least 12 consecutive hours of daily rest or 14 hours if they are under 16 years of age.

Night work is prohibited for young workers:

_under 16 years of age: from 20 to 6 hours.

_under 18 years of age :from 22 to 6 hours.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative).

10 Recording, notification and investigation of accidents/incidents and diseases

10.1 Duty to record and/or investigate the causes of work accidents, near misses incidents and cases of occupational diseases

10.1.1 Work-related accidents

Summary / Citation

Workers exposed to specific occupational risk factors arising from physical work constraints, a risky workplace or particular rhythms of work which may impact on longterm health, and others, shall be recorded in a form by the employer. The form shall be sent to the Occupational Health Service who will forward it to the Occupational Doctor for its completion.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4622-1/3)

10.1.2 Near miss incidents

10.1.3 Occupational diseases

Summary / Citation

Workers exposed to specific occupational risk factors arising from physical work constraints, a risky workplace or particular rhythms of work which may impact on longterm health, and others, shall be recorded in a form by the employer. The form shall be sent to the Occupational Health Service who will forward it to the Occupational Doctor for its completion.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4622-1/3)

10.2 Employers' duty to notify OSH authorities of work related death and/or injuries to health

Summary / Citation

The worker suffering an occupational accident or disease shall report it to the employer during the day of the accident or disease or within the 24 hours.

The employer shall report the occupational accident or disease (in a specific form) to the health insurance body within the 48 hours.

References

Code de la sécurité sociale et Code de la mutualité. (Art. D441-1/9)

11 OSH inspection and enforcement of OSH legislation

11.1 Appointment of OSH inspectors

Summary / Citation

Labour Inspectors are responsible to monitor compliance with the Labour Code and other labour provisions and stipulations contained in conventions and collective agreements. Medical Labour Inspectors shall work in liaison with Labour Inspectors to monitor the compliance with health provisions, with particular regard to physical and mental health of workers.

In addition to their enforcement role, labour inspectors contribute particularly to the prevention of occupational risks and the improvement of conditions of work and work relations.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L8112, Art. L8123-1, Art. R8112.

11.2 OSH inspectors' powers

11.2.1 Power to enter workplaces

Summary / Citation

Labour inspectors have the power to enter workplaces (including where domestic workers are carrying out their work) and have a number of powers in relation to conduct investigations.

The labor inspector shall, under certain conditions determined by decree, require the employer to carry out technical controls, particularly:

1. Verify the facilities and equipment comply with the legal provisions;
2. Measure the exposure of workers to physical harm or to physical, chemical or biological agents;
3. Proceed to the analysis of dangerous substances and preparations.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L8113-1/2, Art. L4722-1/2)

11.2.2 Power to inspect and carry out any examination, test or enquiry

Summary / Citation

Labour inspectors, in the course of their functions, have the power (along with the police officers and other officials) to take, for purposes of analysis, all samples of materials used and the products distributed or used in an establishment. To gather evidence, these samples shall be taken in accordance with the procedures established by decree.

Labour inspectors have the power, during their visits to workplaces, to require all books, records and documents specified by law.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L8113-3, Art. L8113-4/6, Art. L47

11.2.3 Power to investigate

Summary / Citation

Labour inspectors, in the course of their functions, have the power (along with the police officers and other officials) to take, for purposes of analysis, all samples of materials used and the products distributed or used in an establishment. To gather evidence, these samples shall be taken in accordance with the procedures established by decree.

Labour inspectors have the power, during their visits to workplaces, to require all books, records and documents specified by law.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L8113-3, Art. L8113-4/6, Art. L47

11.2.4 Duty to provide advice on OSH

Summary / Citation

The labour inspector holds a role of advisor and conciliator in conflict prevention in the workplace.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. R8112 -2)

11.3 OSH inspectors' enforcement powers

11.3.1 Power to issue orders or notices

Summary / Citation

Inspectors have the power to issue notices to employers indicating to take certain steps. The notice indicates non-compliance with legislation and sets a deadline by which these offenses should have disappeared.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4721-4/7, Art. L8113-9, Art. R8

11.3.2 Power to impose financial penalties

Summary / Citation

A list of OSH penalties is provided by law. The labour inspector shall send to the prosecutor the minute pointing the contraventions by the employer, which presents an imminent or serious danger to life or health of workers.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4741-1/ L4745-1)

11.3.3 Power to revoke or suspend licenses or authorisations

Summary / Citation

The labour inspector has the power to revoke or suspend the authorization to withdraw the OSH doctor contract with the advice of medical inspector.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4623-5/5-3)

11.3.4 Power to require the cessation of dangerous work

Summary / Citation

The inspectorate has the power to require a temporary cessation of work or activity under some conditions. Also has the power to demand a judge to exercise her/his jurisdiction and order measures for risk at workplace.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4731-1/6, Art. L4732-1/4)

11.3.5 Power to initiate prosecutions

Summary / Citation

Labor inspectors shall register contraventions of the labour legislation, that present an imminent or serious danger to life or health of workers, in minutes which are prima facie evidence until the contrary is proved.

These minutes shall be sent to the prosecutor. A copy is also shall be sent to the State representative in the department.

Before the transmission to the prosecutor, the labour inspector shall inform the employer about the facts that could constitute a criminal offense and the penalties.

This provisions do not apply to the State, local authorities and their public administrative institutions.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L8113-7/8, Art. L4721-5")

11.3.6 Power to conduct prosecutions

11.3.7 Other enforcement powers

Summary / Citation

The obstruction to the fulfillment of the labour inspector's duties is liable to imprisonment for one year and a financial penalty of 3750 euros.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L8114-1/2)

11.4 Application of sanctions by courts

11.4.1 Financial penalties for legal persons

Summary / Citation

Fines are of 18000 Euro -US\$ 23462-(more if offences are multiple or repeated).

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4741-11/14)

11.4.2 Financial penalties for natural persons

Summary / Citation

Fines go from 3750 Euros to 75000 Euros - US\$ 4,888 to US\$ 97,770-(more if offences are multiple or repeated).

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4741-1/ L4745-1)

11.4.3 Non-financial sanctions

Summary / Citation

As an additional penalty, the judge shall order the display of the judgment at the gates of workplace of the convicted person, the financial penalty, and the publication of the judgment in a newspaper.

In case of recidivism, the court may apply a sanction against the offender, disqualifying to exercise some functions in the workplace during a period of time.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative). (Art. L4741-5, Art. L4741-10, Art. L47

11.4.4 Criminal liability

Summary / Citation

The crime of manslaughter is provided for in the Criminal Code.
Bullying is punishable too.

References

Code pénal. (Art. 221-6, 222-33-2)

11.4.5 Terms of imprisonment for natural persons

Summary / Citation

Up to five years' imprisonment (more if offences are multiple or repeated).

Bullying is punished by two year's imprisonment and a fine of €30,000.

References

Ordonnance n° 2007-329 du 12 mars 2007 relative au Code du travail (partie législative).

Code pénal. (Art. 222-33-2)