

## **SOCIAL INSURANCE AND UNIVERSAL HEALTH INSURANCE LAW**

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### **SECTION ONE Purpose, Scope and Definitions**

#### **Purpose**

**ARTICLE 1** - The purpose of the present Law is to insure the individuals in terms of social insurance and universal health insurance; to lay down individuals who will benefit from such insurances and the rights to be granted, conditions for benefiting from such rights, and the methods of financing and covering; and to regulate the procedures and principles regarding the execution of social insurance and universal health insurance.

#### **Scope**

**ARTICLE 2** - The present Law covers the individuals to benefit from social insurance and universal health insurance, employers, health - care service providers, real persons and any kind of public and private legal artificial persons and other institutions and organization not having legal personality in terms of the implementation of this Law.

#### **Definitions**

**ARTICLE 3** - For the purposes of this Law;

- 1) Ministry: shall mean the Ministry of Labour and Social Security,
- 2) Institution: shall mean Presidency of Social Security Institution,
- 3) Social insurances: shall mean short and long term insurance branches,
- 4) Short term insurance branches: shall mean work accident and occupational diseases, health and maternity insurance branches,
- 5) Long term insurance branches: shall mean invalidity, old - age and survivors insurance branches,
- 6) Insurance holder: shall mean the individual, for whom premium should be paid or who should pay premium in terms of short and/ or long term insurance branches,
- 7) **(Amended: 17/4/2008 - 5754/1st Art.)** Right holder: shall mean the spouse, child, mother or father, who becomes qualified to receive income or pension or a lump payment, in case of death of the insurance holder or of individuals who receive permanent incapacity income or invalidity, duty disability or old – age pension,
- 8) Universal health insurance: shall mean the insurance which ensures, first of all, maintenance of health statuses of individuals, and the financing of costs that arise in case the individuals experience health risks,
- 9) Universal health insurance holder: shall mean the individuals listed in Article 60 of the present Law,
- 10) **(Amended: 17/4/2008 - 5754/1st Art.)** Dependants: shall mean the following individuals, who are not considered as insurance holders or are not holders of voluntary insurance and who do not receive income or pension due to their own insurances, in relation with the universal health insurance holder excluding the numbers (1) and (2) of item (c) of first paragraph of Article 60 of this Law;
  - a) Spouse,
  - b) unmarried children under 18 years old; or under 20 years old if receiving education in high schools or equivalents or candidate apprenticeship and apprenticeship education laid down in Vocational Education Law number 3308 dated 5/6/1986 or vocational education in enterprises; or under 25 years old if receiving higher education, and unmarried children determined to be disabled as per the present Law, independent of age,
  - c) Mother and father, whose livelihoods are determined to be covered by the insurance holder in accordance with the criteria stipulated by the Institution,

- 11) Service contract: shall mean the service contract defined in Code of Obligations number 818 dated 22/4/1926 and work contract or service contract defined in the labour legislation,
- 12) Wage: shall mean the gross amount, which is payable hourly, daily, weekly, monthly and yearly, in currency, continuously to the individuals who are deemed to be insurance holders in accordance with items (a) and (c) of the first paragraph of Article 4,
- 13) Minimum wage: shall mean the monthly gross wage laid down for workers over the age of 16, as per Labour Law number 4857 dated 22/5/2003,
- 14) **(Amended: 17/4/2008 - 5754/1st Art.)** Month: shall mean, for the insurance holders under items (a) and (c) of the first paragraph of Article 4, whose wages are payable on 15th of each month, the time period between 15th of a month and the 15th of the next month, and for other insurance holders, the time period between the 1st of the month and the end of that month, and which is deemed to be thirty days,
- 15) **(Amended: 17/4/2008 - 5754/1st Art.)** Year: shall mean, for the insurance holders under items (a) and (c) of the first paragraph of Article 4, whose wages are payable on 15th of each month, the time period between January 15th and the January 15th of the next year, and for other insurance holders, the time period between the January 1st of a year and December 31st of that year, and which is deemed to be 360 days,
- 16) Income: shall mean the continuous payment made to the insurance holder in case of work accident or occupational disease or to the right holders in case of death of the insurance holder,
- 17) **(Amended: 17/4/2008 - 5754/1st Art.)** Pension: shall mean invalidity, old - age and survivors pensions and the continuous payment made in case of duty disability,
- 18) Payment term: shall mean the time period between the payment date and the next payment date of income and pensions received as per this Law,
- 19) Agricultural activity: shall mean getting vegetation, animal or fishery products, in one's own property or in others' properties via partnership or renting or in public locations, via sowing, planting, caring, producing, raising and improving, or via directly using nature, and/or storing, transporting or marketing of such products by the producers,
- 20) **(Amended: 17/4/2008 - 5754/1st Art.)** Health Committee of the Institution: shall mean the committees, consisting of physicians and/or dentists authorized to determine the rates of loss of working power and loss of earning power in occupation, status of premature aging, loss of earning power in occupation in a manner not to be able to carry out duties and degrees of invalidity, through examining diagnosis in the reports to be prepared by health committees of the health - care service providers authorized by the Institution and the documents which constitute the basis of such diagnosis,
- 21) **(Amended: 17/4/2008 - 5754/1st Art.)** Public administrations: shall mean the public administrations and public economic enterprises, stated in item (a) of the first paragraph of Article 3 of Law Number 5018 on Public Financial Management and Control dated 10/12/2003, and their affiliated administrations, partnerships, organizations and enterprises, and partnerships and enterprises, of which the abovementioned institutions own more than 50% of the paid in capital and which are not subject to Turkish Code of Commerce and other public institutions which employ personnel in accordance with special laws,
- 22) Health - care service: shall mean the health - care products and services, financed in accordance Article 63, to be provided to the universal health insurance holders and their dependants,
- 23) Personal preventive health - care service: shall mean the health services, financed on an individual basis, with the purpose of protecting individuals from diseases or maintaining their healthy status,
- 24) Family physician: shall mean the physicians who are authorized as family physician by the Ministry of Health and entered into contract with the Institution,
- 25) Health - care service provider: shall mean the real persons and public and private legal persons who provide health - care services, and their branches not having legal personality,
- 26) Contribution rate: shall mean the amount payable by the universal health insurance holder or his/her dependants in order to benefit from health - care services,
- 27) Refugee and Heimatlos: shall mean the individuals, who are accepted to be refugees or heimatlos by the Ministry of Interior Affairs,
- 28) Capital value in advance: shall mean the amount calculated by the Institution, considering the age, probability of interruption and discount rates to be determined by the Institution of the costs stated in the relevant articles of this Law,

29) **(Amended: 17/4/2008 - 5754/1st Art.)** Updating coefficient: shall mean the value found by adding the whole number (1) to the total of 100% of the rate of change in the general index of consumer prices of the final basis year declared by Turkish Statistics Institution according to December of each year and 30% of the development rate of gross domestic product with fixed prices,

30) **(Appended: 17/4/2008 - 5754/1st Art.)** Duty disability: shall mean the employment and/or war veteran disability explained in Article 47 of this Law,

31) **(Appended: 17/4/2008 - 5754/1st Art.)** International social security agreements: shall mean the social security agreements to which our Country is a party.”

**(Appended paragraph: 17/4/2008 - 5754/1st Art.)** In the calculation of updating coefficient laid down in item (29) of this Article, where the rate of change in the general index of consumer prices of the final basis year or the development rate of gross domestic product with fixed prices have negative values, the negative values shall be considered as zero.

**SECTION TWO**  
**Social Insurance Provisions**  
**PART ONE**  
**Provisions on Insurance Holders**

**Individuals deemed to be insurance holders**

**ARTICLE 4 - (Amended: 17/4/2008 - 5754/2nd Art.)**

For the purposes of implementing short and long term insurance branches of this Law;

- a) Who are employed by one or more employer through a service contract,
- b) Among the village and quarter headmen and individuals working on his/her own name and account without being bound by a service contract;
  - 1) Who are income tax payers in real or ordinary procedure due to commercial earnings or self - employment income,
  - 2) Who are exempt from income tax and are registered to the registry of traders and artisans,
  - 3) Associates of joint - stock companies who members to board of directors, active partners of commandite companies of which capitals are divided into shares, all partners of other company and maritime joint - adventures,
  - 4) Who are active in agricultural activities,
- c) In the public administrations;
  - 1) among the ones who are not subject to item (a) of first paragraph of this Article, who are not foreseen to be insurance holders, such as ones who work permanently in permanent staff positions and are covered by item (a) in their concerned laws,
  - 2) among the ones who are not subject to item (a) and (b) of first paragraph of this Article, who are not foreseen to be insurance holders such as ones who work on contract and are covered by item (a) in their concerned laws, and who are assigned indirectly as proxy in accordance with Article 86 of Public Servants Law number 657, shall be deemed insurance holders.

Provisions regarding the individuals deemed to be insurance holders as per item (a) of the first paragraph shall also be applicable to;

- a) individuals who are elected to the presidencies and board of directors of labour unions and confederations and union branches,
- b) cinema, theatre, stage, show, voice and musical instrument artists and individuals active in entire fine arts including music, painting, sculpture, decorative and similar occupations, intellectuals and authors, who are employed by one or more employer,
- c) foreigners who work on service contract, excluding the citizens of countries with which international social security contract is entered based on reciprocity principle,
- d) individuals who are employed based on Law number 4081 on Protection of Farmer Properties dated 2/7/1941,

e) provisions laid down in General Hygiene Law number 1593 dated 24/4/1930,

f) individuals who are employed as master teacher in courses organized by the Ministry of National Education, who are charged with duty in public administrations in return to course fee, and who are employed under item (C) of Article 4 of Public Servants Law number 657.

Provisions regarding the individuals deemed to be insurance holders in accordance with item (b) of the first paragraph shall also be applicable to jockeys and trainers subject to Law Number 6132 on Horse Races dated 10/7/1953.

Provisions regarding the individuals deemed to be insurance holders as per item (c) of the first paragraph shall also be applicable to;

a) for the individuals who are elected or assigned to duty in public administrations pursuant to establishment or personnel laws or other laws, the ones who are not working on service contract among ones, such as Public servants, to whom retirement right is granted under the concerned laws due to their such duties,

b) Prime minister, ministers, members to the Turkish Grand National Assembly, mayors, elected members of the provincial council,

c) of the individuals who are under item (c) of the first paragraph and are elected to the presidencies and boards of directors of the unions and confederations and union branches established by such persons, the ones who are on leave without pension,

d) cadets attending to military academies, faculties and high schools, either on account of Turkish Armed Forces or on their own account, and candidates who are receiving education in non-commissioned officer high schools and basic military training to be commissioned as non-commissioned officers,

e) cadets who receive education in Police Academies, faculties and high schools, attending on the account of General Directorate of Police or continue on the account of General Directorate of Police while attending on his/her own account.

The training periods of drop - outs of schools stated in items (d) and (e) of paragraph four and of individuals who complete the listed schools but quit before taking up his/her duties shall not be counted in their insurance terms.

The provisions of this Law on short term insurance branches shall not be applicable to the insurance holders under item (c) of first paragraph of this Article as long as they are in this scope.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

### **Insurance holders to whom certain insurance branches shall be applied**

**ARTICLE 5** - Following are the insurance branches applicable to the following individuals in terms of short and long term insurance branches:

a) Work accident and occupational disease and maternity insurances shall be applicable to convicts and arrested individuals who are employed, but not working on service contract, in facilities, workshops and similar units established in the sentence execution institutions and detention houses, and these shall be deemed to be insurance holders under item (a) of the first paragraph of Article 4.

b) **(Amended: 17/4/2008 - 5754/3rd Art.)** Work accident and occupational disease and health insurance shall be applicable to candidate apprenticeship and apprenticeship education laid down in Vocational Education Law number 3308 dated 5/6/1986; work accident and occupational disease insurance shall be applicable to students who subject to compulsory internship during their education in vocational high schools or higher education and the individuals listed in this item shall be deemed to be insurance holders under item (a) of first paragraph of Article 4.

c) **(Amended: 17/4/2008 - 5754/3rd Art.)** The pensions of individuals, among the war veterans and disabled individuals to whom duty disability pension is paid as per Law Number 3713 on Fighting Against Terrorism dated 12/4/1991 and Law Number 2330 on Granting Compensation in Cash and Pension dated 3/11/1980, who start to work as an insurance holder under items (a) and (b) of first paragraph of Article 4, shall not be terminated. The pensions of the disabled individuals who receive pension as per Law number 3713 and of privates and enlisted specialists who receive duty disability pension due to incidents under the same Law shall not be terminated even if they become insurance holders under item (c) of paragraph one of Article 4. The provisions of long term insurance branches shall be applicable on individuals working under item (c) of first paragraph of Article 4 without losing their pensions, whereas work accident and occupational disease insurance provisions shall be

applicable to individuals working under items (a) and (b) of first paragraph of Article 4. In case the individuals, to who work accident and occupational disease insurance provisions are applied, request to be subject to long term insurance branches, long term insurance branches shall also be applied to such individuals starting from the beginning of the month following the date of notification of such request to the Institution. Universal health insurance premiums shall not be charged to individuals under this paragraph.

d) **(Abrogated: 17/4/2008 - 5754/3rd Art.)**

e) Trainees participating in the profession learning, improving and changing courses organized by Turkish Labour Institution shall be deemed to be insurance holders under item (a) of first paragraph of Article 4 and work accident and occupational disease insurance shall be applicable to these individuals.

f) **(Abrogated: 17/4/2008 - 5754/3rd Art.)**

g) **(Appended: 17/4/2008 - 5754/3rd Art.)** Turkish workers, who are taken to work in abroad work places by employers undertaking works in countries not having social security contract with our country, shall be deemed to be insurance holders under item (a) of first paragraph of Article 4 and short term insurance branches and universal health insurance provisions shall be applicable to such individuals. In case such insurance holders request to be subject to long term insurance branches, then voluntary insurance shall applied to such individuals, without seeking the condition of legally residing in Turkey as stated in second paragraph of Article 50 and the conditions stipulated in item (a) of the same paragraph. Universal health insurance premium shall not be charged to the individuals benefiting voluntary insurance provisions under this scope.

#### **Individuals not deemed to be insurance holders**

**ARTICLE 6** - For the purposes of implementing short and long term insurance branches of this Law;

a) Employer's spouse working free - of - charge in his/her business place,

b) Relatives up to third degree, who live together in the same residence and work in the works carried out in the residence where they live, without having anybody else from outside,

c) **(Amended: 17/4/2008 - 5754/4th Art.)** Individuals who work in home services (excluding charged and permanent workers),

d) Individuals who fulfil their military obligations as privates and enlisted specialists, and cadets of reserve officer schools,

e) Individuals who are sent to Turkey for a job by or on behalf of an organization established in a foreign country and who document to be subject to social insurance in the foreign country, and among the ones who work in Turkey on his/her own name and account the individuals who reside abroad and are subject to the social security legislation of that country,

f) Students who work in applicative construction and production works carried out during actual normal educational terms at official vocational schools and schools of arts and at official vocational schools or schools of arts and high schools established based on the permission of authorized official authorities,

g) Patients or disabled individuals, who are being trained to work or rehabilitated by health - care service providers,

h) **(Amended: 17/4/2008 - 5754/4th Art.)** Among the individuals who should be deemed to be insurance holder pursuant to items (b) and (c) of first paragraph of Article 4, the ones who are not completed 18 years old.

i) Excluding public authorities, among the individuals who are employed in temporary works on service contract in agricultural works or forestry works and who work independently on his/her own account, the ones who are active in agricultural activities and who document that, after deducting the costs of the activity, monthly average of their income from agricultural activities is less than thirty times the lower limit of daily earning subject to premium defined by Law,

j) **(Abrogated: 17/4/2008 - 5754/4th Art.)**

k) **(Amended: 17/4/2008 - 5754/4th Art.)** Among the individuals who work on their own names and accounts and

are exempt from income tax and registered to the registry of traders and artisans, the ones who document that, after deducting the costs of the activity, the remaining amount of their monthly activity income is less than thirty times the lower limit of daily earning subject to premium,

l) Among the contracted Turkish citizen personnel, who are employed in the abroad representative offices of public administrations and are granted with the permanent residence permit in the country of representative office or the citizenship of the said country, the ones who document that they are insured in the social security institution of the country they reside in or who are insured by the employer with social insurance in the said country, in cases where the contracted personnel employed in the abroad representative offices of public administrations are under obligation due to international social security conventions and to the relevant legislation of the concerned country, <sup>(1)</sup>

shall not be deemed to be insurance holders pursuant to Articles 4 and 5.

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(1) *The expression "public order" present in this item of Article 4 of Law Number 5754 dated 17/4/2008 is amended as "relevant legislation" and is applied to the text.*

Regarding the application of item (h), the condition to complete the age of 18 is not sought for individuals who have completed a vocational or art school and working in duties related with their education, provided that they are made legally of age by court pursuant to the provisions of Turkish Civil Code number 4721 dated 22/11/2001.

The comment of Turkish Union of Chambers of Agriculture shall be sought in applying item (i) of the first paragraph.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

### **The beginning of insured status**

**ARTICLE 7** - Insurance rights and obligations start from;

- a) the date of the beginning of work, vocational education or compulsory internship for the ones, who are deemed to be insurance holders under item (a),
- b) **(Amended: 17/4/2008 - 5754/4th Art.)** from the date of beginning of tax liability for commandites and commandite partners of collective, ordinary commandite companies and maritime joint - adventures from income tax payers and sole proprietorships; from the date of registry by the trade registry offices of the company for limited liability company partners and commandite partners of commandite companies with a capital divided into shares from capital companies; from the date election to the board of directors of the associates of joint - stock companies who are also member to board of directors; from the date they are registered to the registry of traders and artisans for the ones who are exempt from income tax; for the ones who on his/her own name and account in agriculture, in case their agricultural activities are notified within one year by the relevant professional organization established by law or by themselves, from the date they are registered and in case notification is not made within said period of time, then from the date they start working effectively based on license document, among the ones deemed to be insurance holders under item (b),
- c) **(Amended: 17/4/2008 - 5754/4th Art.)** from the date they start to duty or to education in schools in items (d) and (e) of paragraph four of Article 4 of this Law for the ones who are deemed to be insurance holders under item (c) of paragraph one of Article 4.

For the execution of item (b) of the first paragraph, comments of the concerned professional organizations established by law shall be asked for the registration and registry processes of the ones who are exempt from income tax and who work on his/her own name and account in agriculture.

### **Notification and official registration of insurance holder**

**ARTICLE 8** - **(Amended first paragraph: 17/4/2008 - 5754/4th Art.)** Employers are obliged to notify the Institution the individuals who are deemed to be insurance holders under item (a) of paragraph one of Article 4, with an insurance holder employment report, before the date of insurance start indicated in item (a) of paragraph one of Article 7. However, in case the insurance holder employment report is submitted by the employer to the Institution;

- a) at the latest on the date of starting to work for insurance holders employed for workplaces of construction, fishing and agriculture,
- b) at the latest up to the end of one month time period from the date they start to work for insurance holders who start working within one month from the date on which the insurance holders are employed for the first time in the workplaces which will

submit the first workplace report to the Institution and for the ones who are employed during travel in the transportation vehicles which travel to foreign countries,

c) within month from the date of starting to work of contracted personnel who are not subject to unemployment insurance pursuant Unemployment Insurance Law Number 4447 and are employed by public administrations or of individuals who are employed by public administrations in order to work in abroad duties,

Then it is considered that the submission is made before the start of insurance.

Insurance holders shall notify the Institution on the fact that they have started to work as an insurance holder, within maximum one month from the date they start to work. However, insurance holder not notifying himself/herself shall not constitute evidence against to the insurance holder.

**(Amended third paragraph: 17/4/2008 - 5754/6th Art.)** The concerned institution, organization or unions, tax offices and artisan registry offices, which are carrying out enrolment or registration in accordance with their legislation, are obliged to prepare and submit to the Institution the insurance holder employment report, from the start of insurance indicated in item (b) of paragraph one of Article 7 for individuals deemed to be insurance holders under other numbers excluding the ones listed in number (4) of item (b) of paragraph one of Article 4, and from the date of registration to the professional organizations established by law for individuals deemed to be insurance holders under number (4). The notifications listed in numbers (1), (2) and (3) of item (b) of paragraph one of Article 4 shall be submitted within maximum 15 days and the notifications listed in number (4) shall be submitted within maximum one month. In addition, the insurance notifications of the individuals listed in number (4) of item (b) of paragraph one of Article 4 may be submitted by the individual himself/herself. It is obligatory for the registering organization to submit notification for the individuals indicated in paragraph three of Article 4 within maximum one month from the date these individuals start to work. The Institution shall notify the registered individuals, within one month following such notifications, that their insurance holder rights and obligations have started.

**(Abrogated fourth paragraph: 17/4/2008 - 5754/6th Art.)**

**(Amended fifth paragraph: 17/4/2008 - 5754/6th Art.)** Employers who will employ the individuals deemed to be insurance holders as per item (c), paragraph one of Article 4 are obliged to notify the Institution, within fifteen dates following the start of the insurance indicated in item (c), paragraph one of Article 7, with an insurance holder employment report, for the individuals who they employ for the first time or re - employ under this scope. No notification shall be submitted for transfer appointments and charging with duties between different units of the same public administration.

**(Abrogated sixth paragraph: 17/4/2008 - 5754/6th Art.)**

Public administrations and banks, utilizing the infrastructure to be provided by the Institution, are obliged, for the transactions to be determined by the Institution, to control whether the individuals about whom they make transactions are registered or not in terms of insurance, and to notify the Institution about the individuals determined not to be insurance holders.

Administrative fine shall be applicable in accordance with provisions of Article 102 for the concerned parties not fulfilling the obligations stated in other paragraphs excluding paragraphs two and five of the present Article.

Format and content of the insurance holder employment report, the method for submitting the report, and other procedures and principles for the execution of this Article shall be regulated by the regulations to be issued by the Institution.

### **Termination of the insurance**

**ARTICLE 9** - As for short and long term insurance branches, the insurance shall be terminated;

a) from the date of termination of service contract for the insurance holders under item (a) of paragraph one of Article 4,

b) for the insurance holders under item (b) of paragraph one of Article 4;

1) from the date termination of the activities requiring obligation for income tax payers,

2) **(Amended: 17/4/2008 - 5754/7th Art.)** from the date on which registry of traders and artisans is cancelled or is under item (k) of paragraph one of Article 6 for individuals exempt from income tax,

3) **(Amended: 17/4/2008 - 5754/7th Art.)** among the individuals under number (3) of paragraph one of Article 4, from the date of termination of tax obligation for the commandites and commandite partners of collective, ordinary commandite firms of sole proprietorships, and partners of maritime joint - adventures, from the date of cancellation of company from the trade registry office for commandite partners of commandite companies having capital divided into shares, from the date of decision of board of partners on share transfer for the insurance holders who transfer all of their shares in limited liability companies, from the date of termination of membership to board of directors for partners who are members to board of directors in the joint - stock companies, for the companies in bankruptcy or liquidation status or in dissolved status, in case the partner requests, from the date of decision by court on opening bankruptcy, liquidation or of board of partners on commencing liquidation or on the dissolved status of the company, in case the partners do not request, from the date of court decision on closing the bankruptcy,

and for the partners of the companies of which liquidation is finalized, from the date on which the decision of liquidation board is registered by the trade registry office,

4) **(Abrogated: 17/4/2008 - 5754/7th Art.)**

5) for the individuals who work on their own names and accounts in agriculture, from the date on which the agricultural activity terminates or the individual is under item (i) of the first paragraph of Article 6,

6) for village and quarter headmen, from the date of termination of the headman duty,

7) for individuals residing in a foreign country, from the date on which the individual starts to work as an insurance holder under the legislation of the said country or depending on the basis of residence, from the date the individual is included in the social security system of the said country,

8) **(Amended: 17/4/2008 - 5754/7th Art.)** among the partners of the companies in bankruptcy or liquidation status or dissolved status under number (3), the individuals who start to work under item (a) of paragraph one of Article 4, from the date of starting to work,

9) among the village and quarter headmen, excluding the individuals having income tax obligation due to their works on their own names and accounts, the individuals who also work on service contract, from the date of starting to work,

10) **(Amended: 17/4/2008 - 5754/7th Art.)** among the individuals who are exempt from income tax but are deemed to be insurance holders under item (b) of paragraph one of Article 4 based on registry of traders and artisans, the individuals who work on service contract while their insurances are in effect, from the date of starting to work,

c) for the individuals deemed to be insurance holders under item (c) of paragraph one of Article 4;

1) **(Amended: 17/4/2008 - 5754/7th Art.)** in cases of death or which require putting on pension, from the date of termination of pension, in cases of age limits stipulated in Article 40 of Law Number 5434 of 8/6/1949 and in case the health leave periods are used, from the beginning of the month following the termination of such periods or limits,

2) **(Amended: 17/4/2008 - 5754/7th Art.)** in other cases, from the date of quitting the duty,

d) for the individuals subject to certain insurance branches as per Article 5, from the end date of the status which require such individuals are deemed to be insurance holders,

e) among the individuals under item (l) of paragraph one of Article 6, for the individuals who are connected to the social security institution of the country they work in and who prefer such application under the scope of international social security conventions, from the date they are insured,

However, in cases of execution of provisions on diseases or maternity, the insurance status shall be deemed to be lost starting from the thirtieth day following;

a) in cases where the insurance holder is on unpaid leave, participates in strike or the employer announces lockout pursuant to the relevant laws, the date on which such statuses end,

b) the dates stated in the first paragraph in other cases.

The Institution shall be notified, within maximum ten days, about the statuses of the individuals whose insurances are terminated as per items (a), (c) and (d) of paragraph one by the employer, and about the statuses of the individuals terminated in manners stated in item (b) by the individuals themselves and by the organizations or tax offices which are informed about the termination of the activity stated in the said item. Such individuals not fulfilling their obligation towards professional organizations or tax offices shall not hinder submitting the document or information on the termination of the insurance.

The notifications of termination of insurance of the individuals whose insurance is terminated pursuant to item (e) of paragraph one and of the insurance holders who are notified in accordance with item (c) of paragraph one of Article 8 shall be submitted to the Institution within three months.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

#### **Temporary presence in foreign countries of insurance holders due to business purposes**

**ARTICLE 10** - In cases where the insurance holders listed in item (a) of paragraph one of Article 4 are sent by the employer to a foreign country on temporary duty, the insurance holders listed in item (c) are sent to abroad in accordance with the procedure stipulated in their legislations or the insurance holders listed in item (b) are present in a foreign country due to work subject to insurance, the rights and obligations of such insurance holders and employers related with social insurance shall continue as long as such duties are fulfilled.

**(Abrogated second paragraph: 17/4/2008 - 5754/67th Art.)**

## **PART TWO** **Provisions on Workplaces and Employers**

### **Workplace, notification, transfer, succession and transportation of workplace**

**ARTICLE 11** - Workplace is the place where the insurance holders carry out their works together with the material and immaterial elements.

Places which have connection in terms of goods produced or services provided at the workplace or of quality and which are organized under the same management, resting, nursing, dining, sleeping, examination and maintenance, body or profession training places, other additions such as courts or offices and the vehicles shall be considered to be included in the workplace.

The employer is obliged to submit the Institution the workplace notification, of which sample shall be prepared by the Institution, at the latest on the date the insurance holder starts working. The employers who submit the trade registry offices the number of insurance holders to be employed and their employment dates at the establishment stage of the company shall be deemed to have made such notifications to the Institution. Trade registry offices are obliged to notify the Institution about such notifications submitted to them, within maximum ten days.

In cases where the companies subject to the provisions of Turkish Trade Law Number 6762 of 29/6/1956 change their types, merge or partakes in another company, the date of announcement of these issues regarding the registration in the trade registry should be communicated to the Institution, together with the workplace notification, and in case of admitting a new partner in the ordinary companies, within maximum ten days following the accession of the new partner.

In case the workplace is moved to an address in a province other than the province where the workplace is active or the business or workplace where insurance holders are employed is transferred to or succeeded by another employer, the new employer is obliged to notify the Institution about the transfer of the workplace within ten days following the transfer of the business or workplace, or in case the workplace is transferred through inheritance, then the inheritors are obliged to do the same within maximum three months following the date of death. In case the workplace is moved to another address which is included in the area of duty of another unit of the Institution within the same province, then communicating the address change in written shall be sufficient. The insurance rights and obligations of the insurance holders working at such workplaces shall continue.

Governor's offices, municipalities and other public or private legal entities authorized to grant licenses are obliged to inform the Institution about information and documents regarding construction permits and all other licenses or transactions similar to the qualities of a license and, if any, information regarding the employment which constitute a basis for granting such, within maximum one month following the date of issue.

Administrative fine shall be applied in accordance with item (b) of paragraph one of Article 102 for who do not fulfil the obligations stipulated in this Article. Administrative fine application shall not hinder fulfilling such obligations.

The sub - employer shall notify the insurance holders employed at the workplace of the main employer from the file in which the main employer is registered, with a special number to be issued by the Institution, provided that the contract entered with the employer is presented.

Not or late submission of the workplace notification shall not abolish the rights and obligations laid down in this Law. Procedures and principles regarding the execution of this Article and the format and content of the workplace notification shall be regulated by the regulations to be issued by the Institution.

### **Employer, employer's agent, employer of a temporary business relationship and sub - employer**

**ARTICLE 12** - Real and legal persons or institutions and organizations not having a legal personality, which employ individuals deemed to be insurance holders in accordance with items (a) and (c) of paragraph one of Article 4, are employers.

The person who carries out the entire management duty of the business or the provided service, on the name and account of the employer, is the employer's agent. For the purposes of this Law, the term employer shall also cover the employer's agent. The employer's agent and employers of temporary business relationship defined in Labour Law number 4857 shall be collectively and jointly responsible with the employer for the indicated obligations.

The obligations of the employers stipulated in this law shall be fulfilled by the labour unions and confederations or the employer for the individuals subject to item (a) of the second paragraph of Article 4, and by the public administration or schools in which they receive education for the individuals subject to paragraph four of Article 4. <sup>(1)</sup>

For the individuals employed pursuant to Law number 4081 on Protection of Farmer Properties of 2/7/1941, the employer obligations stipulated in this Law shall be fulfilled by the authority competent to employ such individuals.

Employers of convicts and arrested individuals who are employed in facilities, workshops and similar units established in the sentence execution institutions and detention houses is the Sentence Execution Institutions and Detention Houses Work Houses Institution, and the employer's agents are the responsible directors or chief administrators of the Sentence Execution Institutions and Detention Houses Work Houses Institution.

The third person, who takes work from an employer and employs the insurance holders charged with duty for such work, at a business or a part or addition of a business, in the goods or service production carried out at the workplace, is called sub - employer. The insurance holders, even if they are employed with the mediation of a third person and entered into contract with them, are responsible together with the sub - employer for the obligations this Law charges on the employer.

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(1) *The term "third" present in Article 65 and third paragraph of Article 12 of Law Number 5754 of 17/4/2008 is amended as "fourth", the term "and confederations" was appended following the term "labour unions" in Article 66 of the same Law, and the amendments are applied to the text.*

### **PART THREE <sup>(1)</sup>**

#### **Provisions of Short Term Insurance to which Insurance Holders Working on Service Contract or Working on behalf of Their Own Names and Accounts are Subject**

##### **Definition, notification and investigation of work accident**

**ARTICLE 13** - Work accident is the incident which occurs;

- a) when the insurance holder is at the workplace,
- b) **(Amended: 17/4/2008 - 5754/8th Art.)** due to the work carried out by the employer or by the insurance holder if he/she is working on behalf of own name and account,
- c) for an insurance holder working under an employer, at times when he/she is not carrying out his/her main work due to the reason that he/she is sent on duty to another place out of the workplace,
- d) **(Amended: 17/4/2008 - 5754/8th Art.)** for a nursing female insurance holder under item (a) of paragraph one of Article 4 of this Law, at times allocated for nursing her child as per labour legislation,
- e) during insurance holder's going to or coming from the place, where the work is carried out, on a vehicle provided by the employer, and which causes, immediate or delayed, physical or mental handicap in the insurance holder.

The work accident should be communicated;

- a) by the employer employing the insurance holders under item (a) of paragraph one of Article 4 and Article 5, immediately to the authorized police forces of that location and within maximum three workdays following the accident to the Institution,
- b) by the insurance holder himself/herself under item (b), within three workdays following the date on which his/her discomfort does not hinder to make notification but not later than one month,
- c) **(Abrogated: 17/4/2008 - 5754/8th Art.)**

**(Amended paragraph: 17/4/2008 - 5754/8th Art.)** with a work accident or occupational disease, directly or via registered mail, to the Institution. The time period stated in item (a) of this paragraph shall commence following the date of being informed about the work accident, in case the work accident takes place at places out of employer's control.

In order to reach to a decision whether to consider the incident notified to the Institution is a work accident or not, an investigation may be carried out, if necessary, by the officers of the Institution authorized with inspection and control or by the labour inspectors of the Ministry. If, at the end of such investigation, it is found out that the issues notified in written are not true and that the incident is not a work accident, then the payments made for this incident found by the Institution to be inappropriate shall be collected in accordance with the provision of Article 96, starting from the date of payment, from the parties who submitted false notification.

Format and content of the work accident and occupational disease report, the method for submitting the report, and other procedures and principles for the execution of this Article shall be regulated by the regulations to be issued by the Institution.

#### **Definition, notification and investigation of occupational disease**

**ARTICLE 14** - Occupational disease refer to the temporary or permanent disease, physical or mental handicapped status, caused by a reason reiterated due to the quality of the work made or worked by the insurance holder or by the working conditions.

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(1) *The title of this part was "Short Term Insurance Provisions"; however it is amended by Article 65 of Law Number 5754 of 17/4/2008 as applied in the text.*

It is obligatory to determine that an occupational disease is developed in the insurance holder by the Institution's Health Committee after;

- a) examining the health committee report, and the medical documents the report is based on, prepared duly by the providers of healthcare services authorized by the Institution,
- b) if found necessary by the Institution, examining the inspection reports, and other necessary documents, which show the working conditions at the workplace and the medical consequences based on this.

Where the occupational disease develops after quitting the work and is caused by the work in which the individual has worked as an insurance holder, for the insurance holder to use the rights provided in this Law, it is a must that a time period stated in the regulation to be issued by the Institution for this disease should not have passed between the actual quitting of the work and the occurrence of the disease. Individuals in such situation can apply to the Institution with necessary documents. In cases where any occupational disease is determined via clinical and laboratory findings and the leading factor is found at the end of the examination carried out at the workplace, even if the liability period in the occupational diseases list is exceeded, the said disease may be considered as an occupational disease, upon application of the Institution or the concerned individual and upon approval of the Social Security Health High Committee.

The occupational disease should be communicated;

- a) by the employer, who learns or is informed that a occupational disease has developed in the insurance holder for insurance holders in item (a) of paragraph one of Article 4 and Article 5, <sup>(1)</sup>
- b) by the insurance holder himself/herself for insurance holders under item (b) of paragraph one of Article 4,

within three workdays starting from the date of being informed of such a situation, to the Institution, with a work accident or occupational disease notification. The expenses made by the Institution for such a situation or temporary incapacity payments, if paid, shall be revoked from the employer or the insurance holder under item (b) of paragraph one of Article 4, who does not fulfil such obligation or who has deliberately notified the written issues in a missing or false manner.

It is possible to carry out necessary investigations on notifications about occupational disease by the officers of the Institution authorized with inspection and control or by the labour inspectors of the Ministry.

Which situations will be considered as occupational disease, the format and content of the work accident and occupational disease report, the method for submitting the report, and other procedures and principles for the execution of this Article shall be regulated by the regulations to be issued by the Institution. Disputes that may arise on whether to consider a disease other than the diseases listed in the regulation as an occupational disease shall be decided on by the Social Insurance Health High Committee.

#### **Sickness and maternity status**

**ARTICLE 15** - (Amended: 17/4/2008 - 5754/9th Art.)

Sicknesses of the insurance holder under items (a) and (b) of paragraph one of Article 4, other than work accident or occupational disease and which causes the incapacity to work in the individual are sickness statuses.

Sickness and invalidity statuses of a female insurance holder or spouse of a male insurance holder under items (a) and (b) of paragraph one of Article 4, a female who receives income or pension due to her own works or spouse of a male insurance holder who receives pension, related with the pregnancy or maternity status, starting from the date of pregnancy up to the first eight weeks or, in case of multi delivery, up to the first ten weeks following delivery, shall be considered as maternity status.

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(1) The term "items (a) and (c)" in Article 65 and in this paragraph of Law Number 5754 of 17/4/2008 is amended as "item (a)" and is applied to the text.

### **Rights provided from work accident, occupational disease, sickness and maternity insurance <sup>(1)</sup>**

#### **ARTICLE 16 - (Amended: 17/4/2008 - 5754/10th Art.)**

Following are the rights provided by work accident or occupational disease insurance:

- a) Giving daily temporary incapacity allowance to the insurance holder during the period of temporary incapacity to work.
- b) Putting the insurance holder on permanent incapacity income.
- c) Putting on income the right holders of the insurance holder who died due to work accident or occupational disease.
- d) Giving marriage bonuses to female children who were put on income.
- e) Giving funeral benefit for the insurance holder died of work accident or occupational disease.

Daily temporary incapacity allowance shall be given to the insurance holder, during the temporary incapacity period arising due to sickness or maternity statuses, from the sickness and maternity insurance.

Nursing benefit applicable by the date of delivery, over the tariff determined by the Board of Directors of the Institution and approved by the Minister, shall be payable from the maternity insurance to the female insurance holder or to the male insurance holder due to his not insured spouse giving birth, and, among the insurance holders under item (a) and (b) of paragraph one of Article 4 of this Law, to the female insurance holder receiving income or pension or to the spouse of male insurance holder receiving income or pension due to own works, for each newborn, provided that the newborn lives.

In order to pay nursing benefit to a female insurance holder or to male insurance holder due to his spouse giving birth;

- a) for the individuals under item (a) of paragraph one of Article 4, notifying the minimum 120 days short term insurance branches premium within one year before the birth,
- b) for individuals under item (b) of paragraph one of Article 4, depositing minimum 120 days short term insurance branches premium within one year before the birth and paying any kind of debts related with premiums, are obligatory.

If, among the insurance holders who are granted with the right to receive nursing benefit, the individuals whose insurance status is terminated as per Article 9 have children within three hundred days starting from this date, then female insurance holder or male insurance holder whose spouse will benefit from maternity insurance shall receive nursing benefit, provided that minimum 120 days premium is paid within fifteen months before the date of birth.

### **Daily earning to be held subject to benefits and incomes <sup>(2)</sup>**

**ARTICLE 17** - Daily earning to be used as basis in the calculation of benefits or income to be granted in cases of sickness or maternity shall be calculated by dividing the sum of earnings subject to premium to be calculated pursuant to Article 80 in the last three months in twelve months before the date of work accident or birth or, in case of occupational disease or sickness, the date on which the temporary incapacity starts, divided by the number of days of paid premiums subject to such earnings.  
**(Abrogated final sentence: 17/4/2008 - 5754/67th Art.)**

If an insurance holder, who did not work in the twelve - month period and did not receive wage, suffer from temporary incapacity due to work accident or occupational disease in the month he/she starts to work, then the daily earning used as basis in the calculation of benefits or income to be granted shall be calculated by the sum of earnings subject to premium obtained between the date of starting to work and the starting date of temporary incapacity, divided by the number of days worked, and if such person suffers from work accident as of the starting date of work, then the daily earning of an insurance holder working in the same or equivalent work shall be used.

In the calculation of the daily earnings used for benefit or income of individuals deemed to be insurance holders due to item (a) of paragraph one of Article 4:

a) If the premiums, bonuses or similar temporary payments are considered, then the daily earning to be used in benefits and income shall not be greater than the amount found by adding 50% to the daily earning to be calculated by dividing the wage total to the number of days of receiving wage.

b) Among the wages, bonuses, increments, compensations and payments of similar quality made in accordance with the decision reached by the administration or legal authorities, the ones related with the period of last three months used as basis in benefit and income calculation shall not be considered.

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(1) *The title of this Article was "Rights granted in cases of work accident, occupational disease, sickness and maternity"; however it is amended with Article 10 of Law Number 5754 of 17/4/2008 as applied to the text.*

(2) *The term "number of premium days" in paragraph one of this Article was amended as "number of paid premium days" and the term "items (a) and (c)" in paragraph three was amended as "item (a)" with Article 65 of Law Number 5754 of 17/4/2008 and the amendments are applied to the text.*

If the occupational disease occurred within one year following the date of the insurance holder quitted the work he/she worked under insurance, then his/her daily earning shall be calculated using the date he/she quitted from this last work, in accordance with the above paragraphs.

Monthly earning to be used in the income payable from the work accident and occupational disease insurance shall be thirty times the daily earning to be calculated in accordance with the above provisions.

### **Benefit for temporary incapacity**

**ARTICLE 18** - Provided that rest report is granted by medical doctor or health committees authorized by the Institution;

a) each day for an insurance holder suffering from temporary incapacity due to work accident or occupational disease,

b) **(Amended: 17/4/2008 - 5754/11th Art.)** In case, among the insurance holders under item (a) of paragraph one of Article 4 and Article 5, the individuals who are subject to sickness insurance, suffer from temporary incapacity due to sickness, each day starting from the third day of the temporary incapacity, provided that minimum ninety short term insurance premium is notified within one year before the starting date of the temporary incapacity,

c) **(Amended: 17/4/2008 - 5754/11th Art.)** In case of maternity of headmen stated in item (a) and (b) of paragraph one of Article 4 and female insurance holders under numbers (1), (2) and (4) of the same item, each day of not working including eight - week periods before and after birth and, in cases of multi birth, adding another two weeks to the said eight weeks before the birth, provided that minimum ninety days short term insurance premium is notified within one year before the birth,

d) **(Amended: 17/4/2008 - 5754/11th Art.)** In case the insurance holder works until three weeks before the birth, upon request of headmen stated in item (a) and (b) of paragraph one of Article 4 and female insurance holders under numbers (1), (2) and (4) of the same item and with the consent of medical doctor, for the periods added to the rest period after birth,

a benefit for temporary incapacity shall be payable.

**(Amended second paragraph: 17/4/2008 - 5754/11th Art.)** In cases of work accident or occupational disease or maternity, temporary incapacity benefit shall be paid to the individuals deemed to be insurance holders under item (b) of paragraph one of Article 4, during the period of inpatient treatment or the period of rest report granted due to such treatment or after inpatient

treatment, provided that any kind of premiums or debts related with premiums, including universal health insurance, are paid. However, the condition of inpatient treatment is not sought for temporary incapacity payment for period not worked before or after birth in accordance with item (c) of paragraph one of this Article.

**(Amended third paragraph: 17/4/2008 - 5754/11th Art.)** The temporary incapacity benefit payable in cases of work accident, occupational disease, sickness, and maternity of female insurance holders, shall be half of the daily earning to be calculated as per Article 17 in inpatient treatments and two thirds of the same in outpatient treatments.

In cases of changes in the lower limits of the daily earnings to be used in the calculation of insurance premiums and benefits, such benefits of the individuals who are receiving, or has or will be granted the right to receive, a daily earning under the re-determined lower limit shall be payable according to the changed daily earning lower limit, starting from the effective date of the changes in lower limit of daily earnings.

Where an insurance holder suffers from more than one of the cases of work accident, occupational disease, sickness and maternity, temporary incapacity benefit shall be payable at the highest level.

Temporary incapacity benefits may be collected by a payment made by the employers of workplaces of collective labour agreement or of public administrations, to the insurance holders, on behalf of the Institution, based on procedures and principles determined by the Institution, and by mutual setting - off records.

Payment term of temporary incapacity benefits and other procedures and principles on the implementation of this Article shall be regulated by a regulation to be issued by the Institution.

#### **Qualification to, calculation and start of permanent incapacity income, and cases of more than one work accident and occupational disease**

**ARTICLE 19 - (Amended first paragraph: 17/4/2008 - 5754/12th Art.)** The insurance holder, whose earning power in the profession, due to the disease or disabilities caused by work accident or occupational disease, is determined to be reduced by 10% by the Institution's Health Committee based on reports issued by the health committees of health - care service providers authorized by the Institution, shall be qualified for permanent incapacity income.

In case the insurance holder who is put on permanent incapacity income is re - treated, the rate of losing earning power in profession shall be re - determined based on reports to be issued by the health committees stated in paragraph one.

Permanent incapacity income shall be calculated based on the rate of losing earning power in profession of the insurance holder. In case of permanent full incapacity the insurance holder is put on an income 70% of the monthly earning calculated in accordance with Article 17. Income to be granted to the insurance holder in case of permanent partial incapacity shall be calculated as full incapacity income and of this total, the amount corresponding the degree of incapacity shall be payable. Where the insurance holder is need of permanent care of another person, the insurance holder shall be put on 100% income.

In order to put on the individuals, who are deemed to be insurance holder as per item (b) of paragraph one of Article 4, on permanent incapacity income, it is obligatory that the entire premium or any kind of debts related premiums, including the universal health insurance, should be paid.<sup>(1)</sup>

**(Abrogated fifth paragraph: 17/4/2008 - 5754/12th Art.)**

**(Abrogated sixth paragraph: 17/4/2008 - 5754/12th Art.)**

Income calculated in accordance with the above paragraphs shall be determined by increasing in accordance with the provision of second paragraph of Article 55 between the last month in the daily earning calculation and the starting date of income.

The permanent incapacity income of the insurance holder shall start at the beginning of the month following:

- a) the date on which temporary incapacity benefit ends,
- b) the date of health committee report if permanent incapacity case occurs without determining temporary incapacity.

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(1) *The term "premium and any kind of debt" present in this paragraph was amended with Article 12 of Law Number 5754 of 17/4/2008 as "premium and every kind of debts related with premium" and is applied to the text.*

The difference between one day incapacity benefit to be calculated from the date of written request in accordance with Article 18 and one thirtieth of the monthly permanent incapacity benefit shall be payable as temporary incapacity benefit to the individuals, to whom rest report is issued due to same invalidity or occupational disease, among the insurance holders put on permanent incapacity income.

Where the insurance holder suffers again from a work accident or a occupational disease, considering the entire disabilities he/she suffers, an income is calculated for such individual over the earning during his/her last work accident or occupational disease which caused permanent incapacity. However, if the income to be determined based on daily income of the insurance holder during the last work accident or occupational disease is less than his/her first calculated income, then permanent incapacity income of the insurance holder shall be payable over the first earning.

Other procedures and principles on determining the rate of loss in earning power in profession in cases of permanent incapacity due to work accident or occupational disease and on the execution of this article shall be regulated by a regulation to be issued by the Institution.

### **Putting right holders on income, marriage and funeral benefits**

**ARTICLE 20** - The survivors of the insurance holder, who has died due to work accident or occupational disease, shall be put on income at a rate of 70% of the monthly earning to be determining as per Article 17, in accordance with provisions of Article 34, after updating pursuant to paragraph two of Article 55.

For insurance holders who die with the permanent incapacity income due to losing 50% or more of the earning power in profession as a result of work accident or occupational disease, the right holders shall be put on income, in accordance with the provisions of Article 34, at an amount determined as per paragraph one, without considering whether the death is connected with work accident or occupational disease.

For insurance holders who die with the permanent incapacity income due to losing less than 50% of the earning power in profession as a result of work accident or occupational disease, the right holders shall be put on income, in accordance with the provisions of Article 34, at an amount of permanent incapacity income which the insurance holder was receiving due to work accident or occupational disease.

In order to put on the right holders of individuals who are deemed to be insurance holder as per item (b) of paragraph one of Article 4 on income, it is obligatory that the entire premium or any kind of debts related premiums, including the universal health insurance, should be paid.<sup>(1)</sup>

Article 34 and 35 shall be applicable to the start, termination and re - start of income.

Right owners shall receive funeral and marriage benefit in accordance with the provisions of Article 37.

### **Responsibility of employer and third parties in terms of work accident and occupational disease and sickness**

**ARTICLE 21** - If a work accident or occupational disease occurred due to employer's intention or insurance holder's action contrary to the legislation on protection of health and labour safety, then the sum of payments which are and will be made by the Institution to the insurance holder or right holders and the first advance capital value as of the starting date of granted income shall be collected by the Institution from the employer, limited with the amounts that the insurance holder or right holders may request from the employer. The principle of inevitability shall be considered in determining the responsibility of the employer.

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(1)

*The term "premium and any kind of debt" present in this paragraph was amended with Article 65 of Law Number 5754 of 17/4/2008 as "premium and every kind of debts related with premium" and is applied to the text.*

In case the work accident is communicated by the employer to the Institution within the period stipulated in item (a) of paragraph two of Article 13, the temporary incapacity benefit payable to the insurance holder for the period up to the date of notification shall be collected from the employer by the Institution.

In works where obtaining health certificate is stipulated in the labour legislation, the temporary incapacity benefit, payable by the Institution to the insurance holder due to a disease which is determined to be present before being employed for such work or is caused by employing an insurance holder, who is employed for a work without based on such a report or contrary to the issued report, for a work to which he/she is not physically suitable, shall be paid by the employer.

If a work accident, occupational disease or sickness is caused due to a fault of a third party, then payments which are or will be made to the insurance holder or right holders and half of the first advance capital value as of the starting date of the income, shall be revoked to the third parties causing the damage or to the employers of such third parties, if they have any faults.

If a work accident, occupational disease or sickness is caused by the actions of public servants, privates and enlisted specialists, and other individuals charged with duty by the public administrations due to their duties, excluding the ones who have finalized conviction due to such actions, the payments or income paid to the insurance holder or right holders shall not be revoked to the institution or concerned parties. In addition, in cases of death due to work accident or occupational disease, the income or benefits to be granted to the right holders as per this Law shall not be revoked by the Institution to the right holders who have fault in the occurrence of work accident or occupational disease or to the right holders of the deceased faulty insurance holder who deceased due to work accident.

#### **Extension of treatment period, increase in incapacity due to reasons caused by insurance holder**

**ARTICLE 22** - In cases where the insurance holder suffers from work accident or occupational disease, or his/her incapacity degree increases due to the abovementioned reasons, the temporary incapacity benefit or permanent incapacity income;

a) shall be reduced by one fourth by the Institution, based on the extended treatment period or increased incapacity rate, in case the treatment period is extended or incapacity rate is increased due to insurance holder not observing the measures and recommendations of medical doctor because of work accident, occupational disease, sickness and maternity, excluding the individuals who do not have criminal responsibility and who have an acceptable excuse.

b) shall be reduced by one thirds by the Institution, based on the degree of fault of the insurance holder suffering from occupational disease or sickness, excluding the ones who do not have criminal responsibility.

c) shall be paid in half to the insurance holder who suffer from work accident, occupational disease or sickness due to his/her intentional action and who do not accept the proposed treatment.

d) Temporary incapacity benefit shall not be payable to an insurance holder, who starts working without receiving a certificate from the medical doctor applying the treatment, stating that the treatment is over and that he/she can work, the paid benefits shall be refunded pursuant to the provisions of Article 96, starting from the date of inappropriate payment.

In case the work accident is not notified to the Institution by the persons stated in item (b) of paragraph two of Article 13 within the time period stated in the same item, the incapacity benefits payable to the insurance holder shall be paid as of the date of notification.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

#### **Responsibility arising from the insurance status not notified in time**

**ARTICLE 23** - In case the insurance holder does not notify the Institution within due time, with an insurance holder employment notification, that he/she started to work, the income and benefits payable to the concerned parties due to cases of work accident, occupational disease, sickness and maternity, occurring before the date of late notification or the date on which the Institution determines that the insurance holder is employed, shall be payable by the Institution.

The abovementioned cases, the amount of any kind of expenses required to be will be made by the Institution and, if income is granted, the amount of first advance capital value as of the starting date of income, shall be collected separately from the employer, without seeking the cases of responsibility indicated in paragraph one of Article 21.

The income and benefits of the concerned parties due to cases of work accident, occupational disease and maternity occurring within the time during which notification is not made shall not be payable to the individuals who, although is an insurance holder under item (b) of paragraph one of Article 4, does not make notification within due time indicated in paragraph three of Article 8. <sup>(1)</sup>

**Time periods not considered in short term insurance branches**

**ARTICLE 24** - In terms of short term insurance branches;

- a) service period passed at military of the insurance holder who was called to arms for any reason,
- b) period of arrest which is not concluded in conviction,
- c) the period of incapacity of the insurance holder who receives temporary incapacity benefit from work accident, occupational disease, sickness and maternity insurances,
- d) time which pass during the participation of the insurance holder to a strike or the lockout of employer,

shall neither be included in the work periods stated in Article 18 nor shall be considered in the calculation of one year before the date the incapacity or sickness is found or the date of birth.

**PART FOUR**  
**Long Term Insurance Provisions**

**Considering as disabled**

**ARTICLE 25 - (Amended: 17/4/2008 - 5754/13th Art.)**

The insurance holder, who is determined by the Institutions Health Committee to have lost working power or minimum 60% of the earning power in profession due to work accident or occupational disease for insurance holders under items (a) and (b) under paragraph one of Article 4 and to have lost minimum 60% of the earning power in profession or at a degree which does not allow him/her to carry out his/her duties for the insurance holders under item (c), as a result of examining the reports and the medical documents the report is based on, prepared duly by the providers of healthcare services authorized by the Institution, upon request of the insurance holder or the employer, shall be deemed to be disabled.

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(1) *With Article 65 of Law Number 5754 of 17/65/2008, the expression "fourth paragraph" present in this paragraph is amended as "third paragraph", the expression "sickness and maternity" is amended as "maternity", and the amendments are applied to the text.*

However, if it is determined in advance or afterwards that the insurance holder has lost 60% of the working power or earning power in profession at a degree not to allow him/her to carry out his/her duties before the date of first start to work under insurance, then the insurance holder shall not benefit from invalidity pension due to such disease or handicap.

The provisions on invalidity insurance shall not be applied for such diseases or handicaps to individuals who become disabled in the period under arms without terminating their connection with their duties as reserved officers or privates or due to drill, manoeuvre, mobilization or war and whose invalidity does not hinder their original duties or works.

In case the insurance holders under item (c) of paragraph one of Article 4 request in written, such individuals shall be deemed to be resigned, by assigning to other duties or classes where their disability does not cause any hindrance, without applying the provisions of this article. Even after deemed to be resigned, their right of requesting the application of the provisions of this Law is preserved. However, among the individuals who have the possibility of transferring to another duty or class, the ones who are subject to obligatory period pursuant to special laws cannot not utilize this right unless they fulfil their obligatory period or unless they again take a duly issued report stating that their disability hinders their new duties.

Among the insurance holders under item (c) of paragraph one of Article 4, the ones who suffer from sickness at a degree not to carry out their duties shall be deemed to be disabled or, pursuant to the provisions of Article 47, duty disabled, depending on the nature of their sickness or the reason of occurrence, if their sickness persists longer than the periods laid down in laws.

The provisions on sick leave of the Law number 657 on Public Servants shall be applicable on the sickness period to be considered for deemed them to be disabled due to sickness, for the insurance holders who are under item (c) of paragraph one of Article 4 and who not subject to personnel laws, until their special laws are enacted. If the sickness cured before the periods laid down in laws relapses within maximum one year, then a transaction shall be carried out by joining the former and new sickness periods.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

### **Rights granted from invalidity insurance and conditions to benefit**

**ARTICLE 26** - The right granted from invalidity insurance to insurance holders is to put on invalidity pension.

In order to put an insurance holder on invalidity pension, the insurance holder should;

- a) be deemed to be disabled as per Article 25,
- b) **(Amended: 17/4/2008 - 5754/14th Art.)** be holding insurance for a period of minimum ten years and should have paid totally 1800 days or in case the insurance holder is disabled to the extent of being in need of permanent care of another person, should have notified 1800 days of invalidity, old - age or survivors insurance premiums, without seeking any period for holding insurance,
- c) have submitted a written request to the Institution after quitting the work he/she was working under insurance or closed or transferred the workplace due to his/her invalidity,

However, it is obligatory that the individuals who are deemed to be insurance holder as per item (b) of paragraph one of Article 4 should have paid entire premiums or any kind of debts related with premiums, including the universal health insurance. <sup>(1)</sup>

### **Calculation, start, termination and re - start of invalidity pension**

**ARTICLE 27** - **(Amended: 17/4/2008 - 5754/15th Art.)**

The invalidity pension, for the insurance holders with the number of premium days less than 9000 shall be calculated over 9000 days, and for the ones with the number of premium days equal to or greater than 9000 days shall be calculated over the number of paid premium days, in accordance with the provisions of Article 29. If the insurance holder is in need of permanent care of another person, then the replacement rate shall be increased by 10 points. However, the 9000 premium days shall be applied as 7200 premium days for the insurance holders under item (a) of paragraph one of Article 4.

For the insurance holders under items (a) and (b) of paragraph one of Article 4 and the individuals, who, when insured under item (c), quitted their duties and did not work subject to another insurance status, the invalidity pension shall start at the beginning of the month following;

- a) the date of written request, if the date of report used as basis for disability is before the date of written request,
- b) the date of report, if the date of report used as basis for disability is after the date of written request,
- c) the date of quitting duty due to disability, for individuals working under item (c) of paragraph one of Article 4,

The invalidity pensions of individuals, who start to work pursuant to this Law or to the legislation of a foreign country when receiving invalidity pension, shall be terminated at the beginning of the payment period following the date of starting to work and premium for short and long term insurance branches and for universal health insurance shall be collected, pursuant to Article 81, over their premium based earnings determined as per Article 80 during the period they work under this Law. For the individuals among the abovementioned, who quit work and submit written request for re - asking for invalidity pension or who retires or is sent to pension, the invalidity pension is re - calculated starting from the period following the date of quitting work if they are working under item (c) of paragraph one of Article 4 or the date of request for others, provided that they are examined for control and that their invalidity in the previous pension persists.

For such individuals, if the days of paid premiums to be used in the first invalidity pension;

a) is greater than 9000, then the pensions shall be calculated applying the provisions of item (a) of paragraph three of Article 30.

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(1) *The term "premium and any kind of debt" present in this paragraph was amended with Article 14 of Law Number 5754 of 17/4/2008 as "premium and every kind of debts related with premium" and is applied to the text.*

b) less than 9000 days, then the pension shall consist of the sum of the part proportional to the number of days of paid premiums before and after retirement of the amount calculated as of the starting date of pension and the partial pension of the work after retirement, by applying the increments made to the pensions after terminating the former pension. Partial pension for the post - retirement work shall be equal to total of pre - and post - retirement premium days and to the part of the pension calculated over the earnings used in premiums of the post - retirement work as per paragraph one of this Article, in proportion to the number of post - retirement paid premium days. The new pension cannot be under the amount found by applying the increments made on the pension after the termination of the former pension.

9000 premium days, mentioned in items (a) and (b) above, shall be applied as 7200 days for the individuals deemed to be insurance holders under item (a) of paragraph one of Article 4.

### **Rights granted from old - age insurance and conditions to benefit**

**ARTICLE 28** - Following are the rights granted from the old - age insurance to the insurance holder:

- a) Putting on old - age pension.
- b) Making single payment.

**(Amended second paragraph: 17/4/2008 - 5754/16th Art.)** For the individuals who are deemed to be insurance holder with this Law for the first time;

a) old - age pension shall be granted provided that the individual is over 58 if the individual is female or over 60 if the individual is male and that minimum 9000 days of invalidity, old - age and survivors insurance premiums are notified. However, the number of premium days condition shall be applied as 7200 premium days for the insurance holders under item (a) of paragraph one of Article 4.

b) The age condition stated in item (a);

- 1) shall be applied as 59 for females, 61 for males between 1/1/2036 and 31/12/2037,
- 2) shall be applied as 60 for females, 62 for males between 1/1/2038 and 31/12/2039,
- 3) shall be applied as 61 for females, 63 for males between 1/1/2040 and 31/12/2041,
- 4) shall be applied as 62 for females, 64 for males between 1/1/2042 and 31/12/2043,
- 5) shall be applied as 63 for females, 65 for males between 1/1/2044 and 31/12/2045,
- 6) shall be applied as 64 for females, 65 for males between 1/1/2046 and 31/12/2047,

7) shall be applied as 65 for both females and males as of 1/1/2048.

However, age limits applicable on the date on which the number of premium days stipulated in item (a) is completed shall be used in applying the age limits.

Insurance holders may benefit from old - age pension, provided adding three years is added to the age limits in items (a) and (b) but not exceeding the age of 65 and that minimum 5400 days of invalidity, old - age and survivors insurance premiums are notified on behalf of them.<sup>(1)</sup>

The insurance holders, who has an sickness or invalidity to the extent requiring to be deemed to be disabled as per paragraph two of Article 25 before the starting to work for the first time and therefore cannot benefit from the invalidity pension, shall be put on invalidity pension, provided that they are insurance holders for a minimum of fifteen years and that minimum 3960 days of invalidity, old - age and survivors insurance premiums are notified.

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(1) *With Article 16 of Law Number 5754 of 17/4/2008, the term "not exceeding the age of 65" is added after the term "age limits" present in this paragraph and is applied to the text.*

Based on the examination of reports and the medical documents the report is based on, prepared duly by the providers of healthcare services authorized by the Institution, the insurance holders whose rate of loss in working power is found by the Institution Health Committee to be;

a) between 50% and 59%, shall have the right to receive old - age pension, without seeking the condition in item (a) of paragraph two, provided that they are insurance holders for a minimum of 16 years and have notified 4320 days,

b) between 40% and 49%, shall have the right to receive old - age pension, without seeking the condition in item (a) of paragraph two, provided that they are insurance holders for a minimum of 18 years and have notified 4680 days,

of invalidity, old - age and survivors insurance premiums. These may be held subject to control examination pursuant to the provisions of Article 94.

The age limit stipulated in paragraph two shall be applied as 55 for the insurance holders who continuously or in rotations at underground works of mining workplaces determined by the Ministry.

Insurance holders, who have passed the age of 55 and are determined to suffer from premature aging, shall benefit from old - age pension, provided that they fulfil conditions other than age.<sup>(1)</sup>

**(Appended paragraph: 17/4/2008 - 5754/16th Art.)** One fourth of the paid premium days after the enactment of this Law of the ones, among the female insurance holders who request to be put on retirement or old - age pension, who have disabled child to the extent of being in need of permanent care of another person, shall be added to the sum of number of premium payment days and these added periods shall be subtracted from the retirement age limits.

**(Amended eighth paragraph: 17/4/2008 - 5754/16th Art.)** In order to benefit from the old - age pensions mentioned in the above paragraphs, it is obligatory to terminate the connection of the insurance holders indicated in item (a) of paragraph one of Article 4 after quitting the work he/she was working at, of the insurance holders indicated in item (b) after submitting a written request following declaring whether to end the activity subject to insurance, and of insurance holders indicated in item (c) of first paragraph of Article 4 after taking approval from the competent authority to transfer to retirement upon their requests. In order to put the insurance holders stated in item (b) of paragraph one of Article 4 on old - age pension, it is also obligatory that they should not have premiums or any kind debts related with premiums due to his/her own insurance status, including the universal health insurance premium, as of the date of written request.<sup>(1)</sup>

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

#### **Calculation of old - age pension**

**ARTICLE 29 - (Amended: 17/4/2008 - 5754/17th Art.)**

The old - age pensions of the insurance holders under items (a) and (b) of paragraph one of Article 4 and the individuals who start to work as insurance holders for the first time after the enactment of this Law pursuant to item (c) of the same paragraph shall equal to the amount to be found by the average monthly earning to be determined in accordance with the following provisions multiplied with the replacement rate.

Average monthly earning is thirty times the average daily earning, calculated by the sum of insurance holder's earnings subject to premium, found by updating with the update coefficient realized every year, for the years passed from the year of the earning up to the date of requesting pension, divided by the total paid premium days excluding the nominal service period and actual service period increment.

Replacement rate shall be applied as 2% for each 360 days of total paid premium days of the insurance holder, passed subject to invalidity, old - age and survivors insurances. Periods less than 360 days shall be considered proportionally in this calculation. However, the replacement rate shall not be over 90%.

The replacement rate to be calculated for the insurance holders who are granted with the right of being put on pension pursuant to fourth and fifth paragraphs of Article 28 shall be the rate determined as per third paragraph, but not over 50%, according to the days calculated by the figure found by multiplying the 9000 paid premium days multiplied by the working power loss rate for individuals having paid premiums less than 9000 days, divided by 60%. For individuals having paid premium days over 9000, replacement rate shall be determined based on total number of paid premium days. However, the 9000 premium days in this paragraph shall be applied as 7200 premium days, and the 50% rate shall be applied as 40% for the insurance holders under item (a) of paragraph one of Article 4.

Where the starting date of the pension calculated in the abovementioned manner hits the first six months period of the year, the pension of the insurance holder at the beginning of pension is calculated by increasing the increment rate applied to the incomes and pensions for January in accordance with paragraph two of Article 55 and where it hits the second six months period of the year, the pension of the insurance holder at the beginning of pension is calculated by increasing the increment rate applied to the incomes and pensions for July.

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(1)

*The term "50" present in paragraph seven was amended with Article 16 of Law Number 5754 of 17/4/2008 as "55" and the term "premium and every kind of debt" in paragraph nine was amended with the term "premium and every kind of debt related with premium" and is applied to the text.*

## **Starting, termination of old - age pension or payment of social security premium**

**ARTICLE 30** - The insurance holders;

a) stated in items (a) and (b) of paragraph one of Article 4, who have the right to receive old - age pension, shall be put on pension at the beginning of the month following the date of written request,

b) **(Amended: 17/4/2008 - 5754/18th Art.)** stated in item (c), who have the right to receive old - age pension, shall be put on pension at the beginning of the month following the date on which the connection with their duties are terminated based on competent authority's approval of transfer to retirement,

c) **(Amended: 17/4/2008 - 5754/18th Art.)** stated in item (c), who have quitted their duties in whatsoever way and who, after that, have not worked subject to another insurance status, and among the ones whose pension is terminated as a result of control examination, who have the right to receive old - age pension, shall be put on pension at the beginning of the month following the date of request.

The pension of the insurance holder, who is receiving temporary incapacity benefit at the starting date of the pension, shall start at the beginning of the month following the date of termination of the period for granting temporary incapacity benefit. However, if the pension is greater than the monthly amount of the temporary incapacity benefit, then the difference shall be payable starting from the date to be established in accordance with paragraph one.

**(Amended third paragraph: 17/4/2008 - 5754/18th Art.)** After the individuals, who become insurance holders for the first time after the enactment of this Law, are put on old - age pension;

a) excluding number (4) of item (b) of paragraph one of Article 4, the pensions of the individuals who start to work under this Law or under the legislation of a foreign country shall be terminated at the beginning of the period following the starting date of their work. Such individuals shall pay premiums for short and long term insurance branches and for universal health insurance, in accordance with Article 81, over their earnings subject to premium, determined as per Article 80, for the period they work under this Law. Among the individuals whose old - age pensions are terminated, who submit written request for again being put on old - age pension by quitting their works or shutting down their workplaces, or who are retired or transferred to retirement, shall be put on old - age pension starting from the payment term following the date of written request or the date of quitting duty. The new pension shall consist of the sum of amount found as of the pension starting date stated in this paragraph and the partial pension corresponding to post -retirement work, by applying the increments made to pensions following the date of termination of the former pension. Partial pension for post - retirement work shall be equal to pre - and post - retirement premium days as of date of request and to the part of the pension calculated over the earnings used in premiums of the post - retirement work as per Article 29, in proportion to the number of post - retirement paid premium days.

b) the pensions of the individuals, who start to work subject to other numbers excluding number (4) of item (b) of paragraph one of Article 4 and who submit written request for not terminating their pensions, shall continue. Such individuals shall pay a social security support premium at the rate of 15% of the pension they are receiving. However, this amount to be deducted shall not be greater than the social security support premium that can be collected from the highest old - age pension payable in January of the concerned year from the insurance holders under item (b) of paragraph one of Article 4. Premium for short term insurance branches shall not be collected from such insurance holders. The premiums of the individuals who are subject to social security support premium shall be collected by deducting from their pensions. The periods in which social security support premiums are paid or notified shall not be added to the number of premium days for invalidity, old - age and survivors insurances and single payment shall not be made in accordance with Articles 31 and 36.

**(Abrogated fourth paragraph: 17/4/2008 - 5754/18th Art.)**

**(Amended fifth paragraph: 17/4/2008 - 5754/18th Art.)** The individuals whose old - age pensions are terminated pursuant to item (a) of paragraph three because of starting to activity subject to item (b) of paragraph one of Article 4 may request that the provisions of item (b) of paragraph three are applied, and the individuals who are subject to social security support premium pursuant to the provisions of item (b) may request that the provisions of item (a) of paragraph three are applied, during the period in which their insurance status under item (b) of paragraph one of Article 4 continue.

## **Old - age single payment and revival**

**ARTICLE 31** - **(Amended: 17/4/2008 - 5754/19th Art.)**

Among the insurance holders under items (a) and (b) of paragraph one of Article 4 and the individuals who become insurance holders for the first time under item (c) pursuant to this Law, the insurance holders, who quits work or closes workplace for whatsoever reason and who does not have the right to be put on invalidity and old - age pension although the required condition of age for putting on old - age pension is fulfilled, shall receive, in single payment, after being updated with the update coefficient realized each year, for the years from the year of the premium up to the date of written request, the sum of invalidity, old - age and survivors insurance premiums of each year paid under item (b) and notified for his/her name under items (a) or (c) of paragraph one of Article 4.

Among the individuals whose services are eliminated by making single payment in accordance with this Law, in case the ones, whose invalidity, old - age and survivors insurance premiums are notified by again being subject to this Law, apply in written, these services will be revived and shall be considered in the execution of this Law, if they pay the amount found by updating with the update coefficient realized each year for the years between the date of single payment and the date of written request, by the end of the month following the date of notification of such to the concerned party.

### **Rights granted from survivors insurance and conditions to benefit**

**ARTICLE 32** - Following are the rights granted from the survivors insurance:

- a) Putting on survivors' pension.
- b) Making single payment to the survivors of the deceased.
- c) Granting marriage support to daughters receiving pension.<sup>(1)</sup>
- d) Granting funeral benefit.

**(Amended second paragraph: 17/4/2008 - 5754/20th Art.)** The survivors pension shall be payable to the right holders of the deceased insurance holder;

- a) if minimum 1800 days of invalidity, old - age and survivors premiums are notified or if, excluding any kind of debt periods, there is an insurance status of minimum 5 years and totally 900 days of invalidity, old - age and survivors premiums are paid for the insurance holders under item (a) of paragraph one of Article 4,
- b) if the individual was suffered from accident due to reasons laid down in Article 47, was receiving invalidity, duty disability or old - age pension or had the right to receive invalidity, duty disability or old - age pension but the transactions were not completed,
- c) if the invalidity, duty disability or old - age pensions were terminated due to the fact that the individual had started to work under insurance,

upon request of their right holders. However, in order to put on the right holders of individuals who are deemed to be insurance holder as per item (b) of paragraph one of Article 4 on pension, it is obligatory that the entire premium or any kind of debts related premiums, including the universal health insurance of the deceased insurance holder, should not be present or should be paid.

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(1) *The expression "spouse and children" present in this item of Article 4 of Law Number 5754 dated 17/20/2008 is amended as "daughters" and is applied to the text.*

### Calculation of the pension to be paid from survivors insurance <sup>(1)</sup>

**ARTICLE 33** - In case of death of the insurance holder, for calculating the pension to be paid to the right holders;

- a) invalidity, duty disability or old - age pension received by or right granted to the insurance holder,
- b) the pension to be determined in accordance with Articles 27 and 30, based on the date of decease of the insurance holder, whose pension is terminated due to starting to work under insurance after he/she was put on invalidity or old - age pension,
- c) if the number of paid premium days of the insurance holder who have paid invalidity, old - age or survivors insurance premiums under item (a) of second paragraph of Article 32 is under 9000, then the pension calculated over 9000 days as per the provisions of Article 29, and if this figure is equal to or greater than 9000 days, then the pension calculated over the total number of paid premium days,

shall be taken as basis. **(Appended sentence: 17/4/2008 - 5754/66th Art.)** However, the 9000 premium days shall be applied as 7200 premium days for the insurance holders under item (a) of paragraph one of Article 4.

Separate for insurance holders under items (a), (b) and (c) of paragraph one of Article 4, and Article 5; in case of decease of the insurance holders, the amounts to be calculated without applying the increments in that year as of the January of the year in which the pensions paid each year from survivors insurance on file basis shall not be less than the lowest old - age pension, paid from the old - age insurance separately for the said insurance holders at the final payment month of the previous year. If the insurance holder was granted with the right to be put on pension deeming to be disabled in need of permanent care of another person, then this shall not be considered in applying items (a) and (b) of paragraph one.

### Dividing survivors pension between right holders

**ARTICLE 34** - Of the pension to be calculated for the deceased insurance holder in accordance with Article 33;

- a) **(Amended: 17/4/2008 - 5754/21st Art.)** 50% shall be payable to the widow spouse; and 75% to the childless widow spouse, who is put on pension, in case such individual is not put on income or pension due to not working under this Law, excluding items (a), (b) and (e) of paragraph one of Article 5, or under legislation of a foreign country or due to her own insurance status,
- b) **(Amended: 17/4/2008 - 5754/21st Art.)** Among the children, who are not put on income or pension due to not working under this Law, excluding items (a), (b) and (e) of paragraph one of Article 5, or under legislation of a foreign country or due to their own insurance status;
  - 1) the ones who have completed the age of 18, the age of 20 in case receiving education in high school or equivalent, or the age of 25 in case receiving higher education; or
  - 2) the ones who are found to be disabled by losing minimum 60% of working power based on Institution Health Committee decision; or
  - 3) the daughters, whatever the ages are, not married, divorced or widow, shall receive 25% each.
- c) 50% to each of the children stated in item (b), who are left both motherless and fatherless or suffer such status at a later date due to death of insurance holder, whose mothers and fathers or whose do not have marriage connection in between or whose fathers and mothers have marriage connection in between at the time of decease but mother or father is married later on and the ones who are the sole right holders receiving pension,
- d) **(Amended: 17/4/2008 - 5754/21st Art.)** If there are shares left over from the right owner spouse and children, 25% totally to mother and father, provided that the figure is less than the net amount of the minimum wage of the income obtained from any kind of earning and revenue and that they are not put on income and/or pension excluding the income and pension rights granted because of other children; if the mother and father is over 65 years of age, then totally 25%, under the above conditions, without considering the left over share,

shall be payable as pension.

Children adopted, recognized or lineage connection is corrected or fatherhood is ruled on, and the children of the insurance holder born after decease shall benefit from the pension under the abovementioned principles.

The total of the pensions payable to the right holders cannot exceed the amount of the pension of an insurance holder. If necessary, proportional reductions shall be applied to the pensions of the right holders in order to observe this limit.

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(1) *With Article 66 of Law Number 5754 of 17/4/2008, the term "29th" in item (b) of paragraph one of this Article was amended to "30th", the term "duty disability" was added after the term "disability" in item (a), and the amendments are applied to the text.*

### **Starting, termination and repayment of pensions of right holders**

**ARTICLE 35** - The pension to be paid to the right holders of the insurance holder from survivors insurance shall start at the beginning of the month following;

- a) the date of decease of the insurance holder,
- b) in case the right holder status is qualified after the date of decease, then the date of qualification.

Pensions payable to the right holders shall be terminated at the beginning of the payment period following the date on which the conditions stipulated in Article 34 are not present anymore.

However, the fact that the students stated in items (d) and (e) of paragraph three of Article 4 of this Law are deemed to be insurance holders shall not entail termination of the pensions.

In case the condition causing termination of pension is not present anymore, then the individual shall again be put on pension from the beginning of the month following the date of application, provided that the conditions stipulated in Article 34 are preserved. **(Abrogated final sentence: 17/4/2008 - 5754/67th Art.)**

Among the children whose pensions are terminated pursuant to this Article, the ones who are found to be disabled by losing minimum 60% of working power based on Institution Health Committee decision shall be put on pension, if they fulfil the conditions stipulated in Article 34, from the beginning of the month following the date of report used as basis in determining the invalidity status, provided that the provision of Article 94 is preserved.

The re - paid pension shall be determined by applying the increments, in accordance with paragraph two of Article 55, for the period from the date of termination up to the re - payment of the pension.

### **Single payment and revival in case of death**

**ARTICLE 36 - (Amended first paragraph: 17/4/2008 - 5754/22nd Art.)** In case the right holders of the deceased insurance holders, who are under items (a) and (b) of paragraph one of Article 4 and who became insurance holders for the first time pursuant to this Law under item (c) of paragraph one of the same Article, are not put on survivors pension, then the amount calculated as per paragraph one of Article 31, shall be payable to the right holders in single payment, considering the provisions of Article 34, provided that the date of decease is taken as basis.

The total of the payment to be made to the right holders shall not exceed the total amount payable to the insurance holder in single payment. If necessary, proportional reductions shall be applied to the shares of the right holders in order to observe this limit.

If any amount is left after single payment, then a single payment shall be made, in accordance with the provisions of this Article, to the children of the insurance holder, who are born or lineage connection are corrected or fatherhood is ruled on after the decease.

**(Amended fourth paragraph: 17/4/2008 - 5754/22nd Art.)** In the case that the number of paid premium days necessary for benefiting from the survivors insurance by adding the time periods arranged by making single payment in accordance with this Law to the qualified time periods by indebting service periods or joining with the abroad services or determining services later on, then, upon written request of the right holders, it shall be revived in accordance with paragraph two of Article 31. The abovementioned time periods shall be considered in putting pension in accordance with this Law, from the beginning of month following the payment date of any kind of debts, including the amount related with the revived period.

### **Marriage and funeral benefit**

**ARTICLE 37 - (Amended: 17/4/2008 - 5754/23rd Art.)**

Marriage benefit shall be payable in advance, for once, at the amount of two years of pension or income they receive, upon marriage and request of the daughters, whose income or pensions should be terminated due to marriage. In case a right holder who is receiving marriage benefit becomes right holder within two years following the termination date of the pension, no income or pension shall be payable until the end of two - year period and such individuals shall be deemed to be holders of universal health insurance under item (f) of paragraph one of Article 60.

In case marriage benefit is granted, pensions or incomes of other right holders shall be re - determined in accordance with Article 34, starting from the payment period following the end of the period during which marriage benefit is granted.

Funeral benefit, over a tariff to be determined by the Board of Directors of the Institution and approved by the Minister, shall be payable to the right holders of the insurance holder who deceased when receiving incapacity income due to work accident or occupational disease or permanent incapacity income, invalidity, duty disability or old - age pension or when his/her minimum 360 days of invalidity, old - age and survivors insurance premiums are notified for himself/herself. Funeral benefit shall be granted to the insurance holder's spouse, if not to children, if not to parents, if not to siblings.

Where the funeral benefit is not paid to the individuals listed in paragraph three and the funeral of the insurance holder is undertaken by real or artificial persons, expenses based on documents, not exceeding the amount stated in paragraph three, shall be payable to the real or artificial persons bearing the expenses.

In the case that funeral expense, funeral transfer expense benefit or equivalent payment excluding funeral assistance is made pursuant to the relevant legislation by their own institutions to the right holders of the deceased insurance holders under item (c) of paragraph one of Article 4, the Institution shall not pay funeral benefit.

#### **Insurance term in terms of long term insurance branches**

**ARTICLE 38 - (Amended first paragraph: 17/4/2008 - 5754/24th Art.)** The start of the insurance period that will be considered in application of invalidity, old - age and survivors insurances shall be deemed to be the date on which the insurance holder enters into the scope of the invalidity, old - age and survivors insurances for the first time, subject to abrogated Law Number 5417 of 2/6/1949 on Old - age Insurance, to abrogated Law Number 6900 of 4/2/1957 on Invalidity, Old - age and Survivors Insurances, to Social Insurances Law Number 506 of 17/7/1964, to Traders and Artisans and Other Independent Works Social Insurance Institution Law Number 1479 of 2/9/1971, to Agricultural Workers Social Insurance Institution Law Number 2925 of 17/10/1983, to Individuals Working on Own Name and Account in Agriculture Social Insurance Law Number 2926 of 17/10/1983 abrogated with the present Law, to Republic of Turkey Pension Fund Law Number 5434 of 8/6/1949, to funds under interim Article 20 of Social Insurance Law Number 506 or to this Law. The provisions of the international social security conventions are preserved.

In the execution of this Law, the insurance term of the individuals who are subject to invalidity, old - age and survivors insurances before the age of 18 shall be deemed to commence on the date these individuals are over the age of 18. Invalidity, old - age and survivors insurance premiums paid for periods before this date shall be included in the calculation of the paid premium days.

**(Amended third paragraph: 17/4/2008 - 5754/24th Art.)** Insurance term considered in putting on pension is the period between the starting date of the insurance status and the date of written request of the insurance holder for pension or, for the insurance holders who have not requested to be put on pension, the date of decease. The insurance term for the insurance holders under item (c) of paragraph one of Article 4 shall be the period between the starting date of the insurance status and the last day of the month in which the insurance holder is approved by the competent authority to be transferred to retirement from duty pursuant to Article 48 and his/her connection is terminated.

**(Appended paragraph: 17/4/2008 - 5754/24th Art.)** In the calculation of insurance term, number of paid premiums, and earning subject to premium, to be taken as basis for putting on invalidity, old - age and survivors pension or for single payment for the individuals about whom long term insurance provisions are applied due to starting to work when receiving pension for duty disability, the periods before the date of putting on to duty disability pension shall not be considered.

#### **Responsibility of third party in terms of long term insurance branches**

**ARTICLE 39 -** Half of the first advance capital value on the starting date of the pension to be granted pursuant to this Law to the insurance holder who is disabled or disabled of service due to intentional action of a third party or, in case of his/her death, to the right holders shall be revoked to the third parties causing loss to the Institution. <sup>(1)</sup>

If a invalidity, duty disability or death is caused by the actions of public servants, privates and enlisted specialists, and other individuals charged with duty by the public administrations due to their duties, excluding the ones who have finalized conviction due to such actions, the payments or pensions paid to the insurance holder or right holders shall not be revoked to the institution or concerned parties, by the Institution. <sup>(1)</sup>

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(1)

With Article 65 of Law Number 5754 dated 17/4/2008, the term "disabled" in paragraph one is amended with "disabled or disabled of duty"; and with Article 66 of the same Law, the term "duty disability" is appended following the term "disabled" in paragraph two, and these are applied to the text.

## Actual service term increment

### ARTICLE 40 - (Amended: 17/4/2008 - 5754/25th Art.)

The number of days indicated corresponding to each 360 days of the service terms passed at the following workplaces and works shall be added as actual service term increment to the numbers of paid premium days of the insurance holders working at such workplaces and works under items (a) and (c) of paragraph one of Article 4. The actual service term increment for periods less than 360 days shall be determined in proportion to the actual service term increment added for 360 days. In order to evaluate the work under actual service term increment, excluding the insurance holders indicated in rows number (13) and (14) of the table, it is obligatory for the insurance holder to actually work at the works stated together with the workplaces in this scope and to be exposed to the risks of the said works.

Concerned Works/Workplaces	Concerned Insurance Holders	Number of days to be added
1) Lead and arsenic works	1) Who work in mine works for mining ores such as galenite, serusite, anglesite where lead is produced.	60
	2) Individuals working at melting works for lead production from ash, mine foam, lead kiln soot, white lead remains and similar materials.	60
	3) Individuals working at lead alloy works made from antimony, tin, bronze and similar materials.	90
	4) Individuals working at works for removing dry dust accumulated at condensation chambers of lead melting kilns.	90
2) Glass factories and workshops	1) Individuals working at powdering, screening, mixing and drying works for primitive materials in glass production (in case automatic machines in fully closed chambers or aeration system reducing the dust at workplace down to a level not harmful to health are not found).	60
	2) Individuals working at melting works (unless they work with automatic feeding kilns.	60
	3) Individuals working at firing works.	60
	4) Individuals working at blowing works (unless they work with fully automatic machines).	60
	5) Individuals working at pressurized glass works (glass pressure works)	60
	6) Individuals working at crucible pouring works for mirror glass production (in case crucibles are not transported with mechanical tools to the mould desk).	60
	7) Individuals working at works for taking glass from the kiln.	60
	8) Individuals working at correcting works at spreading kilns.	60
	9) Individuals working at cutting works.	60
	10) Individuals working at acid engraving and polishing works.	60
	11) Individuals working at works done with air pressure sand blasting devices (in case aeration system reducing the dust at workplace to a level not to harm health is not found).	60
	12) Individuals working at works done at crucible and stone chambers.	60
3) Mercury production works industry	1) Individuals working at mercury melting kilns.	90
	2) Individuals working at works done in elementary mercury fireplaces.	90
4) Cement factories	1) Individuals working at works for crushing, crumbling, grinding, screening and mixing primitive materials.	60
	2) Individuals working at firing works at automatic kilns.	60
	3) Individuals working at works for grinding, screening clinker, putting it into bags and barrels (in case an arrangement automatically preventing the dust to spread around is applied).	60

5) Coke factories and thermal power plants	1) Individuals working at firing, kiln cleaning, generator, filling, emptying and cleaning works.	60
	2) Individuals working at chemical refining works.	60
	3) Individuals working at works for repairing and cleaning devices and pips where gas passes.	60
	4) Individuals working at coal and fireplace works at coke factories.	60
	5) Individuals working at firing, ash and coal transfer works at boiler rooms of power plants.	60
	6) Individuals working at firing, ash and coal transfer works at boiler rooms of any kind of boiler at thermal power plants.	60
6) Aluminium factories	1) Individuals working at aluminium oxide production.	60
	2) Individuals working at aluminium bronze preparation works.	60
	3) Individuals working at aluminium metal production works.	60
7) Iron and steel factories	1) Individuals working at transforming ore to iron in iron melting factories and kilns and casting rooms of pipe factories.	90
	2) Individuals working at works done at second degree kilns and converters in annexes or details of steel mills and in steel producing kilns.	90
	3) Individuals working at transportation of liquid state iron and steel with installation and tools or mechanical ways.	90
	4) Individuals working at transportation and treatment of hot or liquid state cinders.	90
	5) Individuals working at cutting and preparing semi product parts at red - hot state in works carried out in installations and tools feeding the rolling mill with red - hot or liquid state steel or iron at rolling mills (except the ones operating with cold iron) kilns and roller series.	90
8) Casting factories	1) Individuals working at casting moulds and cores and works for making ready for casting.	60
	2) Individuals working at works for preparing casting charge and readying any kind of metal melting kilns for casting.	60
	3) Individuals working at metal melting and casting works.	60
9) Acid producing factories and workshops	1) Individuals working at preparing raw materials for acid.	90
	2) Individuals working at stages of acid production.	90
	3) Individuals working at obtaining acid from flue gasses.	90
10) Underground works	Individuals working at mines (excluding mercury mines where elementary mercury is found), underground works such as sewer system and tunnel production.	180
11) Works done with radioactive and radioionizing materials	Individuals working with natural or artificial radioactive, radioionizing materials or other corpuscular emanation sources.	90
12) Under water or in pressurized air under water	1) Individuals working at works requiring to work under water in pressurized air down to a depth of 20 - 35 meters or at a pressure 2 - 3.5 kg/cm <sup>2</sup> .	60
	2) Individuals working at works requiring to work under water in pressurized air down to a depth of 35 - 40 (40 not included) meters or at a pressure 3.5 - 4 (4 not included) kg/cm <sup>2</sup> .	90
	3) Individuals working at scuba works.	90

13) Turkish Armed Forces	Officers, reserve officers, non-commissioned officers, specialist gendarme, and enlisted specialists.	90
14) Police forces, National Intelligence Organization	Police officers, assistant high ranking police officers, high ranking police officers, heads of high ranking police officers, chief police officers, police directors and police officers and National Intelligence Organization officers at higher wage and degrees including the periods in candidate, provided that permanent position is approved.	90
15) Fire department and fire extinguishing works	Individuals working at fire extinguishing works	60

The actual service term increment calculated pursuant to the provision of paragraph one of this Article shall be added to the number of paid premium days in long term insurance branches, not over eight years for insurance holders in row numbers (13) and (14) of the above table and not over five years for others. Half of such periods, not exceeding three years, shall be reduced from retirement age limits. The period limit stipulated in this paragraph shall not be applicable to the insurance holders in row number (10) of the table.

In order to be qualified for the age limit reductions indicated in the above paragraph, the insurance holders in row number (10) of the table should have worked minimum 1800 and the other insurance holders should have worked minimum 3600 days at stated workplaces and works, excluding death and invalidity cases.

The procedures and principles for the execution of this Article shall be regulated by a regulation to be issued by the Ministry upon recommendation of the Institution.

#### Periods for which service indebtedness is allowed

**ARTICLE 41** - For the insurance holders under this Law;

- a) **(Amended: 17/4/2008 - 5754/67th Art.)** unpaid birth or maternity leave terms granted pursuant to Laws and terms requested by female insurance holders under item (b) of paragraph one of Article 4, for twice, but not exceeding two - year period following the date of birth, provided that the concerned individual does not work at workplace on service contract and the child lives,
- b) terms under arms or at reserve officer schools for privates and enlisted specialists,
- c) for the individuals under item (c) of paragraph one of Article 4, terms of leave without pay pursuant to personnel legislation,
- d) terms of doctorate or specialty education, in or out of country, for doctorate education or specialty in medicine without being insurance holders,
- e) normal internship terms for individuals who fulfil their lawyer internship without being insurance holders,
- f) for the insurance holders who are arrested or placed under police custody for any offence and then acquitted from such offence, the term under arrest or police custody,
- g) terms under strike or lock - out (...) <sup>(1)</sup>,
- h) terms under voluntary assistantship for medical doctors,
- ı) for the individuals who resign from their duties due to election laws, the unemployed terms between the date of resignation and the beginning of the month following the date of election,

shall be counted from their insurance status, upon written request of themselves or of their right holders, by placing the insurance holders under debt, provided that they pay their premiums, to be calculated over 32% of the daily earning to be determined by themselves, within one month following the date of notification of the debt, and that the amount is in the range of lower and upper limits of daily earning subject to premium determined in accordance with Article 82 on the date of request.

New application condition shall be sought for the debts not paid within one month. The terms of debt of which premiums are not paid shall not be counted as service. The Institution is authorized to determine how the debt terms will be documented.

In case of getting into debt for periods before the starting date of the insurance determined in accordance with this Law, the starting date of insurance shall be taken back equal to the number of days in debt. In case an individual is qualified for putting on pension with getting into insurance debt, then the concerned individuals shall be put on pension starting from the beginning of month following the date of payment of the debt.

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(1) *With Article 67 of Law Number 5754 of 17/4/2008; the term "and for individuals who are accepted by the employer to be on unpaid leave during sector - specific or general economical crisis acceptable by the Institution, such terms not exceeding 3 months for each year" present at this location is abrogated.*

The terms under debt, in terms of long term insurance and universal health insurance, shall be evaluated as insurance term in accordance with,

- a) the relevant item of paragraph one of Article 4 at the date of getting into debt for debtors in accordance with items (a), (b), (d), (e), (f), (g) and (h) of paragraph one,
- b) the item (c) of paragraph one of Article 4 for debtors getting into debt in accordance with items (c) and (i) of paragraph one.

In the service debts belonging to periods after the effective date of this Law, number of premium days in debt shall be attributed to the relevant months. The selected earning subject to premium shall be put into proportion with the minimum earning subject to premium as of the payment date of the debt, and the said ratio shall be multiplied with the minimum earning subject to premium of the relevant month. The found amount shall be accepted as the earning subject to premium of the relevant month. However, the calculated earning subject to premium shall not exceed in any case the maximum earning subject to premium of that month.

#### **Notification <sup>(1)</sup>**

**ARTICLE 42** - The Institution shall calculate and determine the income, pension or single payments payable to the insurance holder or right holders, within maximum three months following the date of completion of necessary documents and examinations, and shall notify the results in written. **(Abrogated final two sentences: 17/4/2008 - 5754/67th Art.)**

### **PART FIVE Provisions on Public Servants**

#### **Pensions of individuals working at Office of President, Presidency of Turkish Grand National Assembly and Office of Prime Minister**

**ARTICLE 43** - Presidents of Republic, who resign from the office for any reason, shall, upon their request, be put on old - age pension, at the rate of 40% of the monthly benefit payable to the President of Republic at the date of request, starting from the beginning of the month following the date of application.

However, President of Republic who resigns from office for any reason is qualified for old - age pension pursuant to Article 28, then old - age pension shall be calculated separately in accordance with Article 29 and the higher among these amounts shall be payable as old - age pension. The entire pension payable in accordance with paragraph one in case the President of Republic is qualified for pension pursuant to Article 28, or the difference in between if the President of Republic is qualified for pension pursuant to Article 28 and the pension calculated pursuant to Article 29 is lower than the pension under paragraph one, shall be collected from the Treasury.

Presidents of Turkish Grand National Assembly or Prime Ministers who resign from the office for any reason, shall, upon their request, be put on old - age pension at 75% of the pension payable to the President of Republic, based on 40% of the monthly benefit paid to the President of Republic at the date of request.

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(1) *The title of this part was "Notification and objection"; however it is amended by Article 65 of Law Number 5754 of 17/4/2008 as applied in the text.*

However, President of Turkish Grand National Assembly or Prime Minister who resigns from office for any reason is qualified for old - age pension pursuant to Article 28, then old - age pension shall be calculated separately in accordance with Article 29 and the higher among these amounts shall be payable as old - age pension. The entire pension payable in accordance with paragraph three in case the individual is qualified for pension pursuant to Article 28, or the difference in between if the individual is qualified for pension pursuant to Article 28 and the pension calculated pursuant to Article 29 is lower than the pension under paragraph three, shall be collected from the Treasury.

The right holders of President of Republic, President of Turkish Grand National Assembly or Prime Minister who are deceased while in or after resigning from office shall receive the pension calculated in accordance with this Article shall be payable as survivors pension pursuant to the provisions of Article 34.

Incomes and pensions payable under this Article shall be increased pursuant to the provisions of paragraph two of Article 55.

#### **Cases where certain public servants are put on old - age pension**

**ARTICLE 44** - The following provisions shall be applied on putting certain public servants, who are deemed to be insurance holders under item (c) of paragraph one of Article 4 of this Law, on pension in executing the provisions of this Law:

a) In case the number of paid premium days is 5400, the individuals who retire due to age limit pursuant to Article 40 of Turkish Republic Pension Fund Law Number 5434,

b) In case the number of paid premiums is 9000, the individuals who are transferred to retirement due to lack of position pursuant to special laws, without seeking age condition,

shall be put on old - age pension.

Among the insurance holders under item (b) of paragraph one of Article 4, military officers, non-commissioned officers, military servants, specialized gendarme and professional enlisted specialists shall be put on old - age pension, by their institutions acting sua sponte, based on their professional records due to judgment on morality or insufficiency or to disciplinary issues, or on judgments of military courts, and other individuals who are transferred to retirement by their institutions based on their professional records pursuant to regulation because of morality or insufficiency shall be put on pension, provided that the limits for age and number of paid premium days stated in paragraphs two and three of Article 28 are fulfilled.

The old - age pensions applied pursuant to items (a) and (b) of paragraph one shall be collected from the public administrations employing such individuals until the limits for age and number of paid premium days stated in paragraphs two and three of Article 28 are fulfilled.

#### **Insurance statuses and premiums of individuals suspended of office, arrested or removed from duty due to Laws**

**ARTICLE 45** - Among the insurance holders, who are suspended of office, arrested or put under police custody for any offence whether related with the duty or not, from the ones under item (c) of paragraph one of Article 4 of this Law, the individuals who are qualified to partial pension due to laws shall be subject to premium over the half of their earnings and the ones who are qualified to full pension by returning to office after such periods due to laws shall be subject to premium over the full earnings subject to premium. **(Appended sentence: 17/4/2008 - 5754/66th Art.)** The number of paid premium days of the ones who are charged with premiums over the half of the earnings subject to premium shall be calculated half of such periods.

The premiums of the individuals who are removed from office and then returned to office due to court judgment shall be calculated based on the earning subject to premium of his/her own or equivalent staff position for the period between the dates of removal from and returning to office. Default penalties and default increments of insurance holder and employer shares of the premiums of such individuals shall be payable by their institutions and these periods shall be counted from the insurance term.

Additional notification shall be prepared and submitted to the Institution for the individuals whose insurance status changes due to paragraph one and two, and in such a case, provisions of Article 102 shall not be applicable.

The condition of paying 30 days premium stipulated in Article 67 of this Law shall not be sought for unpaid leave periods of the insurance holders who start to office after the end of their unpaid leave periods they used pursuant to relevant laws and who are on unpaid leave for a period of one year or less with the periods granted for starting to office, among the insurance holders under item (c) of paragraph one of Article 4 of this Law. <sup>(1)</sup>

## **Earnings subject to premium and upper limit of earnings subject to premium of certain public servants**

### **ARTICLE 46 - (Amended: 17/4/2008 - 5754/26th Art.)**

The premium of the difference between the school allowances of cadets attending to military academies, faculties and high schools on account of armed forces and candidates who are receiving education in non-commissioned officer high schools and basic military training to be commissioned as non-commissioned officers and the earnings subject to premium of the lieutenant or non-commissioned officer of the fourth rank receiving the lowest pension depending on relevance, and the premium of the difference between the school allowances of students attending to police academies, faculties and high schools on account of General Directorate of Police and the earnings subject to premium of the assistant ranking police officers or police officers shall be payable by the Institution on behalf of students.

Successful education periods of individuals who are commissioned as officers or non-commissioned officers after attending to faculties or high schools on their own accounts or who are commissioned as officers following their service as reserve officer and who are assigned as assistant ranking police officers or officers after attending to faculties and high schools on their own accounts shall be included in service term, over the earnings subject to premium of the lieutenant or non-commissioned officer of the fourth rank receiving the lowest pension depending on relevance or of the assistant ranking police officers or police officers on the date of getting into service debt, provided that they are placed under debt and have paid the premiums of such periods. Debt to be calculated in this manner shall be payable in equal instalments in two years following the date of notification.

For students, who were attending to faculties or high schools on their own accounts but continue to attend on account of Turkish Armed Forces or General Directorate of Police, provisions of paragraph two shall be applicable on the normal school periods during which they attended previously on their own accounts.

Among the insurance holders under item (c) of paragraph one of Article 4, who are placed under arms with a rank for drill or manoeuvre, for the ones whose earnings subject to premium of their ranks are higher than the earning subject to premium of their duties, the difference of earnings subject to premium shall be deducted from the institution in which they are charged with duty, and for the ones who are placed under arms for mobility or war, whose earning subject to premium of their duties are higher than earnings subject to premium of their ranks, the difference of earnings subject to premium shall be deducted from the institution which pay the earnings subject to premium of their ranks, and these shall be payable to the Institution.

Upper limit stipulated in Article 82 shall not be sought in determining the earnings subject to premium of insurance holders under item (c) of paragraph one of Article 4. In the calculation of earnings subject to premium of the insurance holders under item (c) of paragraph one of Article 4, who are charged with temporary or permanent abroad duties, where they are not considered on unpaid leave and their connection with the personnel law they are subject to continues, for the individuals sent on temporary mission, the earning subject to premium of staff position they occupy shall be taken as basis, whereas for the individuals assigned to abroad staff positions, the higher of earnings subject to premium of the staff position they are assigned to and the domestic staff position before assignment shall be taken as basis. Upon comment of the concerned public administration, the Institution and the Ministry of Finance are jointly authorized to determine the elements and amounts of the payments which are not determined depending on the said staff position pursuant to the relevant legislation among the payment elements to be considered in calculating the earning subject to premium of the abroad staff positions of the individuals assigned to permanent duties, provided that these are limited with the payment elements benefited by the personnel of the institution where the individual's staff position belongs to and that the payments for earnings subject to premium of the same or equivalent staff positions are considered.

(1)

*With Article 65 of Law Number 5754 dated 17/4/2008, the term "in periods granted to start to office" present in this paragraph is amended as "on unpaid leave for a period of one year or less with the periods granted for starting to office" and the amendment is applied to the text.*

### **Duty disability<sup>(1)</sup>**

### **ARTICLE 47 - (Amended: 17/4/2008 - 5754/27th Art.)**

Provisions on duty disability shall be applied under the following cases to individuals who become insurance holders under item (c) of paragraph one of Article 4 for the first time after the effective date of this Law. If the disability stated in Article 25 is caused during the insurance holders' carrying out their duties or carrying out other duties of any public administration to which they are charged with duty by their won administrations out of their duties, or while carrying out a work for defending

the interests of their institutions, or by an accident occurred during going to or coming from work or occurred at the workplace, then such disability shall be called as duty disability and such individuals as disabled of duty.

If duty disability is caused by;

- a) abusing stupefacient substances, spirits or any kind of substances,
- b) acting in violation of Law, regulation and orders,
- c) committing prohibited actions,
- d) committing suicide,
- e) with the purpose of driving benefits or harming to oneself or others, in whatsoever manner,

then the provisions of duty disability shall not be applicable for such individuals.

Public administrations are obliged to communicate the incident causing duty disability, immediately to the authorized police forces or to competent authorities of that location depending on their legislation and within maximum fifteen days to the Institution. Communication to the Institution may be made by the insurance holders or their right holders within the same period of time. Excluding the case where the public administrations communicate the incident causing duty disability to the competent authorities, notification of the concerned parties shall not relieve the public administrations from their responsibility of notifying.

The period of notifying the Institution shall start from;

- a) the date on which the incident causing duty disability occurs,
- b) for individuals about whom provisions of duty disability will be applied due to causes and qualities of their sickness, the date of prepared final report stating that the treatment of their sickness is impossible,
- c) in cases of captivity and disappearance, the date these cases end.

Duty disability pensions of which notification is submitted in due time shall be payable starting from the beginning of the month following the termination date of duty due to death or disability of the insurance holder.

The insurance holders who do not make notification within due time for duty disability shall be put on duty disability pension or their pensions will be corrected considering the time limit provisions of this Law, upon delayed notification of public administrations or insurance holders or their right holders, provided that duty disability is documented and that they are qualified. In such a case, the total amount up to the date of notification of disability duty of the pensions or differences of such payable to the insurance holder or right holders shall be collected by the Institution from the concerned public administration.

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(1) *The title of this Article was "Duty disability, war disability and disability increment payable to the war disabled and permanent incapacity amount payable to the duty disabled"; however, with Article 27 of Law Number 5754 dated 17/4/2008 it is amended as applied to the text.*

The pension for duty disability shall be payable to duty disabled whose total number of paid premium days to be found by adding the nominal service terms;

- a) are up to 10800 days, shall be calculated over 10800 days,
- b) over 10800 days, shall be calculated over the total number of paid premiums, considering the final earning subject to premium, and also making increments at the pensions to be calculated pursuant to Article 29 at the following rates based on their degree of disability:

Degree of disability

Increment rate

1	% 30
2	% 23
3	% 15
4	% 7
5	% 3
6	% 2

Among officers, non-commissioned officers, specialist gendarme, professional enlisted specialists and insurance holders under item (c) of paragraph one of Article 4 charged with duty by Turkish Armed Forces, the ones who are duty disabled;

- a) under actual fire at war,
- b) at war, during war operations and services at war zones, due to causes and effects of such operations and services,
- c) at war or at war preparation stage due to the effect of any kind of enemy weapons,
- d) during domestic discipline or border actions which require military operations, due to causes and effects of such actions,
- e) at peace or extraordinary cases, for aviators flying on order or mission and the ones found on aircraft charged with duty on order, whatsoever their professions or classes are, due to air - or land - borne causes, and for divers diving on order or mission and the ones found on submarine or diving detachment charged with duty on order, whatsoever their professions and classes are, due to various causes and effects of submarinership or diving,
- f) in cases where Turkish Armed Forces are required to be sent to foreign countries pursuant to Article 92 of the Constitution or to international conventions to which Turkey is a part, starting from the departure of the units from their present locations, in or out of country or during return to the country,

shall be called as disabled veterans.

For the professional enlisted specials, three higher degree's from their present degree; for specialist gendarme, same degree of one higher rank's; for non-commissioned officers up to the rank of lieutenant colonel (lieutenant colonel excluded), same level of one higher rank's; for lieutenant colonels, the colonel's; for colonels, senior colonel's; for senior colonels and generals and admirals, one higher rank's; and for insurance holders under item (c) of paragraph one of Article 4 of this Law, one higher degree's earning subject to premium shall be payable.

For disabled veterans who do not have a higher degree, earnings subject to premium of the indicator of three levels higher and for who do not have three levels higher, and earnings subject to premium of the final level of that degree shall be taken as basis.

Based on the degree of disability of the disabled veterans, the amount to be found by multiplying the following indicators with the public servant pension coefficient shall be added separately as "Disabled veteran increment".

<u>Degree of disability</u>	<u>Indicators</u>
1	1100
2	950
3	800
4	600
5	500
6	400

Disabled veteran increments shall be applied 25% higher, upon positive opinion of Chief of General Staff and approval of the Ministry of National Defence, to the Turkish Armed Forces personnel and civilian officers charged with duty by Turkish Armed Forces, who are determined duly by their appropriate superiors that they are disabled while personally ensuring that an operation concludes successfully and showing a model courage and self - sacrifice.

Survivors pension, including disabled veteran increment if they are qualified to, shall be payable to the right holders of the deceased, who was taking or should have taken duty disability pension pursuant to this Article.

Advance capital value total to be determined by the Institution for disabled veteran increment payable to the disabled veterans shall be deposited by the Ministry of National Defence or Ministry of Interior Affairs, within maximum one month, to the accounts to be indicated by the Institution. Provisions of Article 89 shall be applicable for the amounts not deposited in due time.

Among the ones put on duty disability pension;

- a) provided that the provision of item (c) of Article 5 is preserved, the pensions of the ones who start to work under item (c) of paragraph one of Article 4 of this Law, excluding the disabled veteran increment of who are put on duty disability pension, shall be terminated at the payment day following the starting date of work and long term insurance branches shall be applicable for such individuals. Such individuals shall pay premiums for short and long term insurance branches and for universal health

insurance, in accordance with Article 81, over their earnings subject to premium, determined as per Article 80, for the period they work. If these and, among the ones to whom long term insurance branches are applied upon their request due to their working under item (a) of paragraph one of Article 4, the ones who submit written request for again being put on pension or the ones who are resigned or whose duty is terminated for any reason are qualified for pension in return to their later works, then pension shall be calculated for this period in accordance with Article 29. Single payment shall be made to the individuals who are not qualified for old - age pension due to their later works and survivors' pension or single payment is made to the right holders in case of decease of insurance holder.

b) in case the degree of disability changes during their working under item (c) of paragraph one of Article 4, the pension shall be re - calculated considering the new disability degree, over the last earning subject to premium, but not being less than the first duty disability pension.

c) provision of item (b) of paragraph three of Article 30 shall be applicable to the individuals who start to work subject to other numbers excluding number 4 of item (b) of paragraph one of Article 4.

A pension to be determined as per this Article shall be payable to the right holders of the deceased insurance holder due to causes based on duty disability, pursuant to the provisions of Articles 34 and 35. In addition, right owners shall receive funeral and marriage benefit in accordance with the provisions of Article 37.

Duty disability or disabled veteran pensions payable pursuant to this Article shall not be less than disabled veteran or duty disability pension payable to the equivalent participant pursuant to the provisions of Law Number 5434, including the Articles abrogated with this Law.

Among the insurance holders under item (c) of paragraph one of Article 4, who are charged with duty by Republic of Turkey in international operations for preserving and supporting peace shall receive a separate disabled veteran increment during their such duties or as long as duty disability pension is paid due to their such duties.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

#### **Approvals for transferring public servants to retirement**

**ARTICLE 48 - (Amended first paragraph: 17/4/2008 - 5754/28th Art.)** Old - age, disability or duty disability transactions for insurance holders under item (c) of paragraph one of Article 4 shall reach maturity with the approval of;

a) the authority duly competent to assign to the position of the insurance holder in cases of sua sponte transfer to retirement,

b) highest superior of the public administration in cases of request or age limit, disability or duty disability,

c) President of Assembly for members of Turkish Grand National Assembly, municipality council for mayors, office of governor of province for permanent commission members of provinces, highest superior in the last worked public administration for individuals whose connection with the public administration is terminated but their insurance right continues due to a law,

d) highest superior of the institution carrying out the assignment in cases of request, disability and age limits of members to board of directors of institutions,

e) Office of Prime Minister in cases of request, disability and age limits of President of Council of State, Presidency of Turkish Grand National Assembly for the same cases of Court of Auditors,

Excluding the provisions of special laws, the approval of the competent authority for transfer to retirement shall not be later than one month following the date of request. Termination of connection of the individuals assigned on resolution of Council of Ministers or on joint decree shall reach maturity with the approval of the concerned minister.

No approval is sought for transferring to retirement the individuals who are retired when working at organizations in which the share of public in capital is reduced under 50% due to privatization and of which sales or transfer is completed. For the individuals who desire to be retired as per item (b) of paragraph one, their connection is deemed to be terminated after one month following the date of request in any case.

#### **Nominal service terms and nominal service term premium**

**ARTICLE 49 - (Amended: 17/4/2008 - 5754/29th Art.)**

Nominal service term is the term which is considered in calculation of pensions or single payments payable pursuant to this Law but not considered in necessary paid premium days, age and retirement bonus calculations in terms of being qualified for rights granted with this Law. Excluding the increments in the following duties, for each year of the actual service term of the insurance holders;

a) Actual service terms of officers (including reserve officers), non-commissioned officers, specialist gendarme and professional enlisted specialists including;

1) who have participated in general or partial mobility causing war, the captivity term from the declaration of war up to the end date of mobility,

2) who are charged with duty in units which actually partake in domestic discipline actions requiring mobility, the captivity term from the start of combat up to the end date of mobility,

3) in case, without any war or mobility declaration, a combat occurs, who are under duty in Turkish Armed Forces sent to foreign countries pursuant to Article 92 of the Constitution or to international conventions to which Turkey is a party, captivity term during combat or for individuals who return before combat ends, up to date of return to Turkey,

b) actual service terms of civilian officer, private or enlisted specialists who partake in actions under numbers (1), (2) and (3) of item (a) of this paragraph among the insurance holders as per Article 4, and captivity terms continuing after such dates,

c) actual service terms of the insurance holders who are captivated by enemy in war or interned by enemy and whose connection with their institutions are not terminated by paying their pensions excluding personnel on contract,

six months of nominal service term shall be added. Nominal service terms to be added for such reasons shall not exceed three years.

Three months of nominal service term shall be added for each year of actual service term of pilots or non - pilot aviators, submariners, divers, scuba or parachuters in public administrations passed in such duty. Nominal service term increments shall be added separately for these who are indicated at numbers (1) and (2) of item (a) of paragraph one of this Article.

At the end of each year, for each thirty day of nominal service term added to the actual service term of the insurance holder pursuant to the provisions of items (a), (b) and (c) of paragraph one and paragraph two of this Article, a nominal service premium equal to the amount of insurance holder and employer premiums of invalidity, old - age and survivors insurance paid on behalf of insurance holder at the final month of the year is collected separately from the employer. Provisions of Article 89 shall be applicable for the amounts not deposited in due time.

## **PART SIX** **Provisions on Optional Insurance**

### **Optional insurance and conditions for it**

**ARTICLE 50** - Optional insurance is the insurance which allow individuals to be subject to long term insurance branches and universal health insurance by paying optional premiums.

**(Amended second paragraph: 17/4/2008 - 5754/30th Art.)** In order to be optional insurance holder, for residents in Turkey and Turkish citizens who, while residing in Turkey, are at foreign countries with which social security convention is not signed, the conditions of;

a) not working in a manner to require being subject to compulsory insurance in this Law or working as an insurance holder but less than 30 days a month or not working full time,

b) not being put on pension due to one's own insurance,

c) being over the age of 18,

d) applying to the Institution with a optional insurance request petition,

are sought.

### **Start and end of optional insurance**

**ARTICLE 51 - (Amended first paragraph: 17/4/2008 - 5754/31st Art.)** Optional insurance shall start from the date on which the application is received in the records of the Institution.

Who are determined to work requiring insurance holder as per Article 4 at dates on which premium is paid as an optional insurance holder, the paid optional insurance premium periods overlapping the compulsory insurance shall be cancelled and the premiums paid for such periods shall be returned to the concerned parties.

**(Appended paragraph: 17/4/2008 - 5754/31st Art.)** In case the insurance holders, who work less than 30 days a month or whose number of premium payment days in accordance with Article 80 are calculated by total working hours in a month divided by daily normal working hours laid down in Law Number 4857, pay optional premium insurance in the same month, then paid premium periods are added to the paid premium days of compulsory insurance not to exceed thirty days and these added periods shall be deemed to be insurance term under item (b) of paragraph one of Article 4.

Optional insurance shall end, following:

- a) the date following the last day of paid premium, for the individuals who request to end optional insurance,
- b) the date of request for individuals who request pension, provided that they are qualified for pension,
- c) the date of decease of the deceased insurance holder.

Periods in which optional insurance premiums are paid shall be considered in executing the provisions of invalidity, old - age and survivors insurances and universal health insurance, and such periods shall be deemed to be included in the insurance term under item (b) of paragraph one of Article 4.

### **Optional insurance premiums and their payment**

#### **ARTICLE 52 - (Amended: 17/4/2008 - 5754/32nd Art.)**

Optional insurance premium shall be 32% of the earning subject to premium determined by insurance, between the lower and upper limit of earning subject to premium determined pursuant to Article 82. 20% of this amount is invalidity, old - age and survivors' insurances premium and 12% is universal health insurance premium. For the ones in third paragraph of Article 51, invalidity, old - age and insurance premiums and universal health insurance premiums are collected over the determined daily earning and number of days, provided that the figure is in the rage of lower and upper limit of earnings subject to premium pursuant to Article 82.

Optional insurance holders, even if he/she is a dependant person, shall be deemed to be general insurance holder under item (b) of paragraph one of Article 60 and shall be obliged to pay universal health insurance premiums. Unless the residence in Turkey of citizens of foreign countries is not over one year, universal health insurance premium shall not be charged and such individuals shall not be deemed to be universal health insurance holders.

The terms of which premiums are not paid together with the default fine and default increment to be calculated as per Article 89 within 12 months following the month they belong to shall not be included in the insurance term. Premiums paid following this 12 - month period shall be refunded in accordance with provisions of paragraph three of Article 89.

In case optional insurance holders have premium debts due to compulsory insurance, then the premiums paid for optional insurance shall first be deducted from the debts towards the Institution for compulsory insurance.

## **PART SEVEN**

### **Common Provisions on Short and Long Term Insurance Branches**

#### **Joining of insurance statuses**

**ARTICLE 53 - (Amended first paragraph: 17/4/2008 - 5754/33rd Art.)** Where the insurance holder works in a manner to be subject at the same time to more than one of the insurance statuses in items (a), (b) and (c) of paragraph one of Article 4, the individual shall be deemed to be insurance holder first under item (c), and if he/she does not have any work under item (c), then the insurance status which starts first shall be taken as basis.

**(Appended paragraph: 17/4/2008 - 5754/33rd Art.)** The individuals placed under item (b) of paragraph one of Article 4, cannot be notified as insurance holders under item (a) of paragraph one of Article 4 due to the owned or partnered workplaces.

**(Appended paragraph: 17/4/2008 - 5754/33rd Art.)** In case optional insurance holders start to work subject to items (a), (b) and (c) of paragraph one Article 4, the optional insurance status shall end, provided that paragraph three of Article 51 of this Law is preserved.

Where the insurance holder's insurance statuses stated in items (a), (b) and (c) of paragraph one of Article 4 and in items (a) and (e) of Article 5 overlap, the individual shall be deemed to be insurance holder under Article 4 and provisions of paragraph one shall be applicable.

In case the insurance holder has paid premiums for the insurance status other than the insurance status under which he/she should be deemed to be insurance holder pursuant to the provisions of this Article, paid premiums shall be considered to be paid for and passed under the insurance status taken as basis as per paragraph one.

**(Amended paragraph: 17/4/2008 - 5754/33rd Art.)** In the old - age pension requests of the insurance holders who are deemed to be insurance holders for the first time under more than one of the items (a), (b) and (c) of paragraph one of Article 4 starting from the effective date of this Law, the insurance status having the longest insurance term; in case the service terms are equal and in cases of disability or death and sua sponte retirement due to age limit, of being assigned or elected to duties of which terms are stipulated in law and where the insurance status they are subject to is changed by law, then the final insurance status shall be taken as basis.

### **Joining of pensions and incomes**

**ARTICLE 54** - Where the pensions and incomes payable pursuant to this Law are joined;

a) of the long term insurance branches;

1) for the insurance holder qualified for both invalidity and old - age pensions, only the old - age pension if the pensions are equal,

2) for the insurance holder qualified for invalidity, duty disability or old - age pension and for pension due to deceased spouse, both pensions, <sup>(1)</sup>

3) for children qualified separate pensions from mother and father, all of the higher pension and half of the lower one,

4) for mother and father qualified for pension from more than one child, all of the pension from first two files allowing the highest payment and the half of the lower one,

5) **(Amended: 17/4/2008 - 5754/34th Art.)** for individuals qualified survivors pension both from spouse and from parents, the pension from spouse or parent, depending on preference,

6) **(Appended: 17/4/2008 - 5754/34th Art.)** for individuals qualified for both duty disability and invalidity pensions, who again became insurance holders when receiving duty disability pursuant to this Law, only duty disability pension if the pensions are equal, or both of the pensions for who are qualified for both duty disability and old - age pensions,

7) **(Appended: 17/4/2008 - 5754/34th Art.)** for individuals qualified also for next spouse in case the marriage is terminated due to death, the preferred pension,

shall be payable.

b) of the short term insurance branches;

1) for the spouse qualified to permanent incapacity income and to income due to deceased spouse, both incomes,

2) for individuals qualified for income separately from mother and father, all of the higher income and half of the lower one,

3) **(Amended: 17/4/2008 - 5754/34th Art.)** for mother and father qualified for income from more than one child, all of the income from first two files allowing the highest payment and the half of the lower one,

4) **(Amended: 17/4/2008 - 5754/34th Art.)** for individuals qualified survivors income both from spouse and from parents, the income from spouse or parent, depending on preference,

5) **(Appended: 17/4/2008 - 5754/34th Art.)** for individuals qualified also for next spouse in case the marriage is terminated due to death, the preferred income,

shall be payable.

c) **(Amended: 17/4/2008 - 5754/34th Art.)** If the pensions and incomes qualified for due to invalidity, old - age, survivors insurances and to incapacity and work accident and occupational disease insurance, then all of the highest of such pensions or incomes, half of the lower one, and in case of equality, all of the income from work accident and occupational disease and half of the pension from invalidity, duty disability and old - age shall be payable to the insurance holder or right holders.

Where, as a result of the evaluations to be made in accordance with the order in paragraph one, more than two incomes or pensions are joined for an individual, then income or pension shall payable over the two files which allow highest payment of such incomes and pensions, and the income and pension rights in other file or files shall be cancelled until the date of change of status or of being qualified for income or pension from a file.

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(1)

*With Article 34 of Law Number 5754 dated 17/34/2008, the expression "duty disability" is added after the term "disability" in this article and is applied to the text.*

## **Correction, increment, lower limit, payment of incomes and pensions and examination transactions<sup>(1)</sup>**

**ARTICLE 55** - In case the statuses of insurance holders or right holders who are put on income or pension pursuant to this Law changes in a manner to require correction in the amounts of income and pensions granted to them or their right holders, then the income or pension amounts shall corrected according to the new status, starting from the beginning of next payment term following the date of change.

**(Amended: 17/4/2008 - 5754/35th Art.)** Incomes and pensions payable pursuant to this Law shall be determined by increasing at the change rate in the general consumer prices index of the final base year announced by Turkish Institute of Statistics based on previous six - month period, effective from the date of January and July payment dates of each year.

**(Appended: 17/4/2008 - 5754/35th Art.)** The amount on which pensions payable pursuant to this Law and the pensions of right holders of deceased insurance holder, shall not be less than 35%, or than 40% if the insurance holder has dependant spouses or children, of the average monthly earning determined as per paragraph two of Article 29 as of January of the year of request or decease, considering lower limits of earnings subject to premium determined in accordance with Article 82 for each year in service terms. The pensions of right holders shall not be less than 80% if right holder is a single person or than 90% if right holders are two persons, of the lower limit pension calculated in accordance with this paragraph. The provisions of this paragraph shall not be applicable for the partial pensions payable pursuant to international social security conventions.

**(Appended: 17/4/2008 - 5754/35th Art.)** Separate for insurance holders under items (a), (b) and (c) of paragraph one of Article 4; the amounts to be calculated without applying the increments in that year as of the January of the year in which the pensions paid each year from invalidity insurance on file basis shall not be less than the lowest old - age pension, paid from the old - age insurance separately for the said insurance holders at the final payment month of the previous year.

**(Appended: 17/4/2008 - 5754/35th Art.)** For insurance holder who become in need of permanent care of another person due to work accident or occupational disease, the incapacity income to be calculated as per Article 19 of this Law shall not be less than 85% percent of the monthly amount of the lower limit of earning subject to premium determined in accordance with Article 82.

Incomes and pensions granted to insurance holder or his/her right holders shall be payable every month in advance. Payment periods, payment dates, payment manner and payment centres of incomes and pensions shall be determined by the Institution.

Procedures and principles regarding examination transactions to see whether income and pension receiving conditions continue or not and other procedures and principles regarding execution of this Article shall be regulated with a regulation to be issued by the Institution.

### **Cases where income and pension are not granted**

**ARTICLE 56 - (Amended first paragraph: 17/4/2008 - 5754/36th Art.)** If there are finalized court judgments about the right holders of the deceased insurance holder stating that;

a) they have intentionally murdered or attempted to murder, or rendered permanently disabled of service or disabled pursuant to this Law, the insurance holder because of whom pension will be granted or income or pension is granted,

b) they have committed a heavy crime against the insurance holder or right holder from whom pension will be granted or income or pension is granted or removed such individuals from heir status with a disposition based on death due to not fulfilling their obligations arising from domestic relations,

then income or pension shall not be payable to such individuals. Paid incomes and pensions are refunded pursuant to provisions of Article 96.

The incomes and pensions granted to spouses and children who are determined to live actually with the divorced spouse. Amounts paid to such individuals shall be refunded pursuant to the provisions of Article 96.

### **Age**

**ARTICLE 57** - In calculating the incomes to be granted to the right holders in cases of work accident and occupational disease, the dates of birth registered to the public registry on the date of first determination of the work accident or occupational disease based on medical doctor or health committee report shall be taken as basis.

In applying the provisions on age regarding invalidity, old - age and survivors insurances, the dates of birth registered in the public registry as of the date they are subject, for the first time, to invalidity, old - age or survivors insurances and to funds subject to abrogated Law Number 5417 of 2/6/1949, to abrogated Law Number 6900 of 4/2/1957, to Law Number 506 of 17/7/1964, to Law Number 1479 of 2/9/1971, to Law Number 2925 of 17/10/1983, to Law Number 2926 of 17/10/1983

abrogated with the present Law, to Law Number 5434 of 8/6/1949, to funds under interim Article 20 of Social Insurance Law Number 506 or to this Law, and the dates of birth, written for the first time in the public registry, of children of the insurance holder who are born after the first time working of the insurance holder in accordance with this Law, shall be taken as basis.

In calculating the income and pension grants and capital value from work accident, occupational disease, invalidity, old - age and survivors insurances, the age corrections after the date on which work accident or occupational disease is determined for the first time with a medical doctor report or on which the insurance holder starts to work, for the first time, subject to this Law and to laws abrogated with this Law.

Individuals whose birth months and days are not indicated in their public registrations shall be considered to be born on July 1st, and whose birth month is indicated but day is not indicated, shall be considered to be born on the first day of that month.

Retirement transactions of Turkish Armed Forces personnel due to age limits stipulated in Article 40 of Law Number 5434 on Republic of Turkey Pension Fund shall be carried out on September 1st for ones whose birth dates do not include month and day and whose birth dates are before September 1st, and on September 1st of the following year for the ones whose birth dates are on or after September 1st.

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(1) *The title of this Article was "Correction, increment, payment of incomes and pensions and examination transactions"; however it is amended by Article 35 of Law Number 5754 of 17/4/2008 as applied in the text.*

### **Social Insurance Health High Committee<sup>(1)</sup>**

**ARTICLE 58** - Social Insurance Health High Committee shall be established consisting of specialist medical doctors, whose branches will be determined by the Institution, in order to carry out the duties stipulated in this Law. The Committee shall consist of one specialist medical doctors to be charged with duty by the Ministry of National Defence, Ministry of Health, Ministry of Labour and Social Security, Higher Education Committee, confederations representing the employers, workers and public servants with the highest number of members, Turkish Union of Chambers and Stocks, Turkish Confederation of Traders and Artisans, Turkish Association of Medical Doctors, Turkish Union of Chambers of Agriculture and the Institution. The Ministry is authorized to establish more than one Committee following the same procedure.

The committee is presided by one of the members elected from among themselves. Chairman determines the member to substitute him/her in his/her absence. The Committee meets once a week and with minimum seven members and the decisions are reached with absolute majority. **(Appended sentence: 17/4/2008 - 5754/37th Art.)** In case of equality of votes the side of the chairman shall be considered as majority. Term of office of the medical doctors to be charged with duty in the committee is three years and it is possible to be nominated again at the end of three years. Memberships of the members not attending to subsequent five meetings or totally ten meetings without any excuse within a calendar year shall be terminated. Another person shall be nominated with the same procedure in place of a member whose membership is cancelled in this manner.

**(Amended third paragraph: 17/4/2008 - 5754/37th Art.)** For those who partake in Social Insurance Health High Committee, an attendance fee shall be payable, at the amount to be found indicator number of 4000 for each day of attendance to meetings multiplied by public servant pension coefficient and not exceeding eight meetings per month. All kinds of expenses regarding the works of the committee shall be borne by the Institution. If finds necessary, the committee may refer to the opinion of experts. Attendance fee shall be payable to such individuals, at the same amount and under same conditions.

The committee examines and decides on the Institution's decisions on the degree of incapacity, the degree of permanent incapacity due to work accident or occupational disease, and degree of loss in working power requiring incapacity for the insurance holders, which are subject to objection. The committee is obliged to hear a specialist medical doctor charged with duty upon request of insurance holders or right holders.

The committee, provided that they are limited with duties stipulated in this Law, expresses opinions after making necessary examinations on the court files, which are received from courts and for which a report is requested under the title of consultative authority. The courts send the consultative authority fees determined for said files to the Institution in order to be transferred to the committee members.

Secretarial works required by Social Insurance Health High Council in carrying out own tasks are provided by the Institution. Procedures and principles on duties, authorities, and works of Social Insurance Health High Council and other procedures and principles regarding the execution of this Article are regulated by a regulation to be issued by the Institution.

### **Auditing and controlling authority of the Institution**

**ARTICLE 59** - Auditing of transactions for the execution of this Law shall be carried out through the officers charged with auditing and control of the Institution. Audits and controls of the insurance transactions of military workplaces may be carried out by army work inspectors.

Incidents and transactions regarding to such incidents, which leads to claims of the Institution found by officers charged with inspection and control during their duties, may be based on any evidence excluding oath. Reports to be prepared by such individuals shall be in effect unless otherwise is proven. Employers and insurance holders, workplace owners, officers of liquidation and bankruptcy office, real and artificial persons related with work are obliged to come when called by inspection and control officers of the Institution to provide information, to bring and present necessary books, documents and evidences, to show any kind of convenience for them to carry out their duties and to fulfil their requests in this context. All public servants show necessary convenience and assists in the duties of inspection and control officers of the Institution.

The officers of the Institution charged with the duty of inspection and control are also authorized with auditing, inspection, and control laid down in Labour Law Number 4857, for the purposes of this Law.

In issuing to the employers of tender works and special building construction workplaces the termination of connection document, which shows that they do not have any premium debts to the Institution, appropriateness of the workmanship totals determined to be communicated to the Institution as a result of the examination of workplace registries by certified public accountants and chartered accountants authorized pursuant to Law Number 3568 on Public Accounting, Certified Public Accounting and Chartered Accounting dated 1/6/1989 may be taken as basis, provided that the inspection authority of the Institution is preserved.

Termination of connection document may be issued provided that the premium, default fine and default increments, to be calculated over the difference workmanship total for workplaces and employers found not to notify sufficient workmanship to the Institution based on reports prepared by certified public accountants and chartered accountants in accordance with the calculation method of which procedures and principles are determined by the Institution, together with the administrative fines to be issued pursuant to number (4) of item (d) and (e) of paragraph one of Article 102.

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(1) *With Article 37 of Law Number 5754 dated 17/4/2008; the term "Turkish Union of Chambers of Agriculture" is added after the term "Turkish Association of Medical Doctors" in paragraph one and the term "degree of duty disability" is added after the term "for insurance holders" in paragraph four and additions are applied to the text.*

The reports prepared by certified public accountants and chartered accountants who are found to damage the Institution by acting in violation of procedures and principles laid down by the Institution shall not be taken into consideration and the reports to be prepared by such in the future shall not be taken into process. Certified public accountants and chartered accountants who prepare false reports are responsible, collectively and jointly with the employer, for the damages suffered by the Institution for this reason, and the claim right of the Institution in accordance with the general provisions for such parties is preserved. Members of the profession cannot carry out examinations on the works carried out by the employers with the insurance holders of their permanent workplaces and the above works which are not registered to the Institution or which are registered by workmanship notification is not submitted.

Inspection officers of public administrations are obliged to determine, during their investigations, inspections and examinations at the workplaces pursuant to their legislation, whether the employees are insured or not, and to notify the Institution about the ones who are employed without insurance. Such institutions notify the Institution, within maximum one month, about their findings which lead to defective notification of insurance holders' earnings subject to premium or number of days pursuant to this Law, during their examinations and inspections they carry out pursuant to their legislation. The Institution shall carry out the necessary legal proceeding based on such notifications. The objection rights of the concerned parties are preserved.<sup>(1)</sup>

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

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(1) *With Article 4 of Law Number 5754 dated 17/65/2008 the expression "officers charged with the duty of inspection and control" present in this paragraph is amended as "inspection officers" and is applied to the text.*



**SECTION THREE**  
**Universal health insurance Provisions**

**PART ONE**  
**Individuals in Scope and Their Registration**

**Individuals who are deemed to be holders of universal health insurance**

**ARTICLE 60 - (Amended: 17/4/2008 - 5754/38th Art.)**

Among the individuals having residence in Turkey;

a) The individuals who are deemed to be insurance holders pursuant to;

1) items (a) and (c) of paragraph one of Article 4,

2) item (b) of paragraph one of Article 4,

b) The individuals who are deemed to be optional insurance holders,

c) of the individuals who are not deemed to be insurance holders under above items (a) and (b);

1) Citizens whose domestic income per capita is less than one thirds of the minimum wage, to be determined using the testing methods and data to be laid down by the Institution, considering their expenses, movable and immovable properties and their rights arising from such,

2) Heimatlos and refugees,

3) Individuals who receive pension pursuant to the provisions of Law Number 2022 on Putting Needy, Weak and Forlorn Turkish Citizens Over the Age of 65 on Pension dated 1/7/1976,

4) Individuals who receive honorary pension pursuant to the provisions of Law Number of 1005 of 24/2/1968 on Putting Individuals Awarded with medal for Service in the Turkish War of Independence on Honorary Pension from Military Service Planning,

5) Individuals who receive pension pursuant to Law Number 3292 of 28/5/1986 on Military Service Planning Pension,

6) Individuals who receive pension pursuant to Law Number 2330 of 3/11/1980 on Compensation in Cash and Pension,

7) Individuals who benefit free - of - charge from protection, care and rehabilitation services pursuant to Law Number 2828 of 24/5/1983 on the Institution of Social Services and Child Protection,

8) Individuals who receive disabled veteran pension and who receive pension under Law on Fighting against Terrorism,

9) Individuals who are charged with duty pursuant to paragraph two of Article 74 of Village Law Number 442 of 18/3/1924 and individuals who are receiving pension pursuant to appended Article 16 of the same Law,

10) Individuals who are receiving pension pursuant to the provisions of Law Number 2913 of 11/10/1983 on Putting Athletes Awarded with World Olympic and European Championship, and Their Families, on Pension,

d) provided that principle of reciprocity is also taken into consideration, individuals of foreign countries who have residence permit and are not insurance holders under legislation of a foreign country,

e) Individuals who benefit from unemployment benefit pursuant to Law Number 4447 of 25/8/1999 and from short work benefit pursuant to relevant laws,

f) Individuals who receive income or pension pursuant to this Law or to the social security laws preceding this Law,

g) Citizens who are out of the above items and who do not have the right to benefit from health insurance at a foreign country,

shall be deemed to be holders of universal health insurance.

First of all, for individuals listed in items (a), (b), (c), (f), (g), (h), (i) and (k) of paragraph one of Article 6, whether the universal health insurance holder has dependants or not is checked. If the universal health insurance holder is a dependant, then registration shall not be made. Otherwise, the individual shall be deemed to be universal health insurance holder pursuant to the concerned item in the provisions of paragraph one. The individuals who are deemed to be universal health insurance holders

due to the fact that they receive income pursuant to item (f) of paragraph one shall be deemed to be general insurance holders under items other than (f) if they are also universal health insurance holders pursuant to other items.

The individuals under items (d), (e) and (l) of paragraph one of Article 6, convicts and arrested individuals under sentence execution institutions and detention houses, individuals under item (d) of paragraph one but who are residing in Turkey for a period of less than one year, the individuals who do not reside in Turkey among the individuals who are under item (f) but are put on pension by getting into service debt pursuant to abrogated Law Number 2147 of 30/5/1978 and to Law Number 3201 of 8/5/1985, shall not be deemed to be universal health insurance holders or dependants of a universal health insurance holder.

In executing item (d) and (g) of paragraph one, for married individuals, which one of the spouses will be general insurance holder and which one will be dependant of general insurance holder shall be left to their preference. In case both of the spouses are universal health insurance holders pursuant to other items, then each of them shall be deemed to be universal health insurance holders separately.

Among the individuals who are deemed to be insurance holders under item (c) of paragraph one of Article 4, spouses who take unpaid leave more than one year pursuant to their relevant laws shall be deemed to be dependants of universal health insurance holder.

Family stated in number (1) of item (c) of paragraph one of this Article and in Article 80 shall consist of spouse, non married child, grandmother and grandfather living in the same house.

### **Start, notification and registration of universal health insurance**

**ARTICLE 61** - Determination and registration transactions for the start of universal health insurance shall be carried out in accordance with the following provisions. Under paragraph one of Article 60;

a) individuals under items (a) and (b) shall be deemed to be universal health insurance holder as of the date they are registered as insurance holders or optional insurance holders and shall be considered to be registered without requiring any separate notification.

b) **(Amended: 17/4/2008 - 5754/39th Art.)** among the individuals under item (c), the ones stated in number (1) shall be deemed to be universal health insurance holders as of the date of registration by the Institution and the ones listed in numbers (3), (4), (5), (6), (8), (9) and (10) shall be deemed to be universal health insurance holders as of the date they are granted with the right of pension. Individuals who are out of the abovementioned numbers shall be deemed to be universal health insurance holders as of the date they are considered as heimatlos or refugees and they start to benefit free - of - charge from protection, care and rehabilitation services, and these shall be communicated to the Institution within one month following the date they are placed in this scope. The date of request of individuals who are found, as a result of the evaluation carried out by the Institution, to be qualified for their requests as of the date of request of such individuals stated under number (1), and the date of qualification for others who become qualified later on, shall be deemed to be the date of registration in the Institution.

c) individuals listed in item (d) shall be deemed to be universal health insurance holder as of the date they complete one year residence period in Turkey and they shall be registered with a universal health insurance entrance notification to be submitted within month from this date.

d) **(Amended: 17/4/2008 - 5754/39th Art.)** individuals indicated in item (e) shall be deemed to be universal health insurance holders as of the date they start to benefit from unemployment or short work benefit, and Turkish Labour Institution shall notify the Institution within one month following the starting date of unemployment benefit.

e) individuals under item (f) shall be deemed to be universal health insurance holders as of the date on which they benefit from income or pension, and these shall be deemed to be registered without requiring any other notification.

f) **(Amended: 17/4/2008 - 5754/39th Art.)** individuals under item (g) shall be deemed to be universal health insurance holders as of the date they are not universal health insurance holders under other items and these shall be registered with a universal health insurance entrance notification to be submitted within one month following this date. However, the individuals, who are deemed to be universal health insurance holders under item (a) of paragraph one of Article 60, shall be deemed to be universal health insurance holders under this item, 10 days after the termination date of their compulsory insurance.

**(Amended second paragraph: 17/4/2008 - 5754/39th Art.)** Children, mothers or fathers of universal health insurance holders pursuant to Article 60 shall benefit from healthcare services and other rights, as universal health insurance holder or dependant of universal health insurance holder, until they are over the age of 18, independent of their registration and without requiring a separate transaction. Where a child under the age of 18 does not have both parents, then such individual shall be deemed to be universal health insurance holder, until completing the age of 18, provided that the premiums are payable by the State under number (7) of item (c) of paragraph one of Article 60.

**(Amended third paragraph: 17/4/2008 - 5754/39th Art.)** Among the individuals who are universal health insurance holders pursuant to Article 60 but whose statuses are changed, the ones who are under the scope of number (1) of item (c) of paragraph one of the same Article or under item (g) are obliged to apply to the Institution, within maximum one month following the date of change in their statuses. In case such individuals are found not be under number (1) of item (c) of paragraph one of Article

60, they shall be deemed to be universal health insurance holders under item (g) starting from the date of change in their statuses.

The universal health insurance shall be terminated on the date when the place of residence is not Turkey or when the individual is out of the scope of universal health insurance pursuant to paragraph three of Article 60.

Administrative fine shall be applicable as per item (a) of paragraph one of Article 102 for individuals who do not submit the universal health insurance entrance notification stated in this Article.

Procedures and principles regarding the execution of this Article and the format and content of the universal health insurance entrance notification shall be regulated by the regulations to be issued by the Institution.

#### **Health - care services and other rights and benefiting from such**

**ARTICLE 62** - Benefiting from the health - care services and other rights of universal health insurance pursuant to Law is a right for the universal health insurance holder and dependant of universal health insurance holder, and financing such services and rights is an obligation for the Institution.

Universal health insurance holder and dependants of health insurance holder shall benefit from health - care services and other rights.

No relation may be established between the health - care services and other rights to be provided to individuals under the scope of this Law and the amount of premium charged to such individuals.

### **PART TWO**

#### **Provided Health - Care Services and Other Rights**

#### **Financed health - care services and its term**

**ARTICLE 63** - Following are the health - care services to be financed by the Institution in order to ensure that the health of universal health insurance holder and his/her dependants are maintained, that they regain their health in case of sickness, that the health - care services found necessary in medical terms as a result of work accident and occupational disease, sickness and maternity, and that the incapacity status is eliminated or reduced:

- a) Protective health - care services for individuals without considering whether they are sick or not and for preventing abusing substances harmful to human health.
- b) In case the individuals are sick, inpatient or outpatient examination by a medical doctor, clinical examination required for the diagnosis upon request of medical doctor, laboratory examinations and analyses and other diagnostic methods, medical operations and treatments to be applied based on the diagnosis, patient follow - up and rehabilitation services, health - care services for organ, tissue and stem cell transfer and treatment, emergency health - care services, medical care and treatments to be applied by health professionals pursuant to relevant laws based on the decision of medical doctors.
- c) Due to maternity, inpatient or outpatient examinations of medical doctor, clinical examination required for the diagnosis upon request of medical doctor, laboratory examinations and analyses and other diagnostic methods, medical operations and treatments to be applied based on the diagnosis, patient follow - up, uterus discharge, medical sterilization and emergency health - care services, medical care and treatments to be applied by health professionals pursuant to relevant laws based on the decision of medical doctors.
- d) **(Amended: 17/4/2008 - 5754/40th Art.)** In case the individuals get sick, inpatient and outpatient oral and dental examination, clinical examination required for the diagnosis of mouth and teeth diseases upon request of dentist, laboratory examinations and analyses and other diagnostic methods, medical operations and treatments to be applied based on the diagnosis, tooth extraction, conservative tooth treatment and channel treatment, patient follow - up, denture applications, emergency health - care services for oral and dental diseases, orthodontic dental treatment of individuals under age of 18 up to the amount to be determined pursuant to Article 72.
- e) If the universal health insurance holder, who is married but does not have children, is female then herself, or if male, his wife;
  - 1) If, following medical treatments, it is found possible by the health committees of health - care service providers authorized by the Institution that they cannot have children via normal medical methods but may have children via auxiliary reproduction methods,
  - 2) provided that the individual is over 23 and under 39,
  - 3) provided that no result is obtained from other treatment methods within three years is documented by health committees of health - care services authorized by the Institution,

4) Provided that the medical centre where the operation is made is in contract with the Institution,

5) Provided that the individual is a universal health insurance holder or dependant since minimum five years and that 900 days of universal health insurance premiums are paid,

provided that all of the above conditions are fulfilled collectively, then, limited with maximum two trials, auxiliary reproduction method treatments and, in case treatment of a disease is not possible with another medical method and the treatment is found medically compulsory by the health committees of health - care service providers authorized by the Institution, auxiliary reproduction method treatments.

f) Providing, putting on, maintenance at the end of guarantee period, repair and replacement services for blood and blood products, bone marrow, vaccine, medication, orthosis, prosthesis, medical equipment and tools, medical devices for personal use, medical consumables, medical consumables having treating capacity, which may be required for diagnosis or treatments related with the abovementioned health - care services to be provided as per above items.

**(Amended second paragraph: 17/4/2008 - 5754/40th Art.)** The Institution is authorized to determine, after asking the opinion of Ministry of Health, the types, amounts and using periods, payment terms and principles of the health - care services stated under item (f) and diagnosis and treatment methods of health - care services to be financed. The Institution may establish commissions and cooperate with national and international artificial personalities for this purpose. Working procedures and principles of commissions shall be determined by the Institution, asking the opinions of Ministry of Finance and Ministry of Health.

In case the individual loses the condition in Article 60 for being universal health insurance holder, the health - care services to be provided due to ongoing treatment shall continue until the said individual recovers.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution, upon comment of Ministry of Health.

#### **Health - care services not to be financed by the Institution<sup>(1)</sup>**

**ARTICLE 64** - Following are the health - care services not to be financed by the institution:

a) Any kind of health - care service for aesthetic purposes and orthodontic dental treatments for aesthetic purposes, excluding the health - care services which are made to ensure the integrity of body and are caused due to work accident or occupational disease, accident, sicknesses or congenital reasons.

b) Health - care services not permitted or licensed by the Ministry of Health and health - care services not accepted to be a health - care service in medical terms by the Ministry of Health.

c) **(Appended: 17/4/2008 - 5754/41st Art.)** Chronic sicknesses of foreign country citizens which was present before the date they are deemed to be universal health insurance holders or dependants of universal health insurance holders,

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution, upon comment of Ministry of Health.

#### **Transportation expenses, daily allowance and companion expenses**

**ARTICLE 65** - In the transfer of universal health insurance holders and dependants of universal health insurance holders out of the settlement area where they are examined and treated, for benefiting from health - care services upon medical requirement of medical doctor or dentist after examination or treatment, transportation expenses for both directions and daily allowances of outpatient and companion limited with one person and for inpatients, transportation expenses and daily allowances for both travelling days shall be borne by the Institution.

During the inpatient treatment of universal health insurance holders or their dependants, upon necessity to be determined by medical doctor or dentist, the accommodation and food expenses of the companion limited with one person shall be borne by the Institution.

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(1) *The title of this Article was "Health - care services not to be provided by the Institution"; however with Article 41 of Law Number 5754 of 17/4/2008 it is amended as applied to the text and the term "financing" is added before the term "by the Institution".*

Amount of daily allowance, transportation, accommodation and food expenses, payable due to domestic or abroad transfers, shall be determined by the Health - Care Services Pricing Commission stated in Article 72.

Health - care service expenses made for determining, controlling and periodical health - care examination for permanent incapacity and disabilities, and the transportation and daily allowance expenses shall be payable in accordance with the provisions of this Article.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

### **Treatment abroad**

**ARTICLE 66** - It is obligatory that the health - care services listed in Article 63 are provided by the domestic health - care service providers. However;

a) in emergency cases for the individuals, sent by employers to abroad on temporary mission in accordance with the procedure stated in special legislation of public administrations or in accordance with the procedure determined by the Institution, among the universal health insurance holders listed in number (1) of item (a) of paragraph one of Article 60,

b) for the individuals, sent by employers to abroad on permanent mission in accordance with the procedure stated in special legislation of public administrations or in accordance with the procedure determined by the Institution, among the universal health insurance holders listed in number (1) of item (a) of paragraph one of Article 60, for their dependants who reside in that country together with them,

c) for individuals whose treatments are determined, upon appropriate opinion of Ministry of Health, not to be applied domestically,<sup>(1)</sup>

health - care services are provided abroad.

**(Appended paragraph: 17/4/2008 - 5754/66th Art.)** It is possible to have detailed examination which is not possible to make domestically at a foreign country.

However, the amounts to be borne by the Institution for abroad health - care services pursuant to items (a) and (b) of the above paragraph, shall not exceed the amount payable to the contracted domestic health - care service providers. The exceeding amount shall be payable by the employers. The provisions of the international social security conventions are preserved.

The section exceeding the amount payable to the contracted domestic health - care service providers for providing health - care services under the scope of this Law shall be borne by their institutions for the individuals who are charged with duty at a foreign country, on resolution of Council of Ministers, as a unit or for military or security purposes by the competent authorities of public administrations.

The Institution may provide the health - care services of individuals under items (a) and (b) of paragraph one by applying to health insurance at the concerned country, provided that the amount does not exceed the premium amount payable to the Institution for universal health insurance during temporary or permanent office term.

All of the health - care costs shall be paid for individuals transferred to a foreign country as per item (c) of paragraph one. However, this amount shall not exceed the amount payable to the health - care service providers, if any, in contract with the Institution for the treatment subject to abroad transfer. Expenses of such individuals to be made pursuant to Article 65 shall be borne separately.

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(1)

*With Article 4 of Law Number 5754 dated 17/65/2008 the expression "not possible to treat" present in this item is amended as "treatment could not be made" and is applied to the text.*

Except the abovementioned situations, expenses related with abroad health - care services shall not be payable by the Institution.

In execution of this Article, the situation of charging with duty at a foreign country for a period of six months continuously for the general insurance holders due to be insurance holders under item (c) of paragraph one of Article 4 shall be considered as sending abroad on permanent mission.

Procedures and terms for assigning on temporary or permanent missions the insurance holders under item (a) of paragraph one of Article 4 excluding the insurance holders working in public administrations, and other procedures and principles regarding execution of this Article shall be regulated with a regulation to be issued by the Institution.

### **PART THREE** **Conditions to Benefit from Health - care Services and Contribution Rate**

#### **Conditions for benefiting from health - care services**

#### **ARTICLE 67 - (Amended: 17/4/2008 - 5754/42nd Art.)**

In order to benefit from health - care services and other rights, excluding individuals under the age of 18, individuals who are medically in need of another person, emergency cases, work accident and occupational disease situations, contagious diseases with notification obligation, health - care services provided pursuant to items (a) and (c) of paragraph one of Article 63, disaster and war cases and strike and lockout cases listed in Article 75;

a) for the universal health insurance holders and their dependants pursuant to items of paragraph one of Article 60 except items (c) and (f), having totally 30 days of paid universal health insurance premiums within one year before the date of application to health - care service provider,

b) for universal health insurance holders and their dependants subject to number (2) of item (a) and to item (g) of paragraph one of Article 60, besides the conditions in the above item, not having any premium or premium - related debts over 60 days as of date of application to the health - care service,

c) for universal health insurance holders and their dependants subject to items (b) and (d) of paragraph one of Article 60, besides the conditions in the above item, not having any premium or premium - related debts as of date of application to the health - care service,

are obligatory.

However, for the individuals who are taken out of the scope of universal health insurance holder's dependant to benefit from the health - care services within thirty days following the date of being universal health insurance holder, the paid premium day condition in item (a) of paragraph one of this Article shall not be sought. In addition, for the universal health insurance holders under Article 60;

a) service period passed at military of the insurance holder who was called to arms for any reason,

b) period of arrest which is not concluded in conviction,

c) the period of incapacity of the insurance holder who receives temporary incapacity benefit from work accident, occupational disease, sickness and maternity insurances,

d) time which pass during the participation of the insurance holder to a strike or the lockout of employer,

shall not be included in the calculation of totally 30 days of paid universal health insurance premiums within one year before the date of application to the health - care service provider.

In addition, for the universal health insurance holders and their dependants to benefit from health - care services and other rights, it is obligatory to present identity card, driver's license, marriage certificate, passport or photographed health card document issued by the Institution at the time of application to health - care service providers, excluding the emergency cases (in emergency cases these shall be presented after the emergency case is solved).

The universal health insurance holders under item (a) of paragraph one of Article 60 shall benefit from universal health insurance for a period of ten days following the termination date of compulsory insurance. If such individuals have 90 days of compulsory insurance within one year before the date they lose their insurance status, then they and their dependant shall benefit from health - care services for a period of 90 days following the date they lose their insurance status, without considering whether they have premium debts due to their universal health insurance following compulsory insurance.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

### **Charging contribution fee**

**ARTICLE 68** - Contribution fee shall be charged for the following health - care services listed in Article 63:

- a) Medical doctor and dentist examination for outpatient treatment.
- b) Orthosis, prosthesis, treatment tools and equipment.
- c) Medication provided for outpatient treatment.

**(Amended second paragraph: 17/4/2008 - 5754/43rd Art.)** Contribution fee shall be charged as 2 New Turkish Liras for health - care services under item (a) of paragraph one. Contribution fee shall be determined by the Institution, between 10% and 20% rates, considering reducing unnecessary usage for healthcare services under item (b) and (c), whether the health - care services bear vital importance or not, amounts of earnings, incomes and pensions subject to premium and similar criteria. Contribution fee determined for the health - care services in item (a) of paragraph one shall be increased each year equal to the re - valuation rate determined in accordance with Tax Procedure Law Number 213 dated 4/1/1961. The Institution is authorized, for the contribution fee pursuant to item (a) of paragraph one, not to take or take at lower amounts from the examinations carried out at service providers of first level, or to bring back to the amount determined for item (a) of paragraph one, to reduce by half or increase up to five fold for examinations carried out at second and third level health - care service providers, considering whether the application is made with a transfer from previous levels, and to bring back or reduce these amounts to legal levels when necessary.

### **(Abrogated third paragraph: 17/4/2008 - 5754/43rd Art.)**

The contribution fee payable by the universal health insurance holders and their dependants pursuant to item (b) of paragraph one shall not exceed 75% of the minimum wage as of the date the health - care service is received.

Contribution fee in the auxiliary reproduction treatment, except the auxiliary reproduction treatment which is provided pursuant to item (e) of paragraph one of Article 63 and will be applied due to the fact that the treatment of the illness is not possible using another medical method, shall be 30% in the first trial and 25% in the second trial. However, upper limit applied pursuant to paragraph four shall not be applied to contribution fee.

Contribution fees paid by universal health insurance holders and their dependants pursuant to numbers (1), (2) and (3) of item (c) of paragraph one of Article 60 shall, upon request, be refunded in accordance to the provisions of Law Number 3294 of 29/5/1986 on Encouraging Social Assistance and Solidarity.

The Institution is authorized to collect the contribution fees by deducting from the incomes and pensions of individuals receiving incomes and pensions and from wages and salaries of the working individuals, and to determine the procedure for payment of these contribution fees. The section remaining after deducting the collected contribution fee shall be payable to the contracted health - care service providers.

**(Amended eighth paragraph: 17/4/2008 - 5754/43rd Art.)** Health - care service amounts determined as per Article 72 shall be taken as basis in calculating the contribution fees.

Payment procedures of contribution fees and other procedures and principles on the implementation of this Article shall be regulated by a regulation to be issued by the Institution.

### **Cases, health - care services and individuals which no contribution fee will be paid<sup>(1)</sup>**

**ARTICLE 69** - Following are the cases, health - care services and individuals from which health - care services contribution fee in Article 68 is not payable:

- a) Cases of work accident and occupational disease and health - care services provided at military drills and manoeuvres.
- b) Health - care services provided due to disaster and war cases listed in Article 75.
- c) Family physician examinations and personal protective health - care services.
- d) Provided that the case is documented with a medical report, chronic diseases and vital health - care services under item (b) of paragraph one of Article 68, and organ, tissue and stem cell transfers.<sup>(2)</sup>
- e) **(Amended: 17/4/2008 - 5754/65th Art.)** control examinations defined in Article 94,
- f) individuals and their spouses stated in number (4) of item (c) of paragraph one of Article 60, the ones listed in numbers (5), (6), (7) and (8), individuals disabled of duty, and individuals listed in items (d) and (e) of paragraph four of Article 4. **(Appended sentence: 17/4/2008 - 5754/66th Art.)** In addition, every kind of orthosis/prosthesis and other treating

tools/equipment required, based on medical report, by disabled receiving pension pursuant to Law Number 3713 and privates and enlisted specialists receiving duty disability pension due to incidents under the same Law shall be provided without charging any contribution fee or difference or without applying any restriction.

The Institution is authorized to determine the health - care services, one by one or in groups, from which contribution fee shall not be charged pursuant to this Article.

#### **Service levels and transfer chain <sup>(1)</sup>**

**ARTICLE 70** - The health - care service providers shall be divided into levels of first, second and third level, by the Ministry of Health, for the execution of this Law. These levels and the transfer chain between the health - care service providers shall be determined by the Institution, asking the comment of the Ministry of Health, throughout the whole country or on province - or sub - province base, considering the diagnosis, pre - diagnosis, and specialties of medical doctors and dentists. Family physicians shall be included in the first level service providers.

Universal health insurance holders and their dependants are obliged to act in accordance with the transfer chain, for the Institution to provide health - care services.

**(Abrogated third paragraph: 17/4/2008 - 5754/67th Art.)**

#### **Identifying identity and emergency cases <sup>(1)</sup>**

**ARTICLE 71** - Health - care service providers are obliged to check the documents listed in paragraph three of Article 67 and whether these documents belong to the applicant, at the phase of providing health - care services (or after the emergency situation is solved at emergency cases). **(Abrogated final sentence: 17/4/2008 - 5754/67th Art.)**

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(1) *With Article 65 of Law Number 5754 dated 17/4/2008; the expression "paragraph three of Article 4" in item (f) of paragraph one of Article 69 is amended as "paragraph four of Article 4", the expression "classified" in paragraph one of Article 70 is amended as "divided into levels", the expression "second" in paragraph one of Article 71 is amended as "third"; with Article 66 of the same Law, the expression ", tissue, and stem cell" is appended after the expression "and organ" in item (d), the expression "individuals and their spouses stated in number" is appended before expression "(4) of item (c)" in item (f) and these are applied to the text.*

(2) *With Article 1 of Law Number 5655 dated 9/5/2007, the expression "health committee report" present in this item is amended as "medical report" and is applied to the text.*

Universal health insurance holders and their dependants are prohibited to receive health - care services of another individual on behalf of themselves or to obtain unjust benefit from the Institution. The damage suffered by the Institution shall be collected in two folds, together with the legal interest, collectively and jointly, from individuals committing to such actions, and the provisions of Turkish Criminal Code number 5237 dated 26/9/2004 shall be applicable to the concerned parties.

For the purposes of this Law, issues regarding what are the emergency cases and emergency health - care services, on which methods and criteria these will be determined, shall be regulated by a regulation to be issued by the Institution, upon opinion of the Ministry of Health.

## **PART FOUR**

### **Financial and Miscellaneous Provisions**

#### **Determining the prices payable for the health - care services**

**ARTICLE 72 - (Amended first paragraph: 17/4/2008 - 5754/44th Art.)** Health - Care Services Pricing Commission is authorized to determine the prices payable by the Institution for daily allowance, transportation, accommodation and food expenses to be paid pursuant to Article 65. The commission may classify the health - care service providers based on pricing, considering medical education, service level, infrastructure and resource use, and cost factors. The commission is authorized to determine, one by one or in groups, for each class, the prices payable by the Institution of health - care services financed pursuant to Article 63, considering the province and level of provided health - care service, subventions granted directly or indirectly by the State, whether the health - care service has vital importance, medical applications based on proof, cost - effectiveness criteria and the budget of the universal health insurance.

**(Amended second paragraph: 17/4/2008 - 5754/44th Art.)** The commission consists of totally seven members, one member of each representing the Ministry of Labour and Social Security, Ministry of Finance, Ministry of Health, Undersecretariat of State Planning Organization, Undersecretariat of Treasury, and two members representing the Institution. The commission reaches decisions on absolute majority and the decisions are published in the Official Journal. In cases found necessary by the Commission, more than one sub - commission may be established depending on the types of health - care services. Secretarial works of the Commission is fulfilled by the Institution.

A meeting fee shall be payable to the attendees of the Health - Care Services Pricing Commission, not more than two times a week, over the amount to be found by multiplying the public servant coefficient with indicator figure of (3000) for each meeting day they attend to. All kinds of expenses regarding the works of the commission shall be borne by the Institution.

**(Amended fourth paragraph: 17/4/2008 - 5754/44th Art.)** The Institution may ask the opinions of relevant public institutions and organizations and the profession organizations bearing the qualities of association, foundation, federation, confederation and public institution.

Procedures and principles regarding the works, duties and authorities of the Health - care Services Pricing Commission and execution of this Article shall be regulated by a regulation to be issued by the Institution receiving the opinions of the institutions member to the Commission.

### **Method for providing health - care services and paying health - care expenses**

#### **ARTICLE 73 - (Amended: 17/4/2008 - 5754/45th Art.)**

Health - care services, pursuant to this Law, shall be provided through contracts signed between the Institution and domestic or abroad health - care service providers and/or by refunding the expenses of health - care services purchased by universal health insurance holders and their dependants from non - contracted health - care service providers in accordance with the provisions of this Law.

Council of Ministers is authorized to determine the upper limit of the additional fee to be charged up to one fold of these values, considering criteria such as expenses of health - care service providers received from universal health insurance holders and their dependants and the costs of the health - care services they produce, in addition to the health - care services determined by the Health - care Services Pricing Commission for the contracted health - care service providers, including foundation universities and excluding the health - care service providers of public administrations. Rates of the additional fees to be charged under this upper limit shall be determined by the Institution. However, individuals under numbers (4), (6) and (8) of item (c) of paragraph one of Article 60, and their dependants, shall not be charged with additional fees, in case they are transferred by public administration health - care service providers. For the equivalent medication determined by Health - Care Services Pricing Commission, the difference between maximum price and the price of two equivalent medications requested by the individual and optical upper limit shall not be applied and shall not be evaluated under this paragraph.

Public administration health - care service providers, excluding hotel services and extraordinary health - care services stated in paragraph four, may not request additional charges from universal health insurance holder and their dependants for the health - care services they request. Unless there is a provision stating otherwise, provision of this paragraph shall not be applicable to health - care services provided by university lecturers defined in Higher Education Law Number 2547 dated 4/11/1981 at public administration and foundation university health - care service providers; the Institution may determine an upper limit for the additional fee to be charged for university lecturers.

Contracted health - care service providers, may request additional charges from universal health insurance holders and their dependants, not greater than three folds of the determined service prices, for hotel services fulfilling the requests over standards laid down by the Institution and for extraordinary health - care services determined by Health - Care Services Pricing Commission considering issues such as not having vital importance or having alternative treatments. Contracted health - care service providers are obliged to notify the institution about their health - care service prices which they determined under the upper limit determined for additional charge payments, within thirty days following the publication of health - care service prices payable by the Institution. Contracted health - care service providers shall inform the Institution, within 5 workdays, about their price changes. Even if it is under the upper limit, they cannot increase their prices before the period determined by the Institution is over.

The Institution may establish provision centres and employ personnel at the location of health - care service providers, in order to carry out provision transactions. Contracted health - care service providers are obliged to assign a suitable, independent location to the Institution for this purpose.

Except emergency cases, the healthcare service prices purchased by individuals from non - contracted health - care service providers shall not be payable by the Institution.

The price of the health - care service received from non - contracted health - care service providers shall be payable, in return to invoice, to universal health insurance holders and their dependants, based on the prices determined pursuant to Article 72 for contracted health - care service providers. In emergency cases, both contracted and non - contracted health - care service

providers and for health - care services determined by the Institution, only the contracted health - care service providers may not request additional charges from universal health insurance holders and their dependants.

The Institution is authorized to provide health - care services to be provided by public administrations, except the methods stated in paragraph one of this Law, with a service purchase agreement over a lump sum price. Public administration health - care service providers are obliged to provide any kind health - care service which should be provided under the contract to the universal health insurance holders and to their dependants, in return to the contractual lump sum price, and may not request charges additional to the contractual lump sum price from universal health insurance holders and their dependants, other than additional fees and contribution fees stated in the Law. Invoice or basis documents shall not be sent separately to the Institution for the services provided under service purchase contract over the lump sum price. Procedures and principles regarding the execution of this paragraph are determined jointly with the Ministry of Health.

Health - care service providers are obliged to check and documents, in accordance with the methods provided by the Institution on electronic medium or other media, to see whether the universal health insurance holders or their dependants have the right to benefit from health - care services.

Preparing and concluding health - care service purchase contracts, payment of the costs of health - care services and other procedures and principles regarding the execution of this Article shall be regulated by a regulation to be issued by the Institution.

### **Purpose of use of universal health insurance revenues, health - care expenses made for short and long term insurance branches**

**ARTICLE 74** - Universal health insurance premium incomes shall not be used for any purpose other than management expenses, health - care services provided from universal health insurance, and other rights.

For long and short term insurance branches, health - care service expenses arising from determining the cases of permanent incapacity, invalidity, loss of working power or from controls made for such purposes, and, pursuant to Article 72, daily allowance and transportation expenses, companion expenses, of which procedures and principles will be determined by the Institution, shall be covered from the short and long term insurance branches.

### **Natural disasters and war**

**ARTICLE 75** - In cases of disasters under Law Number 7269 of 15/5/1959 on Aids to be Made and Measures to be Taken for Disasters Effecting General Life and of war pursuant to Mobility and War Law Number 2941 of 4/11/1983, the Institution continue to provide the health - care services of universal health insurance holders and their dependants. However, expenses of health - care services provided by the Institution due to reasons based on disaster or war, shall be transferred to the Institution, within one year, from the general budget, taking as basis the end of the calendar year in which the expenses are paid.

### **Responsibility of employer, universal health insurance holder and third parties**

**ARTICLE 76** - The employer is obliged to provide immediately health - care services required by the health status of the universal health insurance holder suffering from work accident or occupational disease. For this purpose, the health - care service expenses, made by the employer and based on documents, and the expenses to be made pursuant to the provisions of Article 65 shall be covered by the Institution.

The employer, who causes the universal health insurance holder to have a longer treatment period or to be disabled or to have an increased disability degree, due to negligence or delay in fulfilling the obligations stated in paragraph one, is obliged to pay each and every kind of health - care service expense borne by the Institution for this purpose.

**(Amended third paragraph: 17/4/2008 - 5754/46th Art.)** The employer, who employ universal health insurance holder without being based on a medical report although it is necessary to obtain a medical report due to laws or without taking into consideration the medical report stating that employing of such individual at the said work is not medically appropriate, shall compensate the Institution for the health - care service expenses made for this purpose. Individuals under item (a) of paragraph one of Article 4, who is documented with a health committee report that he/she cannot work at a certain work, may not be employed at said works. Employers employing such individuals shall be obliged to pay the expenses borne by the Institution due to the same illness of the universal health insurance holder. Treatment expenses made due to the same illness of the universal health insurance holder who works at the same work without receiving document from the medical doctor or health committees authorized by the Institution stating that the treatment is over and that the insurance holder may work, shall be borne by the insurance holder himself/herself.

Where the work accident and occupational disease is caused due to the intentional action of the employer or to universal health insurance holders' action in violation of the provisions of legislation on protection of work health and work safety, the health - care expenses borne by the Institution shall be compensated by the employer. The principle of inevitability shall be considered in determining the responsibility of the employer. <sup>(1)</sup>

**(Abrogated fifth paragraph: 17/4/2008 - 5754/46th Art.)**

**(Amended sixth paragraph: 17/4/2008 - 5754/46th Art.)** The health - care expenses borne by the Institution shall be compensated by the third parties who are determined on court judgment that they caused the Institution to provide health - care services or extension in the treatment period of such individuals, due to intentional or offensive action towards universal health insurance holders or their dependants or not fulfilling or neglecting a duty given by relevant laws.

#### **Announcement of contracted health - care service providers and the freedom to choose the health - care service provider**

**ARTICLE 77** - Titles, names and addresses of domestic and abroad health - care service providers to which universal health insurance holders and their dependants will apply benefiting from health - care services pursuant to this Law shall be announced by the Institution on electronic medium or on via other methods.

Universal health insurance holders and their dependants have the freedom to choose among the health - care service providers, provided that the provisions of other Articles on universal health insurance are complied with.

#### **Registration and notification obligation and control authority of health - care service providers**

**ARTICLE 78** - All of the health - care service providers in contract with the Institution are obliged to send the information of each and every individual receiving health - care service, as stipulated in contractual provisions, in accordance with the stated methods and term, on electronic medium or in written form. Health - care service prices requested without submitting such information shall not be payable until the said information is sent. <sup>(2)</sup>

Confidentiality of health information of the universal health insurance holders and their dependants is fundamental. How the health information shall be protected and those individuals whose health information shall not be revealed due to national security shall be determined by the Ministry, upon proposal of relevant ministries. **(Appended sentence: 17/4/2008 - 5754/66th Art.)** How the health information of such individuals and groups shall be kept will be determined by a regulation to be prepared by receiving opinions of concerned organizations.

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(1) *With Article 4 of Law Number 5754 dated 17/46/2008, the expression "insurance holder" present in this paragraph is amended as "universal health insurance holder" and is applied to the text.*

(2) *With Article 4 of Law Number 5754 dated 17/65/2008 the expression "all without considering whether they are a group" present in this paragraph is amended as "has" and is applied to the text.*

The Institution may examine books, documents and information, and may request presentation of such, kept by employers, health - care service providers and other real and artificial persons, regarding application of universal health insurance provisions.

The Institution has the authority to control services and transactions carried out by health - care service providers regarding their duties laid down in this Law. The Institution may use this authority through the personnel charged with duty or by purchasing service from public institutions or special institutions.

## **SECTION FOUR Provisions on Premiums PART ONE**

### **Collecting Premiums, Earning Subject to Premium, Premium Rates and Minimum Workmanship**

#### **Obligation to collect premiums**

**ARTICLE 79** - For short and long term insurances and universal health insurance, the Institution is obliged to collect, and the concerned parties are obliged to pay, premiums in order to cover any kind of payment foreseen in this Law and management expenses.

Universal health insurance premiums collected by the Institution shall be transferred directly to the universal health insurance section of the Institution budget, following collection.

#### **Earnings subject to premium**

**ARTICLE 80 - (Amended: 17/4/2008 - 5754/47th Art.)**

Earnings subject to premium for insurance holders under item (a) of paragraph one of Article 4 shall be determined as follows.

a) In the calculation of earnings subject to premium, gross total of;

1) Deserved wages,

2) amounts paid to the special health insurance holders and to personal retirement system for insurance holders by employers and payments made in the concerned month from premium, bonus and any kind of similar deserved amount,

3) payments made to the insurance holders in the concerned month in the form of earnings stated in above numbers (1) and (2) pursuant to resolutions of administration or legal authorities,

shall be taken as basis.

b) Benefits in kind and funeral, birth and marriage benefits, duty travel allowances, mobile duty compensation, severance pay, dismissal pay or collective payment in the form of severance pay, estimated cost, pay in lieu of notice or cash compensation, and food, child and family increments of which amount will be determined the Institution in years, private health insurance premiums and personal retirement contribution fees, not exceeding 30% of the monthly total minimum wage, paid by the employers to private health insurances and personal retirement system for insurance holders shall not be included in the earnings subject to premium.

c) excluding the exceptions in item (b), under whatsoever name, all payments and cash payments made to substitute aids in kind shall be included in the earning subject to premium. Exemptions and exceptions regarding not being subject to premium in other laws shall not be taken into consideration in the execution of this Law.

d) Wages shall subject to premium by attributing to the month they are deserved. Other payments shall be included in the earning of the month they are paid and the section not subject to premium due to exceeding the upper limit in the month such payments are made out of wage shall be added to the earnings subject to premium of the subsequent months under the upper limit, not to be later than two months following the month of payment. Based on resolutions reached by employers of workplaces subject to collective labour agreement or by public administrations or legal authorities, where the payments paid later on other than wage are paid when service contract is not present or suspended, considering the provision of Article 82, this shall be included in the earning of the final month to which earning subject to premium belongs to. In such cases, where the insurance premiums are paid until the end of the month following the finalization date of the resolution of the abovementioned authorities, default fine or default increment shall not be collected and provisions of Article 102 shall not be applied.

e) Daily earnings to be used in calculating the premiums and benefits of insurance holders receiving wage over an indefinite time and amount such as commission fee or participation to profit, not based on a certain hourly, daily, weekly or monthly fee shall be the lower limit determined in accordance with Article 82.

f) If an insurance holder working subject to an employer receives wage under item (e) other than a certain wage, then the earning subject to premium shall consist of the sum of these.

g) Daily wage to be used in the calculation of premiums shall be one thirtieth of the earning subject to premium in a month of the insurance holder. However, the daily earning of an insurance holder who did not work on certain days and did not receive wage for not worked days in the month used in calculating daily earning shall be calculated by earning subject to premium of the concerned month divided by the number of paid days.

h) Number of days used in calculating the daily earnings of insurance holders also indicates the number of paid premium days of such individuals. However, provided that the part time service contract between the employer and the insurance holder is in written format, the number of paid premium days of in that month of the insurance holder who works at certain hours of the day and receives hourly wage shall be calculated by the total number of hours worked in that month divided by the daily working hour calculated according to the weekly working time determined pursuant to Labour Law Number 4857. Day fractions shall be accepted as a full day in such calculations.

i) If the working time is determined as day, week or month between the parties in the written labour contract based on work upon call between the employer and the insurance holder, then paid premium days of the insurance holder in that month shall be calculated in accordance with the provision of item (h), considering that the weekly working time is decided to be minimum twenty hours.

j) Universal health insurance premiums of the missing days of number of paid premium days less than 30 in a month shall be calculated considering the missing working periods pursuant to paragraph four of Article 88.

j) (31/7/2008 - 5797/1st Art.) The paid premium days of individuals employed as specialist or master teacher under the relevant legislation in return to additional course fee at formal and informal educational institutions of any degree or kind under Ministry of National Education shall be calculated, not exceeding 30 days, by dividing total amount of the additional course fees deserved in a calendar month by lower limit of daily earning subject to premium. In such calculations the remainders of the whole numbers shall not be taken into consideration. <sup>(1)</sup>

Earnings subject to premium for insurance holders under item (b) of paragraph one of Article 4 shall be determined as follows.

a) Monthly earning subject to premium is thirty times the daily earning to be declared by the individuals themselves, provided that it is in the range between the upper and lower limit of earning subject to premium determined pursuant to Article 82. Monthly earning subject to premium shall be declared by such insurance holders at times determined by the Institution. Monthly earnings subject to premium of the non - declaring insurance holders shall be determined as thirty times the lower limit of earning subject to premium.

b) Where the insurance holder is also employer, then the earning subject to premium cannot be less than thirty times the highest daily earning subject to premium of the employed insurance holders. Monthly earnings subject to premium of the insurance holder whose monthly earning subject to premium is determined to be less than the thirty days of daily earning subject to premium of employed insurance holder shall be increased to the level of determined earning and the premium of the difference shall be collected by applying default fine or default increment pursuant to the provisions of Article 89.

c) Where more than one status is present requiring being insurance holder under item (b) of paragraph one of Article 4, a single declaration shall be submitted based on the principles stated in items (a) and (b) of this paragraph.

In calculating the earnings subject to premium of individuals who become insurance holders for the first time under item (c) of paragraph one of Article 4;

a) For insurance holders who receive their pensions in accordance with personnel laws;

1) monthly amounts payable over monthly indicators and additional indicators pursuant to relevant laws,

2) Public service base pension and seniority pension amounts,

3) Position, representation and duty compensations, compensations payable pursuant to Article 152 of Public Servants Law Number 657 (in addition to main compensations based on region, institution, unit, working location, characteristics of duty and similar criteria, excluding additional or separately paid compensations), service compensation payable over the ratios stated in the table in paragraph (A) of appended Article 17 of Turkish Armed Forces Personnel Law number 926 dated 27/7/1967 (only service compensations corresponding to the ranks of individuals who receive compensation or university benefit pursuant to Law number 2629 dated 28/2/1982 and Law number 2955 dated 17/11/1983), university benefit payable pursuant to Article 12 of Higher Education Personnel Law number 2914 dated 11/10/1983, additional payment pursuant to paragraph three of Article 106 of Law Number 2802 on Judges and Prosecutors,

b) amount calculated over the factors foreseen in item (a) for insurance holders working on contract corresponding to a staff position, based on the staff positions they occupy,

c) for insurance holders who are assigned indirectly as proxy, amount payable pursuant to relevant legislation from the factors foreseen in item (a),

c) For insurance holders who receive pension or wage by taking as basis or comparing with another staff position or duty payment factor; amount to be calculated at the rate foreseen in pension or wage payment of this earning, not exceeding the earning subject to premium of the peer staff position or duty,

d) In the Metropolitan Municipalities, for the ministry general director, and for mayors, the earnings subject to premium in item (d) of section "VIII. Civil Administration Services Class" of additional indicator table number (I) appended to Law number 657, not exceeding the degree they can be promoted to pursuant to Law number 657 in terms of their education statuses,

e) For the individuals employed as artist lecturer among the lecturers employed on contract pursuant to Article 15 of Higher Education Personnel Law Number 2914 at conservatories under higher education institutions found in the tables attached to Decree in lieu of Law Number 78 on Lecturers in Higher Education Institutions, the amount of earning subject to premium determined according to their education levels and degrees among the individuals employed under the title of lecturer staff position in the said Law; for those who are employed on contract as artist, craftsman and artist teacher in public administrations, the amount of earning subject to premium in item (a) for engineers present in the technical services class subject to Law Number 657 in terms of their education level and degrees; for those who bear minimum associate degree among the individuals employed on contract at higher education institutions and other public administrations as art practician or stage practician, earnings subject to premium of technicians under technical services subject to Law Number 657 in terms of their educational levels and degrees and of technical workers for others,

f) For individuals for whom a connection is established with a certain staff position, title or duty in terms of retirement or additional indicator in relevant laws, earnings subject to premium of the staff position, title or duty with which connection is established,

g) For insurance holders out of the scope of items (a) and (f) of this paragraph, earning subject to premium determined for the same staff position, title, education level and degree of similar duties in classes which they may be included pursuant to Law Number 657 in terms of the duty they are assigned to,

shall be taken as basis. Payments to be made pursuant to the relevant legislation in return to proxy or second duty shall not be considered in calculating the earning subject to premium.

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(1)  
that this item will be in effect on 15/10/2008.

With Article 12 of Law Number 5797 dated 31/7/2008 it is ruled

In determining the monthly earning subject to premium for the individuals subject to only universal health insurance; for individuals listed in items (d) and (g) of paragraph one of Article 60, thirty days amount of the two times the lower limit of earning subject to premium determined pursuant to Article 82, minimum wage for individuals stated in item (c) of paragraph one of Article 60, and for individuals in item (e) of paragraph one of Article 60, the minimum earning subject to premium shall be taken as basis. However, for those individuals who are determined to have, besides applying to become universal health insurance holders under number (1) of item (c) of paragraph one of Article 60, per capita pension amount in a family to be determined by using test methods and data to be laid down by the Institution between one thirds of minimum wage to minimum wage, one thirds of thirty - day amount of lower limit of daily earning subject to premium determined in accordance with Article 82, for those between minimum wage up to two times minimum wage, the thirty - day amount of lower limit of daily earning subject to premium determined in accordance with Article 82, for those over two times the minimum wage, two times the thirty - day amount of lower limit of daily earning subject to premium determined in accordance with Article 82 shall be taken as minimum earning amount subject to premium.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

### **Premium rates and contribution of State**

**ARTICLE 81** - Following are the rates of insurance premiums to be collected pursuant to this Law:

a) The rate of invalidity, old - age and survivors insurance premiums is 20% of the earnings subject to premium of the insurance holder. 9% of this is insurance holder's share, 11% is employer's share.

b) **(Amended: 17/4/2008 - 5754/48th Art.)** In works to which actual service term increment stated in this Law is applied,

1) the rate of invalidity, old - age and survivors insurance premium applicable for insurance holders working under item (a) of paragraph one of Article 4, shall be determined by adding 1 point in works where 60 actual service days will be added pursuant to Article 40; 1.5 points in works where 90 actual service days will be added pursuant to Article 40; and 3 points in works where 180 actual service days will be added to the 20% rate stipulated in item (a) of this Article,

2) the rate of invalidity, old - age and survivors insurance premium applicable for insurance holders working under item (c) of paragraph one of Article 4, shall be determined by adding 3.33 point in works where 60 actual service days will be added pursuant to Article 40; 5 points in works where 90 actual service days will be added pursuant to Article 40; and 10 points in works where 180 actual service days will be added to the 20% rate stipulated in item (c) of this Article,

and the rate obtained with this method and the entire premium of the difference between 20% stipulated in item (a) of this Article shall be payable by the employer.

c) Short term insurance branches premium rate shall be determined by the Institution pursuant to Article 83, between 1% and 6.5% depending on the gravity of the danger of the work in terms of work accident and occupational disease. All of this premium shall be paid by the employer.<sup>(1)</sup>

d) Premium rate for students in item (b) of paragraph one of Article 5 and trainees in item (e) shall be 1% of their earnings subject to premium. Lower limit of daily earning subject to premium shall be taken into consideration in calculating the daily earnings subject to premium of trainees. Earnings subject to premium of candidate apprentices, apprentices and students receiving vocational education shall be applied as stipulated in relative laws.

e) **(Abrogated: 17/4/2008 - 5754/48th Art.)**

f) **(Amended: 17/4/2008 - 5754/48th Art.)** Universal health insurance premium shall be 12.5% of earning subject to premium calculated pursuant to paragraph one of Article 82 for individuals subject to short and long term insurance branches. 5% of this premium is insurance holder's share and 7.5% is employer's share. Universal health insurance premium for individuals subject to only universal health insurance and for individuals listed in item (e) of paragraph one of Article 60 and interim Article 13 of this Law shall be 12% of earning subject to premium.

g) **(Amended: 17/4/2008 - 5754/48th Art.)** Insurance holders under item (b) of paragraph one of Article 4 shall pay their premiums over the total of the premium rates in items (a), (c) and (f).

h) **(Appended: 17/4/2008 - 5754/48th Art.)** In return to duty disability pensions, being or will be paid to insurance holders under item (c) of paragraph one of Article 4 and to survivors pensions to be granted to their right holders, additional return premium shall be collected at 20% of the state premium benefits allocated to social security institutions from public administrations' budgets for insurance holders in this scope. All of the allocated additional return premium shall be payable in equal monthly instalments, within six months following the beginning of the month following the effective date of institution budgets after approval of competent authorities. Additional return premiums of administrations under general budget shall be covered from the appropriation to be placed in the Ministry of Finance budget.

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(1) *Pursuant to Judgment E. 2006/111, K. 20006/112 dated 15.12.2006 of Main Court is cancelled for insurance holders under item (c) of paragraph one of Article 4 of the Law, and until the publication date of Cancellation Resolution on Official Journal, its Execution is stayed pursuant to Judgment number E:2006/111, K:2006/36 dated 15/12/2006 (Stay of Execution); for the said cancellation judgment please see Official Journal number 26392(5th Repetition) dated 30/12/2006.*

1) **(Appended: 17/4/2008 - 5763/24th Art.)** For the private sector employers who employ insurance holders under item (a) of paragraph one of Article 4 of this Law, the amount corresponding to five points of employer share in the premiums of invalidity, old - age and survivors insurances pursuant to item (a) of paragraph one of this Article shall be covered by the Treasury. For the premiums belonging to employer's share to be covered from the Treasury, it is obligatory that the employers should submit, within legal period to the Social Security Institution, the premium and service documents pursuant to this Law regarding insurance holders they employ, that, of insurance premiums of all insurance holders, the amount corresponding to the insurance holder's share and the amount belonging to employer's share not covered by the Treasury should be paid within legal due time, and that there should not be any premium, administrative fine, and any default fine or default increment debts to the Social Security Institution. However, the employers, who defer and divide into instalments their premium, administrative fine and related default fine and default increment debts to the Institution pursuant to Article 48 of Law Number 6183 dated 21/7/1953 on the Procedure for Collecting the Public Claims and who divide into instalments and restructure such debts pursuant to Social Insurance Institution Law Number 4958 dated 29/7/2003, to Law Number 5458 dated 22/2/2006 on Restructuring Social Security Premium Claims and on Amending Some Laws, shall benefit from the provision of this paragraph until such deferral, dividing into instalments and restructuring continues. Provisions of this paragraph shall not be applicable to Public administration workplaces and to workers subject to social security support premium as per this Law and to insurance holders working abroad. Premium amounts covered by the Treasury shall not be considered as a factor of expense or cost in income and corporate tax applications. Employers who benefit separately from support factor regulated with this paragraph in accordance with other relevant legislation shall not benefit from this support factor for the same period and repeatedly. In such a case, the application shall be made, considering the preference of employers, limited with only one of the support factors. Employers who are determined, in controls and inspections carried out due to this Law, not to declare the individuals as insurance holders, shall not benefit for one year from support factors provided with this paragraph. **(Appended sentence: 31/7/2008 - 5797/2nd Art.)** Incentive regulated in this paragraph shall be applicable to personnel subject to the statuses of funds under interim Article 20 of Law number 506, over taxable values, rates and principles on insurance holders under item (a) of paragraph one of Article 4 of this Law, excluding public administrations. Procedures and principles regarding execution of this paragraph shall be determined jointly by Ministry of Finance, Ministry of Labour and Social Security and Undersecretariat of Treasury.(1)

**(Amended second paragraph: 17/4/2008 - 5754/48th Art.)** The State contributes to the Institution, at a rate of one fourth of the invalidity, old - age and survivors insurances and universal health insurance premium collected by the Institution per month. Amount to be calculation as contribution of state shall be payable to the Institution, by Treasury, within 15 days following the date of request.

#### **Daily earning limits**

**ARTICLE 82** - Lower limit of the daily earning subject to premium in calculation of premiums to be collected and benefits to be granted by is one thirtieth of the minimum wage and the upper limit is 6.5 times the lower limit of daily earning.

Earnings of insurance holders with a daily earning under the lower limit in the above paragraph and of insurance holders working free - of - charge shall be calculated using lower limit, and the of the individuals with a daily earning over the upper limit shall be calculated using upper limit.

If the earning of the insurance holder is under lower limit pursuant to paragraph two, then the insurance premiums of the difference between this earning and the lower limit and the entire insurance premium of insurance holders working free - of - charge shall be payable by the employer.

If the total of premiums paid to the Institution due to the fact that insurance holders work more than one work subject to the same insurance status determined pursuant to Article 53 of this Law exceeds the amount to be calculated over the upper limit of earning subject to premium determined for such insurance status, then, upon request of the insurance holder, all of the exceeding part shall be refunded to the insurance holder, in single instalment, at a rate of his share, at the latest in the month following the date of request. A separate default fine and default increment and interest shall not be paid for refunded premiums.

**Premium tariff for short term insurance branches and determining danger classes and degrees of work branches and works**

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(1) *With Article 2 of Law number 5797 dated 31/7/2008; the expression " who restructured pursuant to Law Number 4958 dated 29/7/2003 on Restructuring Social Security Premium Claims and on Amending Some Laws hall benefit from the provision of this paragraph until such deferral, dividing into instalments and restructuring continues" in this item is amended as "who divide into instalments and restructure such debts pursuant to Social Insurance Institution Law Number 4958 dated 29/7/2003, to Law Number 5458 dated 22/2/2006 on Restructuring Social Security Premium Claims and on Amending Some Laws, shall benefit from the provision of this paragraph until such deferral, dividing into instalments and restructuring continues" and amendment is applied to the text.*

**ARTICLE 83** - Short term insurance branches premium shall be determined depending on the gravity of the danger of the work in terms of work accident and occupational disease. Work branches are divided into classes depending on the gravity of danger, and these classes are divided into degrees based on special working conditions and on measures taken to prevent danger. Which work branch is included in which danger class, premium rats of danger classes and degrees and principles applicable to determining the danger degrees shall be determined by a tariff to be put into force by a resolution of Council of Ministers, upon proposal of the Ministry asking the opinions of concerned ministries. If necessary, the premium tariff may be changed using the same procedure.

In which danger class and degree the work is based on the tariff stated in paragraph one and premium rates to be paid for short term insurance branches shall be determined by the Institution and shall be officially communicated to the employer and to the insurance holders pursuant to item (b) of paragraph one of Article 4. Individuals who are determined not to be in compliance with the provisions of legislation on measures to prevent work accident and occupational disease may be placed by the Institution to higher premium degrees.

The Institution may change the determined danger class and degree of the workplace, acting spontaneously based on the examinations or upon request of the employer or insurance holders pursuant to item (b) of paragraph one of Article 4. It is obligatory that the decision on changes to be made by the Institution is notified to the employer minimum one month before the calendar year of the decision and that the change request of the employer is notified to the Institution minimum two months before the calendar year of the request.

Changes decided on in this manner shall be in effect at the beginning of the calendar year following the decision or request.

Employers and insurance holders under item (b) of paragraph one of Article 4 may place an objection to the Institution, within one month following the receipt of the written notification to be made by the Institution regarding danger class and degree, and premium rate. The Institution shall examine and decide on such objections within maximum three months and shall notify the objector about the result. The concerned parties, upon decision of the Institution, may resort to competent court within one month following the notification date of decision. Placing objection to the Institution or applying to court shall not terminate follow - up and collection of premiums.

If the objection of employers or insurance holders under item (b) of paragraph one of Article 4 is placed within one month following the receipt of workplace danger class and degree and short term insurance branches premium rate by the employers or insurance holders under item (b) of paragraph one of Article 4, then the changed work branch code and danger class and degree shall be applied as of the date of wrong application, and if objection is placed out of this one - month period, then it shall be applied starting from the beginning of the year following the receipt of the objection in the records of the Institution, and if time periods in paragraph one are missed, then it shall be applied as of the beginning of the calendar year following the official notification of the decision on change to be made by the Institution.

Where danger class and degree increases due to such a change, if the premium difference of short term insurance branches of the period between the date of official notification of the decision to employers or insurance holders under item (b) of paragraph one of Article 4 and the effective date is paid to the Institution within one month following the official notification date, then default fine and default increment shall not be charged for this premium difference. Otherwise, the premium difference shall be collected with default fine and default increment pursuant to Article 89. In case the danger class and degree decreases, the premium difference of short term insurance branches shall be deducted, if any, from the debts of the employer or shall be refunded. No interest shall be payable if it is refunded within one month.

### **Changes that may affect danger classes and degrees**

**ARTICLE 84** - Employers and insurance holders under item (b) of paragraph one of Article 4 are obliged to notify the Institution within one month about any kind of change that may affect the danger class and degree. Upon such a notification, the Institution may, as a result of examinations, change the danger class and degree. If the change that may affect the danger class and degree is notified within one month, then the decision of Institution on this issue shall be applied starting from the beginning of the month following the occurrence date of the change.

If the change that may affect danger class and degree is not notified within one month, then the date;

a) of change if the danger class is increasing,

b) of receipt of change information by the Institution, if danger class is decreasing,

shall be considered and the Institution shall reach to a decision, applicable from the beginning of the month following these dates, and shall officially notify the concerned parties.

### **Minimum workmanship application and reconciliation <sup>(1)</sup>**

**ARTICLE 85** - In case the employer is found to make notification under insurance number, working time and earning subject to premium necessary for administering the work in terms of peers, quality, scope and capacity, then minimum workmanship amount necessary for administering the work shall be determined considering issues such as quality of the work done, technology used, size of the workplace, number of insurance holders employed at peer enterprises, opinion of concerned professional or public institutions. The said determinations shall be carried out by the officers of the Institution charged with duties of inspection and control.

The Institution checks whether employers, who carry out works for public administrations, organizations having revolving funds institutions and organizations established by law and banks, based on tender legislation and for private construction works, have notified sufficient amount of workmanship. If, as a result of such examination it is found out that sufficient workmanship is not notified, then the premium amount to be calculated over the missing workmanship amount shall be officially communicated to the employer, to be paid within one month, including default fine and default increment to be calculated pursuant to Article 89. The debt shall be finalized when the employer pays or commits in written to pay the officially communicated premium and default fine and default increment. In case the payment liability, undertaken in the written declaration to be submitted to the Institution, is not fulfilled, then a transaction shall be applied to the employer pursuant to Articles 88 and 89. If the officially communicated premium and default fine and default increment is not paid, declaration is not submitted or the Institution finds it necessary to inspect the workplace, then an examination shall be carried out by the Institution.

Insurance premiums accrued, sua sponte, by the Institution over the minimum workmanship amount determined by the Institution that it is not notified under procedures stated in paragraphs one and two of this Article, shall be officially communicated to the employer considering Articles 88 and 89. The employer may submit an objection against the communicated premium debt, to the Institution within one month following the date of official communication. Objection shall suspend the transaction. In case of refusal of objection by the Institution, the employer may apply to competent labour court within one month following the date of official communication of the decision. Applying to the court shall not terminate the follow - up and collection of the premium debt.

Administrative fine pursuant to number (4) of item (d) and (e) of paragraph one of Article 102 shall be applied, by the officers of the Institution authorized with inspection and control, to the workplaces which are determined not to notify the minimum workmanship amount to the Institution.

Public administrations, organizations having revolving fund, institutions and organizations established by law, and banks are obliged to submit information and documents to be requested by the Institution, in written, regarding execution of this Article, within maximum one month.

In examining whether sufficient workmanship amount is notified to the Institution, a Commission for Determining Minimum Workmanship shall be established, consisting of totally seven technical members, of which four are technical personnel of the Institution, two are from worker and employer confederations represented in Board of Directors and one member from Turkish Union of Chambers and Stocks, in the body of the Institution, with the purpose of determining minimum workmanship rates to be considered in determining minimum workmanship amounts required for administering the work and of examining and deciding on the objections that may be submitted against minimum workmanship rates.

If found necessary by the Institution, more than one Commissions for Determining Minimum Workmanship may be established based on same principles. The commission meets with absolute majority and decisions shall be reached with the same votes of minimum four members. In case the members out of the Institution do not attend to subsequent three meetings and to five meetings within last six months, then members from the next confederation in the rank of membership numbers shall be invited to substitute the non - attending member of the first confederation.

Members assigned to Commission for Determining Minimum out of the Institution shall receive attendance fee, over the amount found by multiplying the indicator figure of (2500) with the coefficient used in the calculation of public servant pensions, for each attended day, from the Institution.

**(Appended paragraph: 17/4/2008 - 5754/49th Art.)** Reconciliation with the employer may be applied in the calculated insurance premiums, and administrative fines to be applied to these premiums, together with the default fine and default increment over the taxable value subject to difference insurance premium, which is determined as a result of minimum workmanship examination carried out by the Institution officers charged with duties of inspection and control at the permanent workplaces and which cannot be attributed to the insurance holders, before the report on the issue is sent to the relevant unit by the Institution. In case of reconciliation, this issue shall be written in minutes. Agreed amounts shall be final and no lawsuits could be brought or no complaints or objections could be submitted to any authority regarding the amounts subject to agreement. The agreed premiums and administrative fines shall be payable within maximum one month following the preparation of reconciliation minutes. The employer shall not benefit separately from advance payment discount for the agreed administrative fine. In case the agreed amounts are not paid fully within this time period, then the agreement shall be annulled and the agreed amounts shall not be considered as vested rights. In cases where the agreement could not be reached or agreement could not be found during reconciliation negotiations or agreement is cancelled, the employer may not request on this issue at a later time.

**(Appended paragraph: 17/4/2008 - 5754/49th Art.)** In case the insurance premiums not collected due to discount as a result of agreement are attributed to the insurance holder due to a resolution of the Institution or court, then missing insurance premiums shall be collected, together with the default fine and default increment, considering the earning subject to insurance premium and the service term of the insurance holder.

Working procedures and principles of the Commission for Determining Minimum Workmanship, characteristics of technical personnel to be assigned to the Commission, method to be applied in determining minimum workmanship, determining data, criteria for on - site determination to be carried out on completed or ongoing works, establishment, working procedures and principles of reconciliation commissions, and other procedures and principles regarding the execution of this Article shall be regulated by a regulation to be issued by the Institution

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(1) *The title of this Article was "Minimum workmanship application" ; however, with Article 49 of Law Number 5754 dated 17/4/2008 it is amended as applied to the text and the expression "institutions and organizations established by law" is appended following the "organizations having revolving funds" in paragraphs four and five of the same Article, and the expression "establishment, working procedures and principles of reconciliation commissions" is appended following the expression "on - site determining criteria to be carried out" in paragraph nine, and all these are applied to the text.*

## **PART TWO**

### **Premium Documents and Payment of Premiums**

#### **Premium documents and workplace records <sup>(1)</sup>**

**ARTICLE 86** - The employer is obliged to submit the original and additional premium and service document stating;

a) names and surnames, TR identity numbers,

b) earnings subject to premium to be calculated as per Article 80,

c) paid premium days and premium amounts,

of employed insurance holders subject to Article 4 and 5 and of insurance holders subject to social security support premium, and of which sample shall be established by a regulation to be issued by the Institution, within one month until the end of the date to be determined by the Institution for the ones under item (c) of paragraph one of Article 4, and until the end of the date to be determined by the Institution in the month following the month it belongs to for other insurance holders, or if the employer does not employ any insurance holders, the employer is obliged to notify the Institution about this issue within fifteen days following the ending date of employing insurance holders.

Employers and workplace owners are obliged to keep workplace books, records and documents, for a period of ten years starting from the beginning of the year following the year of such documents, and public administrations are obliged to keep such for a period of thirty years, liquidation and bankruptcy administration officers are obliged to keep such during their duties, and these are obliged to present such within fifteen days to the Institution officers charged with inspection and control duties, upon their requests.

In case the employer temporarily transfers the insurance holder in order to fulfil working for another employer pursuant to Article 7 of Labour Law Number 4857, then the transferee shall be obliged, jointly with the employer, for submitting to the Institution, within the same time period, the documents stated in paragraph one regarding the temporary work relation period.

It is obligatory for the employer to add the documents proving that the insurance holders, who are declared not to work and not to be paid on certain workdays in a month, have worked less than thirty days, to the premium and service document of the concerned month. This condition shall not be sought for public administrations and for workplaces where collective labour agreement is signed.

In case information and documents proving that the insurance holders worked less than thirty days are not submitted to the Institution within the due time for monthly premium and service document or in case submitted information and documents are not considered valid by the Institution, monthly premium and service document is prepared by the Institution, sua sponte, for periods declared less than thirty days, and the premiums shall be collected pursuant to the provisions of this Law.

Employers or sub employers who employ insurance holder and employers who are transferees of insurance holders in order to fulfil work action are obliged to display, at a place possible to be seen by the insurance holders, a copy of monthly premium and service document approved by the Institution, at the workplace where insurance holders work, or in case of more than one workplaces, separately at each workplace where insurance holders work, starting from the day following the end of the due time for submitting the documents to the Institution until the end of the period for submitting the subsequent document.

**(Amended seventh paragraph: 17/4/2008 - 5754/50th Art.)** In case, as a result of actual examinations or examinations in workplace records by the Institution's officers authorized with inspection and control duties or of the investigations, inspections and examinations carried out by own control officers of public administrations or from the documents or information prepared by or received from public institutions and organizations and banks, the documents which are found to belong to working insurance holders and to be submitted to the Institution pursuant to this Law are not submitted or submitted incomplete within one month in spite of official communication, these documents shall be prepared by the Institution, sua sponte, and the contained insurance premiums shall be determined and officially communicated by the Institution to employers. The employer may submit an objection against the premium debt communicated pursuant to this Article, to the concerned Institution unit within one month following the date of official communication. Objection shall suspend the transaction. In case of refusal of objection, the employer may apply to competent labour court within one month following the date of official communication of the decision. Applying to the competent court shall not terminate the follow - up and collection of the premium debt. In case the court rules in favour of the Institution, then provisions of Article 88 and 89 on premium debts shall be applied.

**(Appended paragraph: 17/4/2008 - 5754/50th Art.)** For the insurance holders who are determined not to notify, or notify incompletely, the Institution about their services or earnings subject to premium, although they are found to be working not based on records and documents from actual examinations or examinations in workplace records by the Institution's officers authorized with inspection and control duties or from the investigations, inspections and examinations carried out by own control officers of public administrations, only the section, which belong to one year before the date on which highest number is determined, of their past services or earnings subject to premiums shall be taken into consideration.

If insurance holders, for whom monthly premium and service documents are not submitted by employer and who could not be determined to work by the Institution, can prove that they work, with a written judgment, by applying to labour court within five years from the end of the year of their services, then monthly earning totals and paid premium days stated in the court judgment of such individuals shall be taken into consideration.

(1)

With Article 50 of Law Number 5754 of 17/4/2008; the expression "by the end of twenty fifth day of the month following the month it belongs to" present in paragraph one of this Article is amended as "within one month until the end of the date to be determined by the Institution for the ones under item (c) of paragraph one of Article 4, and until the end of the date to be determined by the Institution in the month following the month it belongs to for other insurance holders" and is applied to the text

If the Institution finds out that in one or more works where insurance holders work, necessary monthly premium and service documents are not submitted by the institution or earnings or paid premium days in the submitted monthly premium and service documents are incomplete although the conditions stipulated in this Law are fulfilled, then necessary payments shall be made from sickness and maternity insurances.

Transactions for fulfilling the obligations in this Article shall be carried out pursuant to Article 102.

The Institution is authorized to determine different time periods for submitting premium documents based on the characteristics of workplace at public administrations. Procedures and principles on the implementation of this Article and the content and formant of the documents shall be regulated by the Regulation to be issued by the Institution.

### **Persons obliged to pay premiums**

**ARTICLE 87** - In terms of short and long term insurance branches and universal health insurance and optional insurances, in the execution of this Law;

a) **(Amended: 17/4/2008 - 5754/51st Art.)** for individuals subject to item (a) and (c) of paragraph one of Article 4 and item (a) of Article 5, their employers,

b) for individuals subject to item (b) of paragraph one of Article 4 and among such individuals, those who are subject to social security support premium, optional insurance holders and individuals listed in items (d) and (g) of paragraph one of Article 60, the individuals themselves,

c) for individuals under item (c) of paragraph one of Article 60, the relevant public administrations, provided that premium year is covered from the central government budget,

d) **(Amended: 17/4/2008 - 5754/51st Art.)** for individuals under item (e) of paragraph one of Article 60 and under item (e) of Article 5, Turkish Labour Institution,

e) for candidate apprentices, apprentices and students who receive vocational education at enterprises in item (b) of Article 5 and for students subject to compulsory apprenticeship in vocational high schools, the Ministry of National Education or the schools in which such students receive education, for students subject to compulsory apprenticeship during higher education, the higher education institution in which they receive education,

f) **(Amended: 17/4/2008 - 5754/51st Art.)** for individuals subject to items (c) and (g) of Article 5, either themselves or their employers,

are persons obliged to pay premiums.

### **Payment of premiums**

**ARTICLE 88** - **(Amended: 17/4/2008 - 5754/52nd Art.)**

An employer who employs insurance holders stated in item (a) of paragraph one of Article 4 shall deduct the insurance holders' share of premium amounts, to be calculated pursuant to this Law, over the total of earnings subject to premiums of the employed insurance holders in one month, and shall pay this amount, by adding his/her own share of premium amounts, to the Institution, before the end of the day to be determined by the Institution.

Provisions in paragraph one shall be applicable to the premiums to be calculated over the earnings deserved but not paid.

For individuals deemed to be universal health insurance holders pursuant to items (b), (c), (d) and (g) of paragraph one of Article 60, it is obligatory to pay thirty full days of universal health insurance premiums each month. Such that, if the universal health insurance holders under item (b) of paragraph one of Article 60 has paid premium days under compulsory insurance in the same month, then universal health insurance premium equal to the number of optional insurance days shall be paid for the remaining days.

For individuals who are insurance holders under item (a) of paragraph one of Article 4 but work part time or on call pursuant to Articles 13 and 14 of Law Number 4857 and for insurance holders who work less than 30 days a month at household services pursuant to this Law, it is obligatory to complete the universal health insurance premiums of missing days to 30 days. Universal

health insurance premiums of such insurance holders related with their missing days shall be payable under number (1) of item (c) or under item (g) of paragraph one of Article 60. Universal health insurance premiums of insurance holders employed at workplaces owned by public administrations related with the months in which labour contract is suspended shall be payable by the concerned public administration, over 30 - day amount of the lower limit of daily earning subject to premium determined as per Article 82.

For individuals under item (c) of paragraph one of Article 60, the universal health insurance premiums payable by the persons obliged to pay premiums shall be calculated based on the total number of persons, to be found by adding the number of persons listed in numbers (3) and (10) of this same item to the number of persons to be found by dividing the total number of persons in numbers (1) and (2) by three as of the month in which the premium will be accrued. However, among such individuals, who are also universal health insurance holders under items other than item (c) of paragraph one of Article 60, shall not be included to the number of persons to be determined as per this paragraph.

Obligated persons in item (b) of paragraph one of Article 87 shall pay their premiums of each month to the Institution until the end of the day to be determined by the Institution in the following month. Such individuals may pay their premiums in advance, limited with maximum 360 days. In case of advance payment, for each day in advance payment discount provisions as per Article 1 of Law Number 6183 dated 21/7/1953 on Procedure for Collecting Public Claims. However, the prepayment discount shall not be deducted from earning subject to premium. Prepayment insurance term shall be included in the paid premium days, starting from the first day of each month the insurance premium belongs to. In case optional insurance ends within the period in which prepayment is made and which is not included in number of paid premium days, premiums of the days not included in insurance term shall be refunded to the concerned parties.

For insurance holders subject to number (4) of item (b) of paragraph one of Article 4, the Institution is authorized to determine the premium payment dates or periods, in a manner to collect universal health insurance premiums and short and long term insurance branches premiums separately or collectively.

Insurance holders under item (b) of paragraph one of Article 4 are obliged to pay premiums for thirty full days for each month.

An employer who employs insurance holders stated in item (c) of paragraph one of Article 4 shall deduct premium amounts to be calculated pursuant to this Law over the total of earnings subject to premiums of the employed insurance holders, and shall pay this amount, by adding his/her own share of premium amounts, to the Institution, before the end of the day to be determined by the Institution.

Liable parties listed in items (c) and (d) of paragraph one of Article 87 shall pay to the Institution the premiums of each month until the end of next month.

Premium amounts not actually paid to the Institution shall not be included in the expenses in income and corporate tax applications.

The Institution is authorized to collect the premium debts of individuals registered as insurance holders under number (4) of item (b) of paragraph one of Article 4, by applying deductions between rates of 1% and 5%, provided that the amount does not exceeds the debt from agricultural products they sell.

Premium debts may also be paid by deducting from value added tax return claims. In such a case, the right holder of value added tax return may request deduction for premium debts of themselves, of employers they purchased goods or services, or with whom they have a partnership or association relation. In case the premium debts before the month, in which such employers request deduction, are paid in deduction within fifteen days following the payment term stated in paragraph one, these shall be deemed to be made in due time. However, although a request is submitted for deducting premium debts from value added tax claims, for premium debts not deducted on time or deducted incompletely, default fine and default increment shall be applicable starting from the day following the payment terms stated in paragraph one. The Institution is authorized, upon positive opinion of the Ministry of Finance, to determine the employer who will benefit from this application, based on their area of activities, enterprise types, and enterprise sizes, and to extend, not longer than thirty days, the premium debt payment term of employers requesting deduction in favour.

The Institution is authorized to collect premiums and every kind of claims, by deducting from its debts towards employers.

The Institution is authorized to bring the obligation of paying premiums using special payment methods and to determine the collection organizations to which the premiums will be deposited.

For the collection of premiums and other claims of the Institution not paid in time, Articles of Law Number 6183 on Procedure for Collecting Public Claims other than Articles 51, 102 and 106. The Institution uses the authorities vested to Ministry of Finance and other public institutions and organizations and authorities in the execution of Law Number 6183.

The Institution is authorized to accept any kind of guarantee, including commercial enterprise over New Turkish Liras and/or foreign currency, movable and/or immovable property collateral, for guaranteeing any kind of claim, excluding the claims followed up under Law Number 6183.

The Institution's premiums and other claims followed up under Law Number 6183 bear the characteristic of public claim and are privileged. Indemnity and fines laid down in Execution and Bankruptcy Law Number 2004 shall not be applicable for the Institution in case any kind of lawsuit or execution prosecution, to which the Institution is a party, conclude against it.

Labour court at the location where the creditor of the Institution resides shall have authority in resolving disputes that may arise in the execution of Law Number 6183 on Procedure for Collecting Public Claims in collecting premiums and other claims of the Institution. Applying to the competent labour court shall not terminate the follow - up and collection of claims.

If the insurance premiums and other claims of the Institution are not paid in the terms laid down in this Law, then public servants of public administrations charged with duty on accrual and payment shall be responsible, collectively and jointly with the highest level managers or authorities and legal representatives, including the company board of director members of other employers having artificial personality, towards the Institution.

The Institution is authorized to determine that the payments are paid at different times due to the characteristic of the workplace at public administrations. Authorized personnel of the Institution who do not resort to legal execution within maximum one year following the date of maturity for the collection of premium claims shall be prosecuted pursuant to general provisions.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

### **Being successor of premium debts, default fine and default increment, and premiums which require refunding**

**ARTICLE 89 - (Amended first paragraph: 17/4/2008 - 5754/53rd Art.)** If the workplace where the insurance holder works is transferred with all active and passive assets or is moved or joins in or merges with another workplace, then new employer shall be collectively and jointly responsible for the debts of former employer consisting of premiums and default fines and other derivatives towards the Institution. Contractual provisions contrary to this provision shall not be applicable for the Institution. The Institution is authorized to determine procedures and principles regarding execution of this paragraph.

If the Institution's premium and other claims are not paid in due time and fully, then the unpaid section shall be increased applying a default fine of 3% for each month in the first three months following the end of the payment term. In addition, default increment shall be calculated by applying, to the amounts found for each month, monthly average interest of domestic government bonds exported with discount in New Turkish Liras for the previous month to be declared by Undersecretariat of Treasury separately for each month, starting from the end date of the payment term until the debt is paid out. However, in the month where the payment is made, default increment shall be calculated daily. Council of Ministers is authorized to increase default fine rate applicable to the first three months by two folds or to decrease it down to 1%, to restore to the legal rate and to determine the date of application. Even if a lawsuit and execution prosecution is in progress, default fine and default increment for the unpaid section of premiums and other claims of the Institution shall be collected.

Premiums which are found to be collected wrongly or inappropriately shall be refunded to employers, insurance holders, optional insurance holders or universal health insurance holders or right holders, according to their shares, together with legal interest, unless a period of ten years has not passed since the date they are collected. Legal interest shall be calculated for the time from the month following the depositing date of the premium to the Institution to the beginning of the month of return. However, provision of Article 65 of Code of Obligations is preserved.

Pensions, incomes and benefits payable and health - care services provided pursuant to this Law shall be terminated in case the insurance holders, optional insurance holders, universal health insurance holders lose their conditions to benefit from pensions, incomes, benefits and health - care services due to refunding premiums. Wrong or inappropriate expenses shall be taken back from the concerned parties pursuant to provisions of Article 96.

### **Deduction of premium and administrative fine debts from progress payments, payment and seeking termination of connection document <sup>(1)</sup>**

**ARTICLE 90 - (Amended first paragraph: 17/4/2008 - 5754/54th Art.)** Public administrations and organizations having revolving funds, organizations under Banking Code number 5411 and institutions and organizations established by law are obliged to notify the Institution about the contractors of any work they open to tender and their addresses within fifteen days.

**(Amended second paragraph: 17/4/2008 - 5754/54th Art.)** Progress payments of employers shall be paid, provided that they do not have any administrative fine, premium or premium - related debts to the Institution. Their performance bonds shall be returned after it is determined that they do not have any debts to the Institution related with the contracted work. Any kind of transfer, alienation and change of owner over any kind of claims, guarantees and progress payments of employers, excluding worker wages, related with public administrations and organizations with revolving funds, banks and institutions and organizations established by law shall be effective on the section remaining after the part covering the claims of Institution is removed.

**(Amended third paragraph: 17/4/2008 - 5754/54th Art.)** Procedures and principles for deduction and payment of progress payments and keeping guarantees as a collateral for premium and administrative fine debts shall be established by a regulation to be issued by Council of Ministers.

**(Amended fourth paragraph: 17/4/2008 - 5754/54th Art.)** It is obligatory to request from the concerned parties a document, which is issued by the Institution and states that the concerned parties do not have any debts to the Institution, because of construction made before temporary settlement or structure using permission is granted by offices of governors, municipalities, provincial special administrations and other authorities competent to issue licenses, and in transactions carried determined by Council of Ministers for other public administrations and organizations having revolving fund, institutions and organizations established by law and banks.

In cases where progress payment is paid, performance bond is returned or temporary settlement and structure using permission is issued or other transactions are carried out without fulfilling the obligations stipulated in this Article, administrative and penal transactions shall be applied to the concerned parties pursuant to the general provisions.

**(Appended paragraph: 17/4/2008 - 5754/54th Art.)** It is obligatory that before granting state aids, incentives and supports applied, except non - cash ones which have started previously and is ongoing, at research, development, production, investment, marketing and in all similar phases, provided with laws, decrees and other legislation in the manner of allocating resources from public based on special documents and permissions for certain regions or sectors or issued by public institutions and organizations excluding general regulations applied throughout the country and not based on a special permission or document, documents and information stating that the employer does not have any matured premiums or administrative fine debts or have divided into instalments or restructured the existing ones, should be requested. State aids, incentives and support payments made shall be taken back, together with sanctions under relevant legislation, from those whose agreement is annulled due to not fulfilling own liabilities regarding deferred and divided into instalments or restructured debts or, other than such reasons, who are later on found not to benefit from such aids, incentives and supports. Procedures and principles regarding execution of this paragraph shall be determined by the Institution receiving the options of Ministry of Finance and Undersecretariat of Treasury.

#### **Submission time for documents in disaster cases and deferring premiums**

**ARTICLE 91** - Employers and insurance holders under item (b) of paragraph one of Article 4, whose workplaces suffer from disasters such as fire, flood, landslide, earthquake and whose agricultural activity is damaged due to natural disasters, if they request in three months from the date of incident and if it is found out in the examination that they are incapable of paying premiums, provided that they document their situation, then matured existing premium debts before the date of disaster and the premium debts of three months following the date of disaster may be deferred by the Institution, up to one year from the date of incident.

In cases stated in paragraph one, if the monthly premium and service documents which should be submitted in the month in which disaster took place are submitted to the Institution within three months following the month of the disaster, then these shall be deemed to be submitted in time.

The Institution is authorized to determine and postpone the due date of submitting documents they employers, insurance holders and right owners, who suffered direct or indirect damages at disaster areas due to disasters decided to affect general life pursuant to Law Number 7269 of 15/5/1959 on Aids to be Made and Measures to be Taken for Disasters Effecting General Life , are obliged to submit pursuant to this Law and the payment terms of premiums that need to be paid and other claims of the Institution, considering the conditions and developments at the disaster area, independent from the time periods in this Law.

Time limit shall not be applied to the postponed premium debt and default fine and default increment shall not be applied to the deferred section.

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(1) *The title of this Article was "Seeking termination of connection document"; however it is amended by Article 54 of Law Number 5754 of 17/4/2008 as applied in the text.*

## **SECTION FIVE**

### **Common and Miscellaneous Provisions**

#### **PART ONE**

#### **Common Provisions**

#### **Compulsory state and termination of insurance, and social security registration number**

**ARTICLE 92 - (Amended first paragraph: 17/4/2008 - 5754/55th Art.)** For individuals under short and long term insurance it is compulsory to be insurance holders and universal health insurance holders and for individuals under universal health

insurance it is compulsory to be universal health insurance holders. Contractual provisions for removing, reducing, renouncing or transferring to a third party the insurance rights and obligations stipulated in this Law shall be invalid.

If premium debts and administrative fines are not paid upon notification to be made by the Institution to the employer for paying insurance premiums and administrative fines to be charged as per this Law, then documents stating the premium debt and administrative fine, prepared by the Institution, shall be effective as documents prepared duly by public offices.

Insurance status shall be terminated in case the conditions to be deemed to be insurance holder in accordance with this Law are not fulfilled or in case of death.

As for the social security registration number in registration and all other transactions for insurance holders, optional insurance holders, and their right holders, universal health insurance holders and their dependants, TR identity number shall be used for Turkish citizens and identity number to be issued by Ministry of Interior Affairs shall be used for foreigners. <sup>(1)</sup>

#### **Time limit in transfer, alienation, sequestration and claims of Institution <sup>(2)</sup>**

**ARTICLE 93 - (Amended first paragraph: 17/4/2008 - 5754/56th Art.)** The incomes, pensions and benefits of insurance holders and their right holders and claims of health - care service providers from the Institution arising due to universal health insurance provisions may not be transferred or alienated pursuant to this Law. Incomes, pensions and benefits may be sequestrated except claims requiring follow - up and collection pursuant to Article 88 and alimony debts.

**(Amended second paragraph: 17/4/2008 - 5754/56th Art.)** Premiums and other claims of the Institution shall be subject to a time limit of ten years, starting from the beginning of calendar year following the date on which the payment term is matured. Time limit for premiums and other claims of the Institution shall be applied as ten years starting from the finalization date of court judgment if they arise due to court judgment; from the date of report if they are aroused from findings of Institution officers charged with inspection and control duties; from the date on which the results of investigations, inspections or examinations are received by the Institution if they arise as a result of investigations, inspections and examinations carried out by public administrations' own inspection personnel in accordance with their legislation; from the date of receipt of information and documents by the Institution, if they arise from information and documents received from banks, organizations having revolving funds, public administrations and institutions and organizations established by law. Default fine and default increment to be calculated as per Article 89 for such claims shall be applied starting from the day following the final day of the payment term stipulated in Article 88.

Compensation and revoking lawsuits to be brought by the Institution based on this Law shall be subject to a time limit of ten years. Time limit shall start from the approval date of the Institution for income and pensions subject to revoking and from the date of expense or payment for expenses and payments.

Payments made after the time limit period shall be accepted. However, the period during which insurance holders subject to item (b) of paragraph one of Article 4 do not pay premiums due to time limit shall not be included in the insurance term and the insurance rights and obligations for this period shall be cancelled.

#### **Control examination**

**ARTICLE 94 -** Limited with the scope of the investigation carried out, the Institution may request control examination and analyses in order to determine that;

- a) whether universal health insurance holder or their dependants, who receive health - care services, have really received the said health - care services,
- b) whether the insurance holder, optional insurance holder, or their right holders really have the problems stated in invalidity, incapacity reports.

Insurance holders who are put on invalidity, duty disability pension or permanent incapacity income, may request changes in their pensions or incomes, setting forth that there is an increase in their disabilities or that they are in need of care of another person, whereas the Institution may request that the insurance holders who are put on disabled veteran, duty disability, invalidity pension or permanent incapacity income, and disabled children who have lost minimum 60% of their working power and are put on pension and income, are held subject to control examination. <sup>(3)</sup>

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(1)

*With Article 4 of Law Number 5754 dated 17/55/2008 the expression "social security registry to be issued by the Institution" present in this paragraph is amended as "identity issued by the Ministry of Interior Affairs" and is applied to the text.*

(2) *The title of this Article was "Time limit in transfers, alienations and claims of the Institution"; however it is amended by Article 56 of Law Number 5754 of 17/4/2008 as applied in the text.*

(3) *With Article 65 of Law Number 5754 dated 17/4/2008; the expression "excluding disabled veterans and individuals disabled of duty" present in this paragraph is amended as "disabled veterans, duty disability"; and with Article 66 of the same Law, the expression "duty disability" is appended following the term "invalidity" and the amendments are applied to the text.*

Depending on the invalidity status to be re - determined in the control examination carried out by the Institution or the examination carried out upon request of the insurance holder or at the end of work orientation, the invalidity pension or permanent incapacity income shall be increased, decreased or terminated starting from the beginning of the payment term following the date of report on which the new invalidity status is based.

Income and pension granted to disabled children, who have lost minimum 60% of their working power, shall be terminated starting from the beginning of the payment term following the report date, depending on their invalidity status to be determined by the control examination.

Invalidity pension and permanent incapacity income of insurance holders who do not have the control examination although they do not have an acceptable handicap from the date stated in written notification of the Institution until the beginning of the next payment term, and the income or pension granted to disabled children who have lost minimum 60% of their working power, shall be terminated at the beginning of the payment term following the date stated for control examination.

However, the terminated income or pension of an insurance holder or disabled children, who have had control examination within three months from the date stated in written notification of the Institution and whose invalidity or permanent incapacity status continues, shall be granted again starting from the date it is terminated.

Invalidity pension or income to be re - calculated based on new permanent incapacity degree of an insurance holder, who have had control examination within three months from the date stated in written notification of the Institution and whose invalidity or permanent incapacity status found to persist, and income and pension of disabled children who are receiving income and pension and who are incapable of working, shall be started to be paid again from the beginning of the month following the date of report.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

### **Determining procedures and principles of medical reports**

**ARTICLE 95** - Pursuant to this Law, the Institution is authorized to determine the procedures and principles for transfers to be made for abroad treatment, for reports on granting working power loss, temporary incapacity benefits, and for health committee reports which will be the basis for loss of earning in profession or of working power due to work accident or occupational disease, to determine the criteria that should be fulfilled by the health - care service providers authorized to issue such reports, and to return the inappropriate health committee reports and their basis medical documents to the issuing health - care service provider and to request it re - arranged to include determined information.

In the case of objecting to health committee reports prepared duly on transfers for abroad treatment, on duty disability degree, on loss of earning power in profession or on degrees of loss of earning power in profession, found as a result of work accident or occupational disease, and to decisions reached by the Institution based on other documents, the issue shall be decided on by the Social Insurance Health High Committee, by examining the duly prepared health committee report and its basis medical documents, and other required documents. <sup>(1)</sup>

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued jointly by the Institution and the Ministry of Health.

### **Recalling inappropriate payments**

**ARTICLE 96** - Any kind of payment under this Law, which is determined to be made in excess or inappropriately by the Institution to employers, insurance holders, optional insurance holders, individuals receiving income or pension, and to their right holders, universal health insurance holders and their dependants, together with legal interest to be calculated starting from;

a) the dates of such payments, for the payments made within the past ten years from the date of finding erroneous transaction, if it arose from intentional or faulty action,

b) without interest for payments to be made within three months following the notification of the concerned party about the total of payments made in the past maximum five - year period from the date on which the erroneous transaction is found, and

for payments to be made after the end of three months, starting from the end of this period, if this is caused due to an erroneous transaction of the Institution,

shall be deducted from the credits, if any, of the concerned parties from the Institution or shall be recalled pursuant to general provisions.

Deducting inappropriate payments from claims shall be carried out on the principal of debts, starting from the oldest one, and legal interest shall be applicable to the remaining debt. This provision shall be applicable in deducting inappropriate payments made to another right holder from the same file, provided that concerned right holders consent.

In deducting inappropriate payments from incomes and pensions, the debt amount calculated with the legal interest as of the beginning of payment term in which deduction will take place shall be applied by deducting at 25% from said incomes or pensions.

Procedures and principles regarding the execution of this Article and determining and taking back inappropriate payments shall be regulated by the regulations to be issued by the Institution.

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(1) *With Article 66 of Law Number 5754 dated 17/34/2008, the expression "degree of duty disability" is added after the expression "transfers to be made" in this paragraph and is applied to the text.*

### **Time limit, loss of right and advance payment**

**ARTICLE 97** - Unless otherwise stated in the provisions of this Law, of the incomes and pensions which should be granted in cases of work accident, occupational disease, duty disability and survivors, the section which is not requested within five years following the granting date of the right shall be barred by the statute of limitations. **(Abrogated final sentence: 17/4/2008 - 5754/57th Art.)** <sup>(1)</sup>

The above provisions shall not be applicable for the individuals who prove, pursuant to general provisions, that not applying to the Institution is based on justified grounds.

Other rights vested by the short term insurance branches and by survivors insurance shall be lost in five years following the granting date of the right.

Incomes and pensions of individuals who do not collect their incomes and pensions, payable pursuant to this Law, continuously for six months following the accrual dates shall be terminated in order to determine whether the conditions for granting income and pension are still present.

Claims of universal health insurance holders and their dependants shall be barred by the statute of limitations if not requested within two years after the receipt of information on the incident causing the right and shall be cancelled at the end of five years following the date of incident causing the right.

The Institution is authorized to pay advance payments in case the claims of insurance holders and their right holders and general insurance holders and their right holders deserved in terms of execution of this Law are not paid in due time.

**(Amended seventh paragraph: 17/4/2008 - 5754/57th Art.)** The amount between 75% and 60% of accrued claims shall be payable as advance payment to the health - care service providers, in order to be deducted from their claims within maximum forty five days following the date of delivery of the invoices. Within ninety days, examination of invoices and attached documents shall be completed and the remaining amount shall be paid.

**(Appended paragraph: 17/4/2008 - 5754/57th Art.)** For the prices of health - care services provided pursuant to Article 66, advance payment may be payable before the health - care service is provided, upon request of the abroad health - care service provider.

### **Not making deductions from wages, provisions on private insurance holders and executing social security contracts**

**ARTICLE 98** - The employers shall not make deductions from the wages of insurance holders due to the his/her own liabilities for social insurance and universal health insurance. In cases not included in the provisions in this Law, the provisions regarding private insurance holders shall not be taken into consideration in applying the provisions of this Law.

Contribution shares, the individuals benefiting from health - care services are obliged to pay pursuant to this Law, shall not be subject to guarantee or payment by private insurance companies.

**(Appended paragraph: 17/4/2008 - 5754/58th Art.)** Procedures and principles regarding to annual or longer term complementary or supportive private health insurances shall be laid down by the Undersecretariat of Treasury, based on positive opinion of the Institution.

Any kind of transactions and calculations to be made under international social security conventions shall be executed by the Institution. Reference made to the contact institution in the concerned conventions shall be deemed to be made to the Institution.

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(1) *With Article 57 of Law Number 5754 dated 17/34/2008, the expression "duty disability" is added after the term "occupational disease" in this article and is applied to the text.*

## **PART TWO** **Miscellaneous Provisions**

### **Regulations and notifications regarding social security**

**ARTICLE 99** - Any kind of legal regulation regarding social security rights and obligations shall be carried out in this Law.

Provisions of Official Notification Law Number 7201 dated 11/2/1959 shall be applicable on the notifications to be made pursuant to this Law.

### **Right to request information and documents, procedure for submitting information and documents to the Institution**

**ARTICLE 100 - (Amended: 17/4/2008 - 5754/59th Art.)**

The organizations under Banking Law number 5411, organizations having revolving funds and other real and artificial persons, excluding discrete information and document requests, directly, and public administrations and organizations and institutions established by law, based on protocols entered with the Institution, are obliged to provide any kind of requested information, continuously and/or periodically, to ensure that the information is viewed on electronic media, to ensure the security of such viewed information, and to submit any kind of document that they are obliged to keep and any kind of records on microfiche, microfilm, magnetic tape, diskette, and similar media and to present all of the system and passwords, necessary for rendering accessible and readable such information, provided that the provisions on cases which would cause grave results for the security of State and fundamental foreign benefits and on the confidentiality of family life and right to defend are preserved, not considering the banning and restricting provisions in special laws, even if they are secret, limited with purposes of ensuring social security of individuals by the Institution, follow - up and collection of Institution's claims pursuant to Law Number 6183, and other duties charged under this Law.

The concerned individuals, institutions and organizations under this Article are obliged to respond to the said request within the time period to be determined by the Institution and to show necessary convenience.

The Institution is authorized to hold it obligatory for real and artificial persons to send any kind of document or information to be submitted as per this Law via Internet, electronic medium or similar media, to merge any kind of document, notification and declaration that should be submitted to the Institution with forms of other public administrations, to receive such documents from the Internet and electronic information processing media of public administrations, to deem notifications made to such administrations as submitted to the Institution, to create on information processing media any kind of information and document, to be prepared by the Institution, a sua sponte or upon requests of concerned employers, insurance holders or other institutions, organizations or individuals regarding the execution of this Law, to decide on issuing information and documents to be prepared in this way to the concerned persons only on Internet or similar communication media. Information and documents to be prepared on electronic media shall be valid as official documents for judicial and administrative authorities.

In cases where real or artificial persons, who are bound to submit documents or information on Internet, electronic medium or similar media, cannot submit the said documents or information to the Institution before the final time period foreseen in this Law or cannot pay the premiums contained therein in legal time, due to failure of the Institution's information processing systems for any reason, if such individuals submit the documents and information and pay the premiums contained therein before the end of fifth day following the date on which such problems are resolved, then such obligations shall be deemed to be fulfilled in the time period foreseen in this Law.

Procedures and principles on the implementation of this Article shall be regulated by the Regulation to be issued by the Institution.

### **Place of resolution of conflicts**

**ARTICLE 101** - Unless otherwise specified in the provisions of this Law, conflicts that may arise due to the execution of the provisions of this Law shall be resolved in labour courts.

## **SECTION SIX** **Administrative Fines and Provisions for Dissolution**

### **Administrative fines to be applied by the Institution**

**ARTICLE 102 - (Amended: 17/4/2008 - 5754/60th Art.)**

Even if administrative fine is foreseen for the following actions in laws, of which basis is given by the Institution, in addition;

a) 1) Administrative fine equal to the minimum wage shall be applied to each insurance holder, who does not submit the notification in paragraph one of Article 8 and in Article 61 within the time period stated in this Law or in format and procedure laid down by the Institution, or who do not send such on Internet, electronic medium or similar media although they are obliged to submit them on such mediums.

2) Administrative fine equal to two times the minimum wage shall be applied for each insurance holder who is obliged to submit the notification but are found, based on information and documents received from banks, organizations having revolving funds, public administrations and institutions and administrations established by law, or on court judgments, or on examinations carried out by Institution's officers charged with duty of inspection and control, or on investigations, inspections and examinations carried out by the control officers of other public administrations pursuant to their legislation, that they have not submitted the notification stated in paragraph one of Article 8.

3) Administrative fine equal to five times the minimum wage shall be applicable to each insurance holder, in case it is found out that notification is not submitted again in the cases listed in number (2) of this item within one year following the receipt date of information and documents received from banks, organizations having revolving funds, public administrations and institutions and administrations established by law, or date of examinations carried out by Institution's officers charged with duty of inspection and control, or date of investigations, inspections and examinations carried out by the control officers of other public administrations pursuant to their legislation, regarding the fact that notification is not submitted based on workplace.

b) to individuals, who do not send the notification in Article 11 of this Law in the time period stipulated in this Law or in accordance with the format or procedure determined by the Institution or, where it is made obligatory by the Institution to submit such on Internet, electronic medium or similar media, the ones who do not submit them on said medium;

1) shall be charged with administrative fine equal to three times the minimum wage for public administrations and for those who are obliged to keep books pursuant to balance sheet principle,

2) shall be charged with administrative fine equal to two times the minimum wage for those who are obliged to keep other books,

3) shall be charged with administrative fine equal to the minimum wage for those who are not obliged to keep books.

c) for each and every action, to the individuals who do not submit the documents that must be submitted pursuant to Article 86, in accordance with the format or procedure determined by the Institution or where it is made obligatory by the Institution to submit such on Internet, electronic medium or similar media, who do not submit them on such media and in the time period stipulated in this Law;

1) administrative fine equal to one fifth of the minimum wage shall be applicable per registered insurance holder, provided that the amount is not over two times the monthly minimum wage in case the document is original,

2) administrative fine equal to one eighth of the minimum wage shall be applicable per insurance holder registered in each attached document, provided that the amount is not over two times the monthly minimum wage in case the document is attachment,

3) administrative fine equal to half of the minimum wage per insurance holder registered in each attached document, in case the attached document is issued, sua sponte, by the Institution based on paragraph five of Article 86, provided that the amount shall not be over two times the monthly minimum wage,

4) administrative fine equal to two times the monthly minimum wage in case it is found out, based on information and documents received from banks, organizations having revolving funds, public administrations and institutions and administrations established by law, or on court judgments, or on examinations carried out by Institution's officers charged with duty of inspection and control, or on investigations, inspections and examinations carried out by the control officers of other public administrations pursuant to their legislation, that it is related with insurance holders who have not communicated, or notified incompletely, their services or earnings to the Institution, independent of the facts whether the document is original, is attachment or is prepared by the employer, or not,

shall be applied.

d) Administrative fine equal to two times the minimum wage shall be applied for each month attributed to incomplete workmanship amount determined not to be communicated to the Institution, based on reports prepared by inspection and control officers authorized to examine books and documents pursuant to Article 59 or by certified public accountants and chartered accountants stated in paragraph five of Article 59.

e) To individuals who do not completely fulfil the obligation in paragraph two of Article 86 without any force majeure, within fifteen days, in spite of Institution's written warning;

1) administrative fine equal to twelve times the monthly minimum wage shall be applied for those who are obliged to keep books based on balance sheet principle,

2) administrative fine equal to six times the minimum wage shall be applied for those who are obliged to keep other books,

3) administrative fine equal to three times the minimum wage shall be applied for those who are not obliged to keep books,

4) Provided that the amount of fine that should be applied for not presenting books and documents which are compulsory to keep, besides not presenting all of the books and documents within due time, the section of the books, which are certified after the legal certification period is over, before the certification date, books in which workmanship expenses are not entered, books which are kept improperly or incompletely in a manner not to allow determining earnings subject to insurance premiums accurately, the books of the concerned month in which the earnings and earning payments which will be used in calculating the insurance premiums of any month are not entered to the books of that accounting year (including cases where earnings subject to insurance premium is based on payment), shall not be valid and an administration fine equal to half of monthly minimum wage shall be applied for each calendar day in which such invalidity cases occur; books, which should be certified before being used but are used without certifications, shall not be valid and, considering the type of book that is obliged to be kept, an administration fine pursuant to numbers (1) and (2) of this item; books which are kept pursuant to enterprise account principle instead of balance sheet principles pursuant to Tax Procedure Code shall be invalid and an administrative fine shall be applied pursuant to number (1) of this item;

5) Registration number of workplace, concerned month of the payroll, name and surname of insurance holder, social security registration number of insurance holder, number of paid wage days, wage of insurance holder, amount of paid wage and signature of insurance holder proving that the wage is received must be present on monthly wage payment payroll presented by employers. Wage payment payrolls which do not include any one of the stated issues (excluding payments made in return to receipt or via bank transfer for signature condition) shall not be valid and administrative fine equal to half of monthly minimum wage shall be applied for each invalid wage payment payroll,

Administrative fines shall not be applied separately for invalidity actions for books and documents found to be invalid, partially or fully, among the ones submitted to examination after the end of the presentation period; administrative fine shall be applied pursuant to numbers (1), (2) and (3) of this item considering only the type of book.

f) Administrative fine equal to two times the monthly minimum wage shall be applied to individuals who do not fulfil their obligations stated in paragraph five of Article 85 and in paragraph six of Article 86, within stated time period.

g) Administrative fine equal to monthly minimum wage shall be applied to institutions and organizations and artificial persons, who do not fulfil the obligations stated in paragraph three of Article 8, in paragraph three of Article 9 for the ones stated in item (b) of paragraph one the same Article, in paragraph three of Article 47 and paragraph one of Article 90. Administrative fine equal to one tenth of monthly minimum wage per insurance holder shall be applied to public administrations and banks which do not fulfil the obligations stated in paragraph seven of Article 8.

h) Administrative fine equal to monthly minimum wage for each notification obligation not fulfilled, to trade registry offices which do not fulfil their notification obligations stated in paragraph three of Article 11 in legal time period and to institutions and organizations which do not fulfil their obligation stated in paragraph six of the same Article in legal time period.

1) Institution officers charged with duties of inspection and control;

l) cannot be hindered by the employers, insurance holders, workplace owners and other individuals related with this work when they carry out their inspection and investigation duties arising from this Law; even if their actions constitute another offence, administrative fine at five times monthly wage shall be applied to the hindering parties.

2) are forced or threatened by employers, insurance holders, workplace owners and other individuals related with this work in order to hinder them from carrying out their duties, shall be sentenced in accordance with paragraph two of Article 256 of Turkish Criminal Code, in case the action does not require a heavier punishment. In addition, administrative fine equal to ten times minimum wage shall be applied to the committers of such offence.

i) Administrative fine equal to five times monthly minimum wage shall be applied to public administrations, banks, organizations having revolving funds, institution and organizations established by law, and other real and artificial persons, who does not submit information and documents requested by the Institution in accordance with Article 100 of this Law without any force majeure, and to two times the monthly minimum wage shall be applied in case of late submission.

Penalties foreseen in items (a) and (b) of paragraph one of this Article shall be applied at a rate of two thirds in case the notifications are submitted by the concerned parties after the legal time period of the notification, excluding the ones prepared based on court judgments, on examinations carried out by Institution's officers charged with duty of inspection and control, or on investigations, inspections and examinations carried out by the control officers of other public administrations pursuant to their legislation.

Administrative fine application shall not relieve the obligation of submitting documents stated in Articles 8, 11 and 86 to the Institution.

Administrative fines shall accrue upon notification to the concerned party. These shall be deposited to the Institution or to relevant accounts of the Institution; within fifteen days following the date of notification or an objection may be placed to the Institution within the same period. Objection shall suspend the transaction. Individuals whose objections are refused by the Institution may apply to the competent administrative courts within thirty days following the date of notification of the decision. Administrative fine shall be finalized in case application is not made in this time period.

Where the administrative fines are paid in advance within fifteen days following the date of notification, without placing any objection to the Institution or resorting to courts, three fourths of this amount shall be collected. Advance payment shall not affect the right to apply to courts against administrative fine. However, in case the Institution or the court reaches to a decision in favour of the Institution, then the one fourth fine amount not collected before shall be collected considering the provision of paragraph two of Article 89.

Applying to the court shall not terminate the follow - up and collection of the administrative fine. Administrative fines not paid within fifteen days following the date of notification shall be collected with the default fine and default increment to be calculated pursuant to the provision of Article 89.

Administrative fines shall be subject to a time limit of ten years. Time limit shall start on the committal date of action.

Provisions of Offences Law 5326 dated 30/3/2005 shall be applied to administrative fines in cases where no provisions are found in this Law and in Social Security Institution Law Number 5502 dated 16/5/2006.

### **Administrative sanctions and dissolution**

#### **ARTICLE 103 - (Amended: 17/4/2008 - 5754/61st Art.)**

As a result of the examination to be carried out by the Institution about the health - care service provides who are determined;

a) to issue health - care service invoices although not provided the health - care service,

b) to prepare false invoices and documents on which invoice is based,

c) to show health - care services held out of the scope pursuant to Article 64 as if the health - care services included in the scope,

d) to provide health - care service to the individuals who do not have the right for health - care services and to invoice it to the Institution,

e) to charge additional fee above the upper limit determined as per Article 73,

shall hold subject to legal proceedings pursuant to general provisions. Inappropriate amount paid by the Institution due to such actions shall be taken back pursuant to Article 96. In addition, contracts between the Institution and such health - care service providers who determined to have committed such actions or have acted in violation of the provisions in the contracts for purchasing health - care services may be annulled and a subsequent contract may not be entered for a period to be determined by the Institution.

Damages caused by the health - care service providers who cause damages to the Institution due to not fulfilling the obligation of identifying pursuant to Article 71 and to providing health - care services to another person shall be taken back.

**SECTION SEVEN**  
**Abrogated, Amended, Final and Interim Provisions**  
**PART ONE**  
**Amended and Abrogated Provisions**

**References in other laws**

**ARTICLE 104 - (Amended first paragraph: 17/4/2008 - 5754/62nd Art.)** Provided that the provisions, non abrogated with this Law, are preserved, references made to Law Number 506 dated 17/7/1964, Law Number 1479 dated 2/9/1971, Law Number 2925 dated 17/10/1983, Law Number 2926 dated 17/10/1983, and Law Number 5434 dated 8/6/1949, and references made to rights, aids and obligations of retirement, invalidity, incapacity and social insurance, partnership and insurance status, conditions for widows, orphans and right holders, retirement bonus, additional payments, health - care services or payments on treatment prices shall be deemed to be made to the relevant Articles of this Law.

Reference to the TR Pension Fund regarding the payment of out - of - permanent staff compensation in Turkish Armed Forces Personnel Law Number 926 dated 27/7/1967, and references to TR Pension Fund, Social Insurance Institution and to Bağ - Kur in other laws shall be deemed to be made to the Institution.

**Non applicable provisions <sup>(1)</sup>**

**ARTICLE 105 - (Amended: 17/4/2008 - 5754/63rd Art.)**

Provisions of other laws contrary to this Law shall not be applied excluding Article 30 of Law Number 5335 dated 21/4/2005, Article 4 of Law Number 3671 dated 26/10/1990, and paragraph eleven of Article 5 of Decree in lieu of Law number 285 dated 10/7/1987.

**Abrogated provisions**

**ARTICLE 106 – (Amended: 17/4/2008 - 5754/64th Art.)**

- 1) Articles of Social Insurances Law Number 506 dated 17/7/1964, excluding Articles 142 and 143, appended Article 36, provisional Article 20, provisional Article 81 and provisional Article 87,
- 2) Articles of Traders and Artisans and Other Independent Works Social Insurance Institution Law Number 1479 dated 2/9/1971, excluding Articles 83, 84, provisional Article 10 and appended provisional Article 6,
- 3) Article 5 of Headmen Benefit and Social Security Law Number 2108 dated 29/8/1977,
- 4) Individuals Working on Own Name and Account in Agriculture Social Insurance Law Number 2926 dated 17/10/1983,
- 5) Law Number 2829 dated 24/5/1983 on Joining Services Subject to Social Security Institutions,
- 6) Articles 1 through 5, 13 through 17, 24 and 33 of Agricultural Workers Social Insurances Law Number 2925 dated 17/10/1983,
- 7) Articles 107, 209 and appended Article 22 of Public Servants Law Number 657 dated 14/7/1965,
- 8) Articles 12 through 19, 23, 30 through 39, 41 through 55, 57 through 59, 61 through 64, 66 through 71, first, second and third paragraphs of Article 72, Articles 73 through 80, 82 through 88, 90 through 100, 102 , 104 through 124, 127 through 129, 131 through 135, appended Article 2 through 4, appended Articles 8 and 9, 11, appended Articles 13 through 19, 21 through 23, 25 through 27, 29 through 30, items (a) and (b) of appended Article 31, appended Articles 32 through 39, 46 through 49, 56 through 57, 59, 67 through 70, 72 through 76, 78, 80, provisional Articles 8, 15, 16, 54, 65, 85, 86, 88, 96 through 98, 103, 104 , 109 through 113, 115 through 118, 120, 139 through 140, 146, 147, 150 through 151, 153, 157, 159, 161 through 166, 170, 171, 173, 176, 180, 182 through 186, 190 through 192, 195 through 200, 203, 204, 207 and 208, 210 through 212, 216, 218 through 220, appended provisional Articles 1, 2, 7, 8, 11, 19, 20, 22 and 23,

- 9) Provisional Article 1 of Law Number 3841 dated 1/10/1992, Provisional Article 1 of Law Number 4049 24/11/1994 and Provisional Article 1 of Law Number 4677 dated 13/6/2001,
- 10) Provisional Article 3 of Decree in lieu of Law number 311 dated 14/1/1988 on Civil Servants and other Public Servants and on Amending Certain Laws,
- 11) paragraph five and sentence two of paragraph of Article 50 and six item (C) of Article 56 of Unemployment Law Number 4447 dated 25/8/1999,
- 12) Articles 186 through 188 and 191 of Law on Practice of Law number 1136 dated 19/3/1969,
- 13) Articles 201 through 203 of Law on Notaryship number 1512 dated 18/1/1972,
- 14) item (d) of Article 3 and provisional Article 3 of Health - Care Services Fundamental Law Number 3359 dated 7/5/1987,
- 15) The Law number 399 dated 22/1/1990 on Regulating the Personnel Regime in State Economic Enterprises and the "expression inpatient and outpatient treatments at public and private health organizations" in Article 32 of Decree in lieu of Law number 233 on Abrogating Certain Articles,
- 16) Article 89 of Police Organization Law Number 3201 dated 4/6/1937,
- 17) Article 18 of Public Intelligence Services and National Intelligence Organization Law Number 2937 dated 1/11/1983,
- 18) The expression "and are treated" in item (f) and the expression "and are treated" in item (g) of Article 21 of Law Number 3713 dated 12/4/1991 on Fighting Against Terrorism,
- 19) The expression "and treatment expenses of injured or disabled" in paragraph one of Article 4 of Law Number 2453 dated 23/4/1981 on Granting Chas Compensation and Pension to Personnel Assigned to Abroad Duties,
- 20) Paragraphs three and four of Article 10 of Law Number 7269 dated on 15/5/1959 Aids to be Made and Measures to be Taken for Disasters Effecting General Life,
- 21) Article 7 of Law Number 2022 on Putting Needy, Weak and Forlorn Turkish Citizens Over the Age of 65 on Pension dated 1/7/1976,

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(1) *The title of this part was "Amended, appended and not applicable provisions"; however it is amended by Article 63 of Law Number 5754 of 17/4/2008 as applied in the text.*

- 22) Paragraph two of Article 2 of Law Number of 1005 of 24/2/1968 on Putting Individuals Awarded with medal for Service in the Turkish War of Independence on Honorary Pension from Military Service Planning,
- 23) Item (c) of Article 18 and Article 20 of Allowance Law Number 6245 dated 10/2/1954,
- 24) Articles 7, 11, provisional Articles 1 through 4 of Law Number 3201 dated 8/5/1985 and "foreign currency" expressions in the same Law
- 25) Article 4 of Law Number 5458 dated 22/2/2006,
- 26) In Labour Law Number 4857 dated 22/5/2003, in paragraph five of Article 65, the expression "Premiums for sickness and maternity insurance of the worker in the period where short working benefit is received shall be transferred to the Social Insurances Institution, by Unemployment Insurance Fund, at a rate of 2/3. Such premiums shall be calculated over the lowest earning limit used in the calculation of insurance premiums.",
- 27) Article 23 of Banking Law Number 5411 dated 19/10/2005,
- are abrogated.

Law Number 3816 dated 18/6/1992 shall be abrogated two years after the effective date of this Law, and appended Article 36 and provisional Article 20 of Law Number 506 shall be abrogated following the completion of transfer transactions stated in provisional Article 20 of this Law.

### **Regulations**

**ARTICLE 107** - Regulations stated in this Law shall be issued within one year following the effective date of this Law. The Institution has the authority to regulate procedures and principles on the execution of other Articles of this Law.

## **CHAPTER TWO** **Provisional and Final Clauses**

### **Certain provisional clauses concerning invalidity, age and survivors insurance**

#### **PROVISIONAL ARTICLE 1 - (Amendment: 17/4/2008 - 5754/68 art.)**

Individuals who were subject to Social Security Act number 506 and Agricultural Workers Social Insurance Act before the effective date of this Act are considered in the scope of sub clause (a) of first clause of article 4 of this Act; Act 1479 on Social Security of Craftsmen and Artisans and Others who Work Independently, and abrogated by this Act, those who are subject to Act 2926 on Individuals who Work on their Own Behalf and Own Account in Agriculture are considered in the scope of sub clause (b) of first clause of article 4 of this Act; individuals who are subject to Act 5434 on Republic of Turkey Retirement Fund are considered in the scope of sub clause (c) of first clause of article 4 of this Act.

Pensions, income and other allocations assigned or entitled in accord with Act 506, dated 17/7/1964, Act 1479, dated 2/9/1971 and Act 1479, dated 17/10/1983 and Act 2925, abrogated by this Act, Act 2926, dated 17/10/1983; and supplementary payment paid in accord with article 1 of Act 5454, dated 8/2/2006 continue to be paid. Clauses of this Act and the abrogated act that has become ineffective are implemented in the increase, decrease, cut off or reassignment of these incomes and allocations due to status change.

As of the effective date of this Act, social welfare increase and restitution allocation amounts that are paid upon Act 506, dated 17/7/1964 and Act 1479, dated 2/9/1971 are paid as supplements to incomes and allocations of concerned people, based on amounts that were paid on the effective date of this Act. Shares of title holders in income and allocations are taken as a base as such the entirety of it will be distributed in the supplement of social welfare increase.

Allocations and incomes assigned to individuals who are considered to be insured upon sub clauses (a) and (b) of the first clause of article 4 of this Act and to their survivors are increased in accord with the second clause of article 55. Insurance term, actual service period and number of premium payment days mentioned in the scope of Acts 506, 1479, 2925, 2926 and 5434 are taken into consideration in insurance term required for universal health insurance application and number of premium payment days.

### **Estimation of allocations to be assigned to works which are subject to social security acts, which were in effect prior to this Act**

#### **PROVISIONAL ARTICLE 2 - (Amendment: 17/4/2008 - 5754/68 art.)**

Old age pension to be assigned to individuals who are subject to Act 506, dated 17/7/1964, Act 1479, dated 2/9/1971, Act 2925, dated 17/10/1983, and abrogated by this Act, Act 2926, dated 17/10/1983 before the effective date of this Act are estimated as follows:

a) Pension of insurance holder based on premium payment days until the effective date of this Act or pension belonging to actual service period is estimated in accord with clauses of acts that were effective before this Act has taken effect, number of total premium payment days or actual service period; proportion of pension that is to be estimated as of the effective date of this Act or actual service period is estimated by multiplying update coefficient of each year for each year that passes until the pension claim date.

b) Pension of insurance holder belonging to premium payment days in periods after the effective date of this Act that is to be estimated based on total premium payment days in pension claim date in accord with article 29 clauses is as much as the part in proportion to the number of premium payment days after the effective date of this Act. However, in ratio estimation of old - age assistance assignment of insurance holders who have not completed 3,600 premium days before the effective date of this Act, for each 360 days of service periods completing premium day numbers to 3,600 days before the effective date of the Act and passing after the effective date of the Act, 3% ratio is taken as the basis.

c) Pension is made of partial pensions that are estimated in accord with sub clause (a) and (b). Pensions are also determined by increasing them in accord with the last clause of article 29.

As of the effective date of this Act, principal criterion based on partial pension that are to be estimated within the criteria system according to Act 506, dated 17/7/1964, provisional article 82 is determined based on the criterion, to be prepared based on the number of calendar years in average annual income of the insurance holder, and on upper criteria setting tables.

Amount of minimum pension that is taken as the basis in pension calculation pertaining to pension for periods elapsing until the effective date of this Act and previous total monthly amount, determined according to Act 506, dated 17/7/1964, provisional article 82, the second clause is based on the amount corresponding to the ratio of the number of premium payment days that elapse until the effective date of this Act within the total premium payment days.

Pensions of individuals who make foreign service debt are estimated in accord with the clauses specified above.

New pensions of individuals who are considered as insured upon this Act, article 4, first clause, sub clause (a) and (b), of individuals whose pensions are discontinued after assignment of old - age pension according to clauses of the pertaining act before the effective date of this Act, of individuals who leave work and claim assignment of old - age assistance in writing is estimated in accord with article 30 of this Act, sub clause three.

Invalidity benefits and survivors pensions are estimated based on the provisions that are specified in the clauses above for insurance holders in the scope of this Act, article 4, first clause, sub clause (a); for insurance holder in the scope of sub article (b), by considering periods that were taken as a base before the effective date of this Act, are estimated based on provisions of article 27 or article 33.

The Act, which is to be taken as a base in monthly pension assignment to individuals who were insured or were participants before the effective date of this Act, individuals who claim pensions after the effective date of this Act, individuals who are subject to different social security institutions or more than one insurance states specified in this Act, is determined in accord with provisions of Act 2829 pertaining to this Act and provisions of provisional articles of this Act are implemented in regard to them. However, provisions of Act 5434 are not implemented to individuals who are not included in the scope of provisional article 4 of this Act. Among the individuals to whom provisions of Act 5434 are to be implemented in accord with Act 2829 abrogated by this Act, for the individuals who are not covered in the scope of sub clauses (a) and (b) of first article of provisional article 4 of this Act are taken as a basis.

The act that is to be taken as a base in the implementation of provisions of sub clause (a) is determined in accord with the provisions of Act 2829 abrogated by this Act, excluding periods that elapse in the scope of sub clause (c) of first clause of article 4 of this Act. In the unification of services that are subject to this Act and services made in insurances that are subject to provisional article 20 of Act 506, provisions of Act 2829, abrogated by this Act and provisions of this clause are taken as a base.

### **Implementation of previous legislation provisions <sup>(1)</sup>**

#### **PROVISIONAL ARTICLE 3 - (Amendment: 17/4/2008 - 5754/68 art.)**

Provisions of current regulations and guidelines that are not contradictory to this Act continue to be implemented until regulations and other formulations which are to be issued take effect.

#### **Transitional provisions concerned with Act 5434**

#### **PROVISIONAL ARTICLE 4 - (Amendment: 17/4/2008 - 5754/68 art.)**

As of the effective date of this Act, in accord with Act 5434, dated 8/6/1949; payment to individuals who are granted with monthly pension, indemnity, war invalidity increase, other payments and assistance and who are granted with supplementary payment is continued to be paid, as long as they have the conditions specified in Act 5434 for themselves, including provisions abrogated by this Act. However, pensions and other payments of individuals who receive widow and orphan pensions due to participants who have actual service period between 5 and 10 years are continued to be paid as long as they have the conditions specified in articles 32, 34 and 37 of this Act.

Procedures are carried out in accord with provisions of Act 5434, including its provisions that are abrogated with this Act, for individuals whose participations ended before the effective date of this Act and who claim allotment and individuals who claim allotment in accord with provisions of Act 5434 before the date this Act has taken effect.

Procedures are carried out in accord with the first clause of article 47 of this Act for individuals who are participants in accord with Act 5434 after this Act has taken effect and has started to work as subject to sub clause (c) of the first clause of article 4 of this Act and who are in the scope of duty disability.

Unless there is no contradictory provisions exist in this Act; procedures are carried out in accord with provisions of Act 5434, including its provisions abrogated with this Act, for individuals who are included in sub clause (c) of the first clause of article 4 of this Act as of the effective date of this Act while they were participants, individuals who worked as being subject to

provisions of Act 5434 before this Act has taken effect and restarted to work as being subject to sub clause (c) of the first clause of article 4 of this Act and their widows and orphans.

Procedures are carried out in accord with provisions of Act 5434, including provisions that are abrogated by this Act concerning granting, increasing, decreasing, discontinuing, re - starting, single payment, action continuation, recreate and borrowing, other payments and assistance and retirement premiums of individuals who are in the scope of this article, and provisions of abrogated Act 2829 are taken into consideration thereto in the implementation of this article.

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(1) *Title of this article "Implementation of provisions of previous legislation, state assistance and provisional payment for disability for service" has been modified as it is written in the text, with article 68 of Act 5754, dated 17/4/2008.*

For individuals who started to work as being subject to provisions of Act 5434 before the effective date of this Act and who were hired according to the pertaining legislation before they started to work and individuals who have a medical board report displaying that they are at least 40% disabled and individuals who document that they are at least 40% disabled from birth and, among these individuals, those who are insured in the scope of sub clause (c) of the first clause of article 4 of this Act at the pension claim date; old - age pension is granted based on provisions of this article, when they claim, with the condition of declaration of at least 5400 days of long term insurance branch premium or retirement deduction payment. However, after starting to work, as a result of investigation of reports which are to be issued duly by medical boards of health service providers, authorized by the Institution, and of supporting medical documents, with the condition of assessing a ratio of work strength loss of;

a) 50% to 59%, at least 5760 days,

b) 40% to 49%, at least 6480 days,

of long term insurance branch premium is declared for insurance holders, provisions of this clause are implemented on their behalf.

Among individuals who work in public organizations with service contract or by agreement as of the effective date of this Act; as long as individuals who are related with Act 5434 based on pertaining acts continue to work in the same statute, they are considered to be insured in accord with sub clause (c) of first clause of article 4 of this Act and provisions of this article are implemented on their behalf.

Procedures are carried out regarding deductions and compensations, actual service increase and nominal service period compensations and 100% increase differences of individuals who were participants before the effective date of this Act and who are included in the scope of sub clause (c), clause one, article 4 of this Act based on provisions of Act 5434, before this Act has taken effect. **(Amended second sentence:31/7/2008 - 5797/3 art.)** An additional universal health insurance premium is paid in the ratio of 12% of their pensions, which are the basis of their retirement deductions each month, for insurance holders who are in this scope by public administrations from the date their duty, pertaining health service providing by public administrations, is taken over by the Institutions based on the second clause of provisional article 12. General health premium is paid thereto to retirement deductions each month from the date the assignments of public administrations, concerning health service provision based on second clause of provisional article 12, are taken over by the Institution, in 12% ratio of their main pensions to insurance holders in this scope by public administrations. Universal health insurance premium amounts are not taken into account in the estimation of supplementary compensations that are to be paid for these, based on article 81, clause (h) of the Act.

Pensions paid according to Act 5434 and pensions that are to be granted with this article are increased based on increases in civil servant salary coefficients. In addition, civil servant salary increases that are to occur as a result of amendments in salary scale, organization, permanent staff and similar acts after the effective date of Act 5434 are to be implemented for the old age, invalidity, duty disability and survivors pensions allocated at the same service rank / grade and cadre title.

Successful education terms of individuals schooling in Police Academy and faculty and colleges on the account of Security General Directorate as of the effective date of this Act or students who continue schooling on the account of Security General Directorate while they were schooling on their own account and individuals who work in Security Services Class in the scope of article 4, clause one, sub clause (c) are considered, if they request, as service by debiting the entirety of premium of insurance holder and employer share belonging to these periods, according to their relevance on the debit claim date, based on the minimum police officer or sergeant monthly salary subject to contribution.

The entirety of debit amount that is to occur as a result of this is paid by them within two years from the debit declaration date. In addition, successful education terms of individuals who are nominated as regular petty officer following schooling on their own account in faculty, college or vocational college of universities before the effective date of this Act are considered as service, if they request, by debiting based on criteria in this clause based on retirement deduction of petty officer sergeant receiving the least amount of monthly salary as of the debit request date.

Before the effective date of this Act, excluding individuals who served as mayor as a result of elections, individuals who get paid position compensation, and depending on this, those who are paid representation or duty compensation in accord with supplementary article 68 of Act 5434, abrogated by this Act before the effective date of this Act, among individuals who receive retirement or old - age pension according to social security acts, those who hold monthly pension assignment based on article 39 of Act 5434 abrogated by this Act, from the effective date of this Act, as of the effective date of this Act, and on the other hand, to individuals who don't hold conditions for monthly pension assignment in accord with article 39 of Act 5434 abrogated by this Act, from the date they hold these conditions, by considering conditions specified in supplementary article 68 of Act 5434, abrogated by this Act, are paid position compensation which a precedent mayor receives, and depending on this, representation or duty compensation amount, by adding retirement or old - age salaries that they receive. The said compensations are paid by adding to salaries of individuals who served as a mayor as a result of elections before the effective date of this Act and among the individuals who are granted with old - age pension while they are insured according to this Act those who hold conditions for monthly pension assignment according to article 39 of Act 5434 abrogated by this Act, within the conditions specified in this clause, by considering provisions of provisional articles 2 and 4 of this Act. When individuals who served as a mayor as a result of the effective date of this Act and those who passed away hold the conditions specified in article 32 of this Act, by considering the conditions specified in supplementary article 68 of Act 5434 abrogated by this Act as well, according to provisions of article 34, provisional article 1, 2 and 4 of this Act, the said compensations are paid by adding to their survivors pension from the effective date of this Act for those who passed away before the effective date of this Act, and from the death date for those who passed away after the effective date of this Act. Among individuals who served as a mayor as a result of elections before the effective date of this Act, those who receive invalidity pension and those who are to hold right for invalidity pension, without any regard to conditions for pension allocation specified in article 39 of Act 5434 abrogated by this Act, are benefited from compensation rights specified above. As compensation amounts are paid according to this clause, they are collected from the Treasury.

Follow up and collection processes of claims emanating from Act 5434 and belonging to terms before the effective date of this Act are conducted in accord with pertaining provisions of Act 5434, abrogated by this Act by the Institution. However, follow up and collection processes initiated by associated units of the Ministry of Finance before the effective date of this Act are finalized by them.

In case insurance holders in the scope of sub clause (c) of clause one, article 4 of this Act who have debits, with their recreated services, are entitled to monthly pension in accord with this Act and apply for it, they are granted with a monthly pension starting from the beginning of the month after the money payment date. However, periods for which retirement compensation is paid are not taken into consideration in retirement compensation.

In case survivors of the insurance holder who passed away before the effective date of this Act and do not have sufficient number of premium payment days for a monthly pension assignment according to pertaining provisions abrogated by this Act earn the right for a survivors pension in terms of number of premium payment days in accord with provisions of this Act, their salaries to be estimated according to provisions of Act 5434, abrogated by this Act are paid at the beginning of the month following the application date in accord with articles 32, 34 and 37 of this Act.

In case individuals who were partners before the effective date of this Act in accord with Act 5434 and did not hold insurance in the scope of clause one, article 4 of this Act after the effective date of this Act become indebted, with their recreated services and earn right for a monthly pension according to clause one, article 4 of this Act and apply for it, they are granted with a monthly pension at the beginning of the month after the payment of the money indebted according to this article and belonging to their recreated services, by estimating in accord with provisions of Act 5434, abrogated by this Act. In case survivors earn the right for a monthly pension by the implementation of provision of this clause, their estimated pensions are paid in accord with article 32, 34 and 37 of this Act. However, these terms are not taken into account in retirement compensation.

Eliminated periods of individuals, whose services are eliminated due to a statutory of deductions or full payments, are regarded as services that are to be unified in accord with this Act.

Individuals whose appointments are ended between 23/4/1999 and 14/2/2005 due to disciplinary action according to personnel legislation and whose disciplinary punishments, given in accord with Act 5525, dated 22/6/2006 are lifted with all of their outcomes apply to the Institution within six month from the effective date of this Act, periods of unpaid premium or deductions between the date they leave their appointment and the date they start work, if they request, by assigning a class to each three years and a degree for each year of the period, for which no premium or deduction are paid to classes and grades regarding the appointment they quit, or of the period they want to be indebted for, and based on their education levels, are considered as service, by taking the amounts as a base which are to be figured by multiplying class, grade and supplementary scales, to be determined not to exceed the classes that they can reach in article 36 of Act 657 on Public Sector Employee, with the total of all elements of monthly estimation which is the basis for retirement deduction, and by indebting deductions and corresponding ratios again at that date. The entirety of the debt amount to arise from this is paid by them in equal instalments or in a single payment within two years from the date the debt is communicated.

## Single payment and transitional provisions of regeneration

### PROVISIONAL ARTICLE 5 - (Amendment: 17/4/2008 - 5754/68 art.)

Part of full payments belonging to service terms before the effective date of this Act, to be made according to this Act, to insurance holders who are in the scope of sub clause (a) and (b), clause one, article 4 of this Act, is paid an amount that is figured by multiplying update coefficient of each year, in accord with some provisions of the pertaining act, abrogated by this Act, by estimating it as of the effective date of this Act, for years that elapse from the effective date of this Act until the written claim date regarding full payment, by adding to total payment amount that is estimated in accord with this Act for the periods after the effective date of this Act.

Full payment is made to insurance holders in the scope of sub clause (a) and (b), clause one, article 4 of this Act, before the effective date of this Act and in regeneration or indebtedting of eliminated services in accord with article 31, 36 and 41, as of the effective date of this Act, the amount that is estimated according to pertaining provisions of the act, abrogated by this Act, by multiplying update coefficient of each year is taken into account for years that elapse between the effective date of this Act and the written request date regarding the regeneration claim.

### Transition provisions concerned with Act 506

**PROVISIONAL ARTICLE 6** - Provision that is concerned with the start of insurance period from the completion of 18 years of age specified in clause two, article 38 of this Act is not implemented for individuals whose invalidity, old - age and survivors insurances are registered before 1/4/1981 in accord with Act 506, dated 17/7/1964.

Social assistance increases unpaid to the Institution by institutions and organizations which are specified in abrogated supplementary article 24 of the Social Security Act, 506 are paid to the Institution by the Treasury to be collected from the relevant institutions and organizations.

**(Amended third clause: 17/4/2008 - 5754/69 art.)** Workplace registrations made according to provisions of Act 506, dated 17/7/1964 is considered to be done according to provisions of this Act.

Work accident, occupational disease, motherhood, invalidity, old - age and survivors insurance premiums paid by individuals who are subject to group insurance in accord with abrogated article 86 of the Social Security Act, 506, including universal health insurance, are considered to be paid according to this Act. These periods are regarded as initiation period and number of premium payment days in terms of insurance branches they are paid to.

States of individuals who continue group insurance in terms of invalidity, old - age and survivors insurances in accord with abrogated article 86 of the Social Security Act, 506 as of the effective date of this Act are evaluated in the scope of article 4 of this Act and they are regarded as insured in the scope of the sub clause pertaining to their states. Documents that are to be filed by them or their employers have to be filed at the Institutions within three months the latest.

Total amount of retirement, ordinary invalidity or duty disability pensions granted in accord with provisional article 2 of Act 991, dated 23/1/1968 from funds that are turned over to Social Security Institution in accord with abrogated clause two, article 96 of the Social Security Act, 506, and pensions granted according to provisional article 1, clause one of Act 991, dated 23/1/1968, and survivors pensions (even if the receiver is only a single person) shall not be lower than 70% of the net minimum wage.

For individuals who are to be considered as insured and granted with monthly pension in the scope of sub clause (a), clause one, article 4 of this Act in terms of monthly pension assignment conditions;

a) **(Abrogation: 17/4/2008 - 5754/69 art.)**

b) **(Amendment: 17/4/2008 - 5754/69 art.)** A period of 5400 days specified in clause three, article 28, for the first time is implemented as;

1) 4600 days for individuals who are considered to be insured between 30/4/2008 and 31/12/2008,

2) for individuals who are considered to be insured from 1/1/2009, by adding 100 days to 4600 days at the beginning of each calendar year, not to exceed 5400 days,

c) **(Amendment: 17/4/2008 - 5754/69 art.)** A period of 3960 days specified in clause four, article 28 is implemented for the first time as;

1) 3700 days for insurance holders who are considered to be insured between the effective date of this Act and 31/12/2008,

2) not to exceed 3960 days, by adding 100 days to 3700 days at the beginning of each calendar year for insurance holders who are considered to be insured from 1/1/2009,

d) **(Amendment: 17/4/2008 - 5754/69 art.)** A period of 4320 days specified in sub clause (a), clause five, article 28 is implemented for the first time as;

1) 3700 days for insurance holders who are considered to be insured between the effective date of this Act and 31/12/2008,

2) by adding 100 days to 3700 days at the beginning of each calendar year, not to exceed 4320 days, for insurance holders who are considered to be insured from 1/1/2009,

e) **(Amendment: 17/4/2008 - 5754/69 art.)** A period of 4680 days specified in sub clause (b), clause five, article 28 is implemented for the first time as;

1) 4100 days for insurance holders who are considered to be insured between the effective date of this Act and 31/12/2008,

2) by adding 100 days to 4100 days, not to exceed 4680 days for individuals who are considered to be insured from 1/1/2009.

**(Supplementary clause: 17/4/2008 - 5754/69 art.)** Insurance of Turkish workers; who are taken to countries which do not have a social security agreement by employers, conducting business at such countries, to be employed and continuing their group insurance that is subject to only invalidity, old - age and survivors insurances, before the effective date of this Act; and insurance of covered individuals who are taken to the said countries as voluntarily covered individuals, in the scope of sub clause (g), article 5 of this Act, are made within three months from the effective date of this Act by their employers and liabilities pertaining to this are exercised.

#### **Conjoint transitional provisions of Acts 506, 1479, 5434, 2925 and 2926**

#### **PROVISIONAL ARTICLE 7 - (Amendment: 17/4/2008 - 5754/68 art.)**

Insurance initiations and service periods, increases for actual service period, nominal service periods, indebted and revived periods and insurance periods in accord with Act 506, dated 17/7/1964 and Act 1479, dated 2/9/1971 and Act 2925, dated 17/10/1983, and Act 2926, dated 17/10/1983, abrogated by this Act, 8/6/1949 and Act 5434, dated 17/7/1964 and provisional article 20 of Act 506 are evaluated according to provisions of acts they are subject to until the effective date of this Act.

Terms spent by individuals who work at appointments worthy of actual service terms before the effective date of this Act according to Act 635, dated 24/6/1965, Act 3269, dated 18/3/1986, Act 644, dated 22/7/1965, Act 2937, dated 1/11/1983, Act 6940, dated 25/3/1957 and Act 3671, dated 26/10/1990 and article 32 of Act 5434 are taken into account in the completion of 3600 days, sought in accord with article 40 of this Act. In the evaluation of terms spent before the effective date of this Act at works, which are specified in the scope of nominal service period of supplementary article 5 of Act 506, dated 17/7/1964 and not specified in article 40 of this Act, 3600 premium payment condition is not sought.

In case there is an unpaid portion remaining from indebted amounts that belong to insurance holders who are in the scope of sub clause (c), clause one, article 4 of this Act due to their indebted services, these are continued to be collected from their pensions in the ratio of retirement deduction.

In the estimation of monthly salaries, gaining of debts belonging to the effective date of this Act which are made in accord with article 41 of Act 3201, dated 8/5/1985 is evaluated according to provisions of pertaining acts, abrogated by this Act. However, when periods belonging to terms before the effective date of this Act are indebted, provisions of article 41, Act 3201, dated 8/5/1985 are implemented for insurance holders who are in the scope of sub clause (a), clause one, article 4 of this Act.

In case income or monthly pension is received from more than one file before the effective date of this Act, and in case income or monthly pension is received from the new file after the effective date, including income and monthly amount in the file that is to be granted, comparisons are made and the file with the lower amount is removed from the file scope.

Number of premium payment days of individuals who are regarded as mandatorily covered in the scope of acts specified in the first clause and who benefit from health insurance voluntarily is also assessed as number of premium payment days for universal health insurance.

Terms of individuals prior to the initiation of insurance who are covered for the first time in accord with sub clause (c), clause one, article 4 after the effective date of this Act, if they become indebted in accord with article 41 and 46 of this Act, supplementary article 31 of Act 5434 and Act 3201, this does not mandate the insurance initiation date to be carried back and the implementation of provisional articles of this Act for them.

Implementation of provisions of this Act, before its effective date, is continued regarding nominal service terms of individuals who were in position and appointment worthy of nominal service term, in accord with pertaining provisions of Act 5434 before the effective date of the Act and who continue to work in the scope of sub clause (c), clause one, article 4 of this Act.

Provisions of second and third clauses of article 28 of this Act are implemented for individuals who become insurance holders or participants for the first time in accord with acts 506, 1479, 5434, 2925 and 2926 after 30/4/2008. Provision of last sentence of sub clause (b) of the first clause of provisional article 2 is not implemented for them.

### **Transitional provisions of Act 1479**

#### **PROVISIONAL ARTICLE 8 - (Amendment: 17/4/2008 - 5754/68 art.)**

Insurance right and liability of individuals, who are not registered and recorded until the effective date of this Act, even though they hold the attribution for insurance in accord with other sub clauses of this Act, other than sub - sub clause (4) of sub clause (b) of clause one, article 4 of this Act, start from the effective date of this Act. Right and liability of individuals who are considered as covered in accord with sub - sub clause (4) of sub clause (b) of clause one, article 4 of this Act start in accord with sub clause (b) of first clause of article 7.

However, indebted amount over 32% of prime earning at the claim date is estimated in accord with sub clause (a) of the second clause, article 80, for individuals who are considered as covered in accord with sub - sub clauses (1) and (3) of sub clause (b) of the first clause, article 4 of this Act and also whose insurance was initiated from the effective date of this Act, with the condition of having tax liability periods elapsing between the effective date of this Act and 4/10/2000, for the entirety of tax liability periods, and this is communicated to the insurance holder. In case insurance holder pays the indebted amount communicated to them within 6 months from the communication date, these terms are considered as insurance periods. In case the indebted amount communicated to the insurance holder is not paid within this period in full, these terms are not evaluated as insurance period and the paid amount is reimbursed in accord with article 89 of this Act.

Execution proceedings which were initiated before the effective date of this Act and in accord with article 53 of Act 1479 and 2004 Execution and Bankruptcy Law are finalized by implementing provisions of the said Act.

### **Some transitional provisions pertaining the retirement age <sup>(1)</sup>**

**PROVISIONAL ARTICLE 9** - Among individuals who are considered as covered for the first time between 8/9/1999 to 30/4/2008, those who are in the scope of sub clause (a), clause one, article four are benefited from old - age monthly pension with the condition of completing 58 years of age if they are women and completing 60 years of age if they are men, and with the condition of payment of 7000 days of invalidity, old - age and survivors insurance premium, or completing 58 years of age if they are women, 60 years of age if they are men and being insured for 25 years and with the condition of payment of at least 4500 days of invalidity, old - age and survivors insurance premium.

**(Amended second clause: 17/4/2008 - 5754/70 art.)** Individuals who are in the scope of sub clause (b), clause one of article 4 and also considered to be covered for the first time between 8/9/1999 and 30/4/2008 are benefited from partial old - age monthly pension, with the condition of completing 58 years of age if they are women, completing 60 years of age if they are men and payment of exactly 25 years of insurance premium or with the condition of completing 60 years of age if they are women, completing 62 years of age if they are men and payment of at least exactly 15 years of invalidity, old - age and survivors insurance premiums.

**(Supplementary clause: 17/4/2008 - 5754/70 art.)** Individuals who are in the scope of sub clause (c), clause one of article 4 and also considered as insured for the first time from 8/9/1999 to 30/4/2008 are benefited from partial old - age monthly pension, with the condition of completing 58 years of age if they are women, 60 years of age if they are men and payment of exactly 25 years of insurance premium or with the condition of completing 61 years of age and payment of at least exactly 15 years of invalidity, old - age and survivors insurance premium.

Individuals who are insured in the scope of Act 2925, dated 17/10/1983 and also who are considered to be covered for the first time from 8/9/1999 to 30/4/2008 are benefited from old - age monthly pension; with the condition of completing 58 years of age if they are women, 60 years of age if they are men and having been insured for fifteen years and payment of 3600 days of invalidity, old - age and survivors insurance premium.

Among individuals who are considered to be insured according to the Social Security Act, 506 with some of its provisions abrogated before the effective date this Act;

a) Individuals who work permanently in underground work places of mining work places determined by the Ministry for at least 20 years and with the payment of at least 5000 days of invalidity, old - age and survivors insurance premium at these works are granted with old - age monthly pension with their written claims, without seeking age conditions specified in sub clause (a), clause two, article 28.

b) Individuals who work permanently in underground work places of mining work places determined by the Ministry for at least 25 years and with the payment of at least 4000 days of invalidity, old - age and survivors insurance premium at these works are granted with old - age monthly pension with their written claims, without seeking age conditions specified in sub clause (a), clause two, article 28, same as insurance holders who paid 8100 days of premium.

c) Individuals who complete 50 years of age and spend at least 1800 days of their work which is subject to invalidity, old - age and survivors insurances in underground work places of mining work places determined by the Ministry also are benefited from old - age monthly pension with the other conditions specified in the first clause.

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(1) *“Effectiveness of the Act” statement included in article 70 of Act 5754, dated 17/4/2008 and in clause one and three of this article has been modified as “30/4/2008” and it has been entered into the text.*

**(Amended fifth clause: 17/4/2008 - 5754/70 art.)** In case work terms of insurance holders who started to work in works specified in the fifth clause before the effective date of this Act is at least 1800 days, spent in these works before or after the effective date of this Act, one fourth of these works is added to the number of premium payment days. Invalidity, old - age and survivors insurance premium for them is 23% of prime earning of insurance holder. 9% of this is insurance holder share and 14% of it is employer’s share. Provisions of this Act pertaining price increases in actual service period are implemented for individuals who started to work in underground works or in works alternated with underground works for the first time after the effective date of this Act.

**Transitional provisions pertaining to invalidity and injury provisions of Act 506 <sup>(1)</sup>**

**PROVISIONAL ARTICLE 10 -** Among individuals who are in the scope of sub clause (a), clause one, article 4 and also insured for the first time before the effective date of this Act those who had an illness or disability to be considered as invalid upon abrogated article 53 of the Social Security Act, 506 before the date they start to work as insured and therefore cannot benefit from invalidity pension are benefited from old - age pension regardless of their age and with the condition of being covered for at least fifteen years and payment of at least 3600 days of invalidity, old - age and survivors premium.

**(Amended second clause: 17/4/2008 - 5754/71 art.)** Procedures are carried out according to sub clause (b), clause (c), abrogated article 60 of the Social Security Act, 506 and provisional article 87 for individuals who are insured before the effective date of this Act and also have earned the right to benefit from tax reduction due to their invalidity before or after the effective date of this Act.

In the cut off and reassignment of pensions, provisions of this Act before its effective date are effective for individuals who benefited from tax reduction due to their invalidity before the effective date of this Act and who are also assigned with old - age pension.

Replacement rate for pensions allocated according to the first and second clauses shall not be lower than the ratio estimated over 5400 days.

**(Supplementary clause: 17/4/2008 - 5754/71 art.)** Invalidity pension is granted to individuals who make a request for determination of their invalidity state before the effective date of this Act and to individuals who are determined that they were disabled after the effective date of this Act with the condition of carrying other conditions in acts 506 and 2925 as well.

Lower limit of invalidity pension specified in clause four of article 55 and lower limit of invalidity pension specified in clause two, article 33 is implemented in invalidity and survivors pensions that are to be assigned according to Act 2925, dated 17/10/1983 and Act 2926, dated 17/10/983, abrogated by this Act, by comparing the limits with old - age monthly pension assigned upon the same acts.

**(Supplementary clause: 17/4/2008 - 5754/71 art.)** Pensions assigned to insurance holders who are insured since 1/1/2000 and request monthly pension for invalidity and pensions granted to rightful beneficiaries of insurance holders who passed away upon Act 506, dated 17/7/1964 are re - estimated based on the lower limit specified in provisional article 89 of Act 506 and as of the initiation date of monthly pension. The differences that are to arise are paid to concerned individuals within four months from the effective date of this article.

In the calculation of lower limits specified above, half determined according to the second clause of abrogated article 92 of the Social Security Act, 506, and pensions for which no lower limit for pensions is applied according to clause five of abrogated article 96 of the same Act and partial pensions granted according to social security agreements are not taken into account.

**(Abrogated last clause:17/4/2008 - 5754/71 art.)**

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(1)

Whilst the title of this article was "Transitional provisions of invalidity, impairment and transitional provisions of social security support premium payment of Act 506", it was modified with article 71 of Act 5754, dated 17/4/2008 as it was entered in the text.

### **Transitional provisions pertaining registration of insurance holders, insurance registry number and employees working at international representative offices**

**PROVISIONAL ARTICLE 11 - (Modified first clause: 17/4/2008 - 5754/72 art.)** A conjoint data bank is formed for insurance holders who are registered in the current social security institution before the effective date of this Act and for insurance holders who are going to be registered for the first time and for their rightful beneficiaries. In the registration of these insurance holders, Turkish Republic identification numbers are accepted as social security numbers.

Previous security registry numbers of insurance holders are continued to be used until they are registered according to this Act.

In the estimation of daily earnings of insurance holders according to article 17 of this Act who are in the scope of sub article (b) of clause one, article 4 of this Act; criteria that are taken into account in the estimation of earnings, base of premium of periods after the effective date of this Act are also taken into account in the estimation of earnings, base of premium of periods before the effective date of this Act. <sup>(1)</sup>

**(Supplementary clause: 17/4/2008 - 5754/72 art.)** In the estimation of earnings as of the last calendar month of individuals who work under service agreement and whose earnings for the three month - period are before the effective date of this Act, which are the basis in daily earning estimation that is to be determined according to article 17 of the Act, provisions of Act 506, abrogated by this Act are implemented.

Individuals who have permanent residence permission of a country in which the representative office is located or who have the citizenship of this state among individuals who were appointed in international representative offices as insured at the effective date of this Act or personnel with universal health insurance can be communicated with social security institutions of the country they are in, without prejudice to provisions of international social security agreements and with the condition of receiving positive opinion of the Ministry of Foreign Affairs.

**(Supplementary clause: 17/4/2008 - 5754/72 art.)** Public administrations which employ participants according to provisions of Act 5434 before this Act has taken effect and which continue to employ individuals who are considered to be insured in the scope of sub clause (c), clause one, article 4, after the effective date of this Act have to submit a workplace report in accord with article 11 within a period that is to be determined by the Institution. In case a workplace report is not submitted during the period that is to be determined by the Institution, monetary penalty is implemented according to sub clause (b) of article 102.

### **Transitional provisions of universal health insurance**

**PROVISIONAL ARTICLE 12 - (Amendment: 17/4/2008 - 5754/68 art.)**

Until the formation of an infrastructure necessary for the start of insurance check of health service providers and other provision processes in the implementation of this Act, health data are started to be recorded in writing and health certificates or health cards are continued to be issued by the Institution.

Duties of public administrations concerned with the provision of health services, relevant recordings and processes in the framework of rights and liabilities in abrogated acts continue until the date of takeover by the Institution. Takeover process is completed within three years. <sup>(2)</sup>

In case health services of individuals earned upon abrogated provisions of the act are not included in the scope according to provisions of this Act, they are continued to be provided by the Institution according to abrogated provisions of the Act until the treatment is completed. In the estimation of 30 days estimated according to article 67, the state for the individual's favour is implemented. Treatment expenses of universal health insurance holder and individuals they are liable to care for which had started before the effective date of this Act however which are invoiced after the effective date of this Act are covered by the Institution.

(1) *With article 72 of Act 5754, dated 17/4/2008; the statement "(b) and (c) sub clauses of the first clause" which is included in this clause has been modified as "(b) sub clause" and it is entered into the text.*

(2) *With article 11 of Act 5797, dated 31/7/2008, the statement "However this period shall not exceed six months" included in this clause has been modified as "Turnover period is completed within three years" and it has been entered into the text.*

Sub - sub clause (1) of sub clause (c) of first clause of article 60 of this Act is not implemented within two years from the effective date of this Act. Within this period, with the condition of no changes in the states of individuals who have a green card and individuals who are to receive a green card in the scope of Act 3816, dated 18/6/1992, without any need for another process, are considered as universal health insurance holders within the scope of sub - sub clause (1), sub clause (c), clause one, article 60 of this Act.

With the application to receive a green card in the scope of Act 3816, for individuals whose monthly income amount per person in the family determined in accord with provisions of Act 3816 is determined to be between one third of minimum wage up to minimum wage, one third of thirty day amount of lower limit of daily earning which is the basis of premium, determined according to article 82, is accepted as the minimum wage amount, which is the basis of premium; for individuals whose monthly income amount is determined to be between minimum wage up to twice as much as minimum wage, thirty day amount of lower limit of daily income, which is the basis for premium, determined according to article 82 is accepted as minimum wage amount, the basis of premium; for individuals whose monthly income amount is determined to be more than twice as much as minimum wage, two times as much as thirty day amount of lower limit of daily income, which is the basis for premium, determined according to article 82 is accepted as the minimum wage amount.

Individuals who are accepted as insured according to sub clauses (d) and (g), clause one of article 60, shall make their declarations within two years after the effective date of this Act. Within this period, among individuals who are considered as universal health insurance holders according to sub clauses (d) and (g), clause one, article 60; those who do not have a registry claim and whose children under the age of 18 are benefited from health services, registry of these people's children is done as of the date of application to the health service provider. However, in provinces in which family physician implementation is initiated, these people are included in the scope as universal health insurance holder and person they are liable to care for, without any regard for the two year - period.

In health services received apt to the forwarding chain, initiated by family physicians, participation shares specified in clause two, article 68 may be applied by decreasing them in a 50% ratio for a period of three years.

Determinations that are to be made according to the first clause of article 70 are completed within one year the latest from the effective date of this Act. Within this period, Ministry of Health is authorized to delay the implementation of the second clause of article 70 on province and county basis.

Individuals whose treatment assistances are met according to the pertaining acts are considered as universal health insurance holder or the person to be taken care of by the universal health insurance holder, in the light of this Act. Female children for whom there is a liability of care as of the effective date of this Act are considered as individuals to be cared for according to this Act. However, when there is a change in their states, benefit conditions from health services are redefined in accord with the provisions of this Act. Information regarding insurance holders and individuals for whom the insurance holder is liable to care for is submitted to the Institution within three months the latest after the effective date of this Act.

Provisions of 211, Turkish Armed Forces Internal Service Act that are contradictory to this Act are implemented for a period of two years after the effective date of this Act.

Insurance holders whose insurance states continue in the scope of Act 2925, dated 17/10/1983 and their spouses and children who are worthy of health assistance hold the right to benefit from health services and other rights according to provisions of universal health insurance.

Until the determination of costs of health services with their health service financing to be met by the Institution according to article 63 and daily wages, transportation, hotel and meal expenses to be paid according to article 65, according to provisions of article 72, which are to be paid by the Institution and until they are published, and until agreements are made with health service providers according to provisions of article 73, procedures and forms which have been determined by the Institution and health service costs and protocol and agreements are effective.

#### **Transition elements regarding the implementation of Act 4046**

#### **PROVISIONAL ARTICLE 13 - (Amendment: 17/4/2008 - 5754/68 art.)**

Individuals who receive work loss compensation in the scope of article 21 of Act 4046, dated 24/11/1994 are considered to be insured and universal health insurance holder according to sub clause (a), clause one of article 4, however, they are not subject to short - term insurance branches.

Insurance holders are not liable to report to the Institution thereto that they are insured.

As of the end of month after the payment of work loss compensation by Turkish Labour Placement Office, as soon as the premiums of individuals who have received work loss compensation are transferred, it is considered that insurance holder report and registry is done.

Insurance of individuals in this scope ends at the date their work loss compensation period ends. Provisions of article 9 of this Act are not implemented for individuals whose work loss compensation ends.

Even though Turkish Labour Placement Office is liable for premium payment for individuals who benefit from work loss compensation, they are not considered as work place and employer in the scope of this Act.

### **Transition provisions regarding social security support premium**

#### **PROVISIONAL ARTICLE 14 – (Supplement: 17/4/2008 - 5754/73 art.)**

For individuals who were participants or insurance holder before the effective date of this Act, who were granted with duty disability, invalidity and old - age or retirement pensions and individuals who pay social security support premium and continue to work at the effective date of this Act, implementation of pertaining act provisions, abrogated by this Act, continues regarding being subject to social security support premium. However;

a) For individuals who work in the scope of sub clause (a), clause one, article 4 of this Act, ratio of social security support premium is the total that is figured by adding 30 percent ratio to the premium ratio which is determined in sub clause (c), clause one of article 81, based on earnings that are the basis of premium, determined according to article 80. One fourth of 30 percent ratio is the share of insurance holder and three fourth is the share of employer. Liable party for the premium payment for individuals, who are subject to social security support premium and are considered in this scope, is their employer. Only work accident and occupational illness insurance provisions are implemented for them.

b) For individuals who are considered to be insurance holders in the scope of sub clause (b), clause one, article 4 of this Act, provisions that are specified in sub clause (b), clause three, article 30 of this Act are implemented, with the condition of verification by receiving documents from the relevant public institutions and organizations, for the work periods, excluding the periods in which they were inactive. This ratio is implemented as 12% in the year this article has taken effect, by increasing one point in the following January of each year. However this ratio does not go over 15%.

c) Provisions of sub clause (c), article 5 of this Act are implemented, without implementing social security support premium, for war disabled, for individuals whose pensions are estimated and paid upon the Prevention of Terrorism Act, 3713, dated 12/4/1991, the Act on Pecuniary Compensation and to Put People on Monthly Pension, numbered 2330, dated 3/11/1980 or for people who receive duty disability pension according to pertaining acts concerned with provision of public order and security and meanwhile, for individuals who continue to work as of the effective date of this Act and then to start to work afterwards by being subject to this Act.

d) Regarding individuals who receive duty disability pension according to Act 5434 and continue to work upon sub clause (a) and (b), clause one, article 4 of this Act as of the effective date of this Act, with their written request within one month from the effective date of this Act, provisions of this Act on work accident and occupational illness insurance and long term insurance branches or social security support premium are implemented. Among these individuals, the ones who pay long term insurance premium and do not file a written request within the specified period, provisions on work accident and occupational illness are implemented and no social security support premium is deducted. Regarding individuals who were participants before the effective date of this Act and were granted duty disability pension after the effective date of this Act according to provisions of Act 5434 and of these individuals those who start to work upon sub clause (a) and (b), clause one, article 4 of this Act, with their written request, processes are carried out. No universal health insurance premium is taken thereto from individuals who are included in the scope of these sub clauses. Duty disability pensions are assigned and paid to individuals who receive according to Act 3713, participants who change class or work and continue to work, individuals who receive duty disability pension due to events included in the scope of the same Act and individuals who work upon sub clause (c), clause one of article 4 of this Act or soldiers and non-commissioned officers who start to work afterwards, starting from the beginning of the month following their application dates after the effective date of this Act, without any need for them to leave their works according to provisions of Act 5434, including provisions that are abrogated by this Act, upon retirement sending approval that is to be submitted. Procedures are carried out according to provisions of Act 5434 including provisions abrogated by this Act, regarding individuals who are in this scope and retire from their appointments.

### **Transition provision concerned with report of earnings that is the basis for premium**

#### **PROVISIONAL ARTICLE 15 – (Supplement: 17/4/2008 - 5754/73 art.)**

In case independent insurance holders who work on their own behalf and account, excluding sub - sub clause (4) of sub clause (b) of clause one, article 4 of this Act, the ones who register and record as insurance holders before the effective date of this Act do not declare their earnings that are the basis of premium, which is determined according to article 80 of this Act, monthly premiums that are to be paid are taken over amounts that correspond to income steps to which they pay until they make a declaration.

However, these amounts shall not be lower than earning amount which the basis for monthly premium, estimated according to the lower limit of minimum daily earning, specified in article 82.

**Transition provisions regarding insurance holders who operate in agriculture on their own behalf and account (...) <sup>(1)(2)</sup> and female insurance holders who benefit from artisan exemption <sup>(1)(2)</sup>**

**PROVISIONAL ARTICLE 16 – (Supplement: 17/4/2008 - 5754/73 art.)**

For village administrative officers who are included in sub clause (b), clause one, article 4 of this Act and individuals specified in sub - sub clause (4) and the expression “thirty” specified in sub clause (a), clause two of article 80 and individuals who are specified in sub - sub clause (4), the expression “thirty” specified in sub clause (1), clause one, article 6 of this Act is implemented as “fifteen” for the year this article has taken effect and it is increased with one point for the following each year, not to exceed thirty times of the daily earning, which is the basis of the premium.

**(Supplementary clause:17/4/2008 - 5763/25 art.; Abrogation: 31/7/2008 - 5797/11 art.)**

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(1) *With article 25 of Act 5763, dated 15/5/2008, the title of this article “Transitional provision regarding insurance holders who operate in agriculture on their own behalf and account” has been modified as it is entered into the text to be effective from 1/10/2008.*

(2) *With article 11 of Act 5797, dated 31/7/2008; the phrase “Individuals who are employed at courses, arranged by the Ministry of Education as experienced educators” included under this title has been removed from the text.*

**(Supplementary clause: 17/4/2008 - 5763/25 art.)** Female voluntary insurance holders who are determined to be doing the works with the same conditions after the effective date of this article, according to procedures and forms, determined by the Institution, by receiving the comments of the Ministry of Finance, individual who do the works specified in sub clause (6), clause one, article 9 of Income Tax Act, 193, dated 31/12/1960, before the effective date of this article under service contract without being subject to any employer permanently and in an income earning nature; make payments of invalidity, old - age, survivors and health insurance premiums by increasing one point for each following year, not to exceed thirty times of it, by starting from fifteen times of the lower limit of daily income amount, basis of premium that is determined according to article 82 for the year this article has taken effect.

**Provisions concerned with the termination of insurances of individuals who work on their own behalf and account**

**PROVISIONAL ARTICLE 17 – (Supplement: 17/4/2008 - 5754/73 art.)**

In case individuals who work on their own behalf and account and individuals who work in agriculture on their own behalf and account are registered according to acts 1479 and 2926, and individuals who have premium debts regarding the five year - period as of the effective date of this article, fail to pay their premium debts belonging to these periods within 6 months from the beginning of the month following the issue of a general declaration by the Institution regarding premium debt payments, insurances of insurance holders with premium payments are terminated as of the end of the month, in which previous premiums are exactly paid, and insurances of insurance holders who do not have any premium payment are terminated as of the registry date. Insurance periods concerning premium debts are not evaluated and Institution claims belonging to these periods are not followed up and they are included in Institution claims.

However, in case insurance holders or survivors pay the debt amount in full; which is to be estimated over the earning amount, the basis for premium which is to be determined according to clause two of article 80 at the date of the application; within three months from the announcement date of the debt, these periods are evaluated as insurance periods.

Second clause of this article is implemented for individuals whose insurances are terminated according to previous acts.

## **Transitional provisions concerned with certain monthly compensations and assistances**

### **PROVISIONAL ARTICLE 18 – (Supplement: 17/4/2008 - 5754/73 art.)**

Until rectifications are made in the pertaining acts;

a) Implementation of provisions of this Act before the effective date of this Act is continued regarding pensions to individuals themselves who are to be considered as war disabled according to Act 5434 including its provisions abrogated by this Act and their widows and orphans and individuals who do not work as being subject to long - term insurance branches at the date they are employed by Turkish Armed Forces and individuals who are specified in sub clause one, article 56 of Act 5434, dated 8/6/1949.

b) An additional difference is paid separately to individuals specified in first clause of supplementary article 77 of Act 5434 and in clause eight of article 47 of this Act in case the total of pensions; that are to be assigned in the framework of pertaining acts and this Act, and are increased according to supplementary article 77 of Act 5434 of their equivalents; is lower than pensions for which they earned their right.

c) Pertaining provisions of Act 5434 are continued to be implemented including its articles abrogated by this Act regarding individuals who are included in tables supplemented to yearly budget acts upon supplementary article 16 of Act 442, dated 18/3/1924, Act 1005, dated 24/2/1968, Act 2330, dated 3/11/1980, Act 2913, dated 11/10/1983, Act 3292, dated 28/5/1986, Act 3713, dated 12/4/1991 and regarding assignment of pensions, compensations and supplementary payment based on Act 2330 due to references made in other acts and regarding assistance procedures.

Additional expenses to be undertaken by the Institution upon clauses specified above for individuals who are included in the scope of this article are collected by the Treasury against invoice within two months the latest from the payment date.

## **Health insurance premium to be deducted from individuals who receive pensions**

### **PROVISIONAL ARTICLE 19 – (Supplement: 17/4/2008 - 5754/73 art.)**

General insurance premium is deducted from individuals who receive pensions according to acts 1479 and 2926, and individuals for whom pensions are going to be assigned upon provisional article 2 of this Act due to their working in the scope of sub clause (b), clause one, article 4 of this Act, and individuals who are considered as having failed to pay health insurance or universal health insurance premiums for a period of ten years from their relevant files, with the condition of decreasing periods for which health insurance and universal health insurance premiums are deducted, as to complete 10 years and in the ratio of 10% from their pensions.

## **Funds in the scope of provisional article 20 of Act 506 and pertaining provisions**

### **PROVISIONAL ARTICLE 20 – (Supplement: 17/4/2008 - 5754/73 art.)**

Participants of funds which are established for personnel of banks, insurance and reinsurance companies, trade chambers, industrial chambers, stock exchanges or unions that they form, and individuals who are granted with pensions or incomes, and their survivors are included in the scope of this Act without any need for any procedure by transferring them to the Social Security Institution within three years from the issue date of this article. The period of three years may be extended by two years the longest by the Cabinet decision. Fund participants are considered as insured in the scope of sub clause (a) of article 4 of this Act as of the turnover date.

Cash value of the liability is estimated by taken into account income and expenses of insurance branches of the funds in the scope of this Act, including participants for each fund who left the fund, regarding turned over individuals as of the turnover date, by a commission to be formed with a member as a representative from each funds of Social Security Institution, Ministry of Finance, Treasury Under - secretariat, Under - secretariat of State Planning Organization, Banking Arrangement and Inspection Organization, Saving Insurance Fund and a member to represent institutions employing fund participants. Technical interest rate to be used in cash value estimations is taken as 9.8 percent.

Determined cash value is collected, not to exceed fifteen years, in equal annual instalments, for each year separately, in New Turkish Lira to be explained by the Treasury Under - secretariat, over the annual average nominal interest of exported, discounted State internal indebt bonds, and from institutions employing participants of these funds, according to provisions of this Act by the Institution successively.

Until the turnover process is completed, health and social insurance assistance provision and premium collection from fund participants, individuals who receive pensions and incomes and their survivors is continued according to pertaining legislation provisions by the funds and institutions employing fund participants.

If pensions and incomes paid after the completion of turnover process are above the pensions and incomes that are to be estimated by the implementation of provisions of Act 506 for the periods before the effective date of this Act, and for the periods after the effective date of this Act, by the implementation of provisions of this Act; the said differences are taken into

account in cash value estimation and is continued to be paid to the concerned individuals by the Social Security Institution. Estimations to be made according to trust bills during processes of increase, decrease, discontinuation and reassignment due to state changes in income and pensions of these persons after the turnover date are carried out under the control of the Institution by the organizations which employ relevant funds or fund participants.

Pensions of participants, who become participants at funds as of the turnover date, and individuals who leave the funds, cannot receive pensions or incomes and earn rights against the funds, are estimated according to provisions of provisional article 2 of this Act. In the implementation of sub clause (a), clause one, provisional article 2, estimations are made under the control of the Institution by organizations which employ funds, related by the Institution and according to trust bills, and fund participants, upon provisions of Act 506, for the term before the effective date of this Act. In case there are differences between pensions to be estimated in the scope of provisional article 2 and pensions that are to be estimated according fund provisions by considering periods that elapsed in the fund, the said differences are taken into account in cash value estimations and continued to be paid to the concerned parties by the Social Security Institution. Estimations to be made according to trust bills during processes of increase, decrease, discontinuation and reassignment due to state changes in income and pensions of these persons are made by the institutions employing relevant funds or fund participants under the control of the Institution.

Other social rights and payments of fund participants and individuals who have pension and/or income and their survivors, which are not met even though they are in the bill of trust which these persons are subject to, are made after their turnover to the Social Security Institution, by the funds and by the institutions which employ the fund participants.

Forms and procedures regarding the implementation of this article, and payment of cash value concerning the differences specified in clause five and six of this article, within the first instalment, in a single payment or in instalments is determined by the Cabinet by referring to comments of Social Security Institution, Ministry of Finance, Treasury Under - secretariat, Under - secretariat of State Planning Organization, Banking Arrangement and Inspection Institution, Savings Security Fund, institutions employing fund participants. Parties submit their comments and suggestions in writing until the date that is to be determined by the Social Security Institution.

Turkish Union of Chambers and Commodity Exchanges, established upon Turkish Union of Chambers and Commodity Exchanges Act, numbered 5174, dated 18/5/2004, represent organizations which employ personnel of Turkish Union of Chambers and Commodity Exchanges and participants of Security and Retirement Fund Trust participants in the processes and procedures regarding the implementation of this article.

Institutions which employ the said funds and fund participants and the Institution are exempt of any type of tax, duty and charge that is to arise due to all processes pertaining the implementation of this article.

In case there are provisions contradictory to this Act in trust bills regarding other provisions, excluding short term insurance branches and universal health insurance provisions of this Act, provisions of this Act are implemented as of the effective date of this Act.

Increases to be made in incomes or pensions that are assigned/to be assigned by the funds from 30/4/2008 shall not exceed increases that are made in income or pensions assigned according to Act 506.

Forms and procedures, which are to be determined regarding the turnover in the framework of this article and differences in pensions and incomes that are to be paid by the Social Security Institution according to clause five and six of this article, may not be implemented for funds which are turned over or continuing to be turned over before the issue of this article according to supplementary article 36 of Act 506.

Provisions of article 58 of Banking Act, 5411 may not be implemented for turnover and other processes to be made in the scope of this article.

### **Transitional provisions of Act 2108**

#### **PROVISIONAL ARTICLE 21 – (Supplement: 17/4/2008 - 5754/73 art.)**

Among village administrative officers whose registrations and records are made according to Act 1479 as of the date they are elected as officers according to article 4 of Act 2108 before the effective date of this Act, officers who wish to continue their insurances according to provisions of sub - sub clause (1), clause (b), article 4 of this Act and who apply in writing within six months from the effective date of this article, their insurances are continued exactly the same. Provisions of this Act are implemented for individuals who do not make any requests within this period.

### **Transitional provisions regarding founding partners of joint stock companies**

#### **PROVISIONAL ARTICLE 22 – (Supplement: 17/4/2008 - 5754/73 art.)**

If founding partners of joint stock companies specified in sub - sub clause (3), sub clause (b), clause one, article 4 of this Act and who are insured as being subject to article 24 of Act 1479 and who wish to continue their insurances apply in writing

within six months from the effective date of this article, their insurances are continued exactly the same. Insurances of individuals who do not apply within this period are terminated as of the effective date of this Act.

### **Provisions regarding individuals whose social security premium structuring is deformed**

#### **PROVISIONAL ARTICLE 23 – (Supplement: 15/5/2008 - 5763/26 art.)**

(1) Even though individuals who restructured their debts, which are in the scope of article 1 and 2 of the Act, according to article 1 and 2 of Act on Restructuring of Social Security Premium Credits and Making Amendments in Certain Acts, numbered 5458, dated 22/2/2006, and who have lost their restructuring rights upon article 3 of the same Act until the end of the month following the effective date of this article, if they apply to the Institution in writing within two months after the effective date of this article, their deformed restructuring agreement are regenerated by considering the date of the application, which is made according to Act 5458, and instalment period.

(2) Payments of debtors, whose restructuring agreements are regenerated, made for their debts included in the scope of Act 5458, are deducted according to their instalment amounts in the same debt type for those who are in the scope of article 1 of the said Act, and according to article 10 of the said Act for those who are in the scope of article 2.

(3) In case instalment amounts, which are not paid on their due date or paid incompletely before the date of the application made according to this article as a result of regeneration or deduction processes, are paid until the payment date, along with the amount of the interest which is to be estimated as a result of the application of the interest ratio on a compound basis which is to be figured by adding 1 point to the monthly average of interest ratio of exported, discounted State internal debt bills in New Turkish Liras (YTL) belonging to the previous month that is to be explained by the Treasury Under - secretariat for each month delayed, separately until the payment date, they are benefited from restructuring provisions of Act 5458. In case, payment liabilities specified in this clause are not exercised fully within the said six month - period, restructuring right is lost and restructuring processes are cancelled and paid amounts are deducted according to pertaining provisions of the social security legislation.

(4) In terms of instalments that are going to be due from the date of the application made according to this article, provisions of article 3 of Act 5458 are implemented for debtors who are benefited from the provisions of this article. In terms of debtors who are in the scope of article 1 of this Act, provisions of article 3 of Act 5458 are implemented from the end of the third month following the date of the application made according to this article, and in terms of debtors who are in the scope of article 2, they are implemented by looking backwards from the end of the six - month period specified in clause three of this article.

(5) Individuals whose debts, in the scope of article 1 and 2 of Act 5458, are restructured and who have lost their restructuring right upon article 3 of the same Act, and who have paid these debts that are in the scope, in full according to relevant provisions of the social security legislation, provisions of this article are not implemented. Individuals who have paid their debts partially and applied to benefit from this article are not reimbursed with the amounts that they paid previously and deduction process is not carried out with the condition of no prejudice against the first and second clauses of this article.

(6) Confiscations and collected cautionary from absolute property and real property due to debts included in the scope of Act 5458 before the effective date of this article are removed in proportion to payments that are made after the payment of overdue installations, and confiscations regarding rights and claims in front of third persons are removed after the payment of overdue instalments in full.

(7) In case, insurance holders or their rightful beneficiaries in the scope of Acts 1479 and 2926 pay their premium debts belonging to the period after 1/4/2006 with their overdue instalments and they fulfil payment liabilities regarding instalment and current month premiums after the effective date of this article, they start to benefit from health insurance.

(8) It is mandatory for debtors who apply to benefit from provisions specified in this article, to relinquish appeals to the Social Security Institution and law suits by court due to their debts that are included in the scope, and not to generate dispute.

(9) The Social Security Institution is authorized to determine forms and procedures regarding the implementation of this article.

### **Social security receivables**

#### **PROVISIONAL ARTICLE 24 – (Supplement: 15/5/2008 - 5763/27 art.)**

(1) Excluding the debts that are decided by the Accord Commission and approved by the Cabinet and published in the Official Gazette, followed up according to the Social Security Act, numbered 506, dated 17/7/1964 and upon provisional article 3 of the Metropolitan Municipality Act, numbered 5216, dated 10/7/2004 and provisional article 7 of abrogated Municipality Act, numbered 5272, dated 7/12/2004 and provisional article 5 of the Municipality Act, numbered 5393, dated 3/7/2005, insurance premium, unemployment insurance premium, administrative monetary penalty, social aid increase that are not collected until the date of the application made according to this article and belonging to 2008/March and the previous terms, and with the condition of application until the end of the month following the effective date of this Act, debts of individuals, who are figured that they did not declare sufficient workmanship report as a result of pre evaluation, investigation or determination about private building construction and works of tender matter that are completed until 31/3/2008, premium debts of voluntary

insurance holders between 2003/May and 2008/March periods, premium debts of individuals who are subject to group insurance regarding invalidity, old - age and survivors insurances belonging to 2003/March and the previous terms, premium and social security support premium debts of insurance holders until 31/3/2008 according to Artisan and Craftsman and Other Independent Workers Social Security Institution Act, dated 2/9/1971, numbered 1479 and Act on Social Security of People Working in Agriculture on their Own Behalf and Account, dated 17/10/1983, numbered 2926, with the condition of a written application within two months following the effective date of this article, are paid in equal instalments with the conditions specified in this article or until twenty four months.

(2) In case, advance payment means is preferred and payment is made for the principal amount of the debt and late charges estimated according to social security legislation provisions until the end of the month in which the application is made and payment is made for fifteen percent of the late charge within one month following the application date, late charge and remaining eighty percent of late charge is pledged.

(3) If payment in installments is preferred, fifty five percent of late charges and late fees are pledged, which are estimated according to social security legislation provisions, in installation up to twelve months until the end of the month the application is made for debt principal which is included in the scope of the first clause, and thirty percent is pledged in instalments exceeding twelve months and the remaining part is added to debt principal and the debt is estimated, which is the basis of the principal amount. This amount is divided into instalment period and the monthly instalment amount is figured. Liability for the payment of the first instalment starts within the month following the application made according to this article. When payment with instalment means is selected at the beginning and then the remaining of the debt is desired to be paid in full, the pledge ratio which is dependent on the instalment period chosen at the beginning is not changed.

(4) If debtors do not fulfil their liabilities regarding their instalments on the basis of their debt type more than three times within a calendar year or if they fulfil them incompletely or if they pay the amounts unpaid within a calendar year up to three times or incompletely paid instalment amounts until the end of the month following the latest instalment, along with the interest amount to be estimated as a result of application of the ratio in compound base, by adding 1 point to monthly average interest ratio of discounted, exported State internal debt bills in New Turkish Lira (YTL) belonging to the previous month that is to be explained by the Treasury Under - secretariat for each delayed month until the end of the month following the latest instalment, these debtors lose their instalment rights according to this article and they return to their state before the instalment and paid amounts are deducted according to the pertaining provisions of the social security legislation.

(5) Late charges and late fees collected before the effective date of this Act is not reimbursed and not deducted, except for the amounts taken wrongly or baseless.

(6) Confiscations and collected cautionary on real and absolute property due to debts, in the scope of this article, before the effective date of this Act are removed in full in the ratio of the made payments, and confiscations regarding rights and receivables by third persons are removed in full after the payment of the first instalment.

(7) When a written application is made within the application period of advance payment or instalment according to this article for debts that are included in the scope of the first clause, by deforming delay and instalment or restructuring processes, which were delayed and installed or restructured by debtors upon the pertaining Acts concerning debts that are in the scope of this article, amounts which are restructured previously and their delay and instalment or restructuring processes are deformed and the paid amounts are deducted according to relevant social security legislation and their remaining debts in the scope of the first clause are paid in advance according to this article or installed.

(8) Provisions of this article are implemented for debts included in the scope of this article however excluded in the scope of Act 5458 and belonging to debtors whose restructuring agreements are continuing according to Act on Restructuring of Social Security Premium Credits and Making Amendments in Certain Acts, numbered 5458, dated 22/2/2006, or that they are regenerated.

(9) If metropolitan municipalities, municipalities and institutions of these municipalities request instalment of their debts, included in the scope of the first clause, deduction amounts made according to relevant acts for debts that are included in the scope of provisional article 5 of the Metropolitan Municipality Act, dated 10/7/2004, numbered 5216 and provisional article 6 of the Municipality Act, dated 3/7/2005, numbered 5393, are deducted from the instalment amounts that are to be paid according to this article. When deduction amounts are not deducted from monthly instalment amounts, entirety of the monthly instalment amounts is paid by debtors and when deduction amounts do not cover monthly instalment amounts, balance instalment amounts are paid by debtors.

(10) When insurance holders or their rightful beneficiaries in the scope of acts 1479 and 2926 do not have debts other than the ones included in the scope of this article, or when they have debts other than the ones included in the scope of this article and have restructured these debts according to special acts and fulfil their payment liabilities, and with the condition of payment of first four instalments of their total debts estimated according to the first clause, they start to benefit from health insurance.

(11) It is mandatory that debtors who apply to benefit from provisions specified in this article, they have to relinquish appeals that they made by the Social Security Institution due to their debts included in the scope and relinquish law suits that they filed at court and not generate any disputes.

(12) The Social Security Institution is authorized in determination of forms and procedures in the implementation of this article.

**PROVISIONAL ARTICLE 25 – (Supplement: 31/7/2008 - 5797/4 art.)**

If employers and insurance holders, whose debts, included in the scope of provisional article 24 of Act 5510, are structured upon provisions of the said article provisions, apply in writing within twenty days from the effective date of this article, their debts included in the scope of the said article are paid in full with the conditions specified in this article or paid in instalments up to twelve months.

If advance payment means is selected and the entirety of the debt principal and twenty percent of late charges and late fees, estimated upon the relevant legislation provisions, are paid until the end of the month during which the application is made, eighty percent of the remaining late charge and late fee is cancelled.

If payment with instalment means is preferred, and the entirety of the debt principal and fifty percent of late charges and late fees, estimated upon the relevant legislation provisions, are paid in equal instalments up to 12 months, fifty percent of the remaining late charge and late fee is cancelled. Payment liability of the first instalment starts in the month following the month in which the application is made. If instalment means is selected at the beginning and then the rest of the remaining installed debt is requested to be paid in full, cancellation ratio depending on the selected installation period is not changed.

Fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh clauses of provisional article 24 are implemented for applicants who applied to benefit from this article.

The Social Security Institution is authorized in determination of forms and procedures in the implementation of this article.

**Enforcement**

**ARTICLE 108 - (Amendment: 17/4/2008 - 5754/74 art.)**

Of this Act;

- a) Last clause of provisional article 20, takes effect on 1/1/2008,
- b) article 72 and 73, sub clause (b) of clause 7 of provisional article 6, last clause of provisional article 7, clause one to four of provisional article 9 and provisional article 17, twelfth clause of provisional article 20 take effect on 30/4/2008,
- c) Pertaining implementation of universal health insurance provisions for individuals who are considered in sub - sub clauses (3) to (8) and (10) of sub clause (c) of clause one of article 60 and sub clause (f); sub clauses (1), (2), (8), (9), (10), (16), (17), (20), (22), (23), (24), (25), (26) and (27) of clause one, article 3, articles 63, 64, 66, 67, 68, 69, 70, 71, 72, 74, 75, 77, 78, 79, fourth clause of article 80, sub clause (f) of clause one of article 81 and clause two, clause one, two and three of article 82, articles 87 to 89, last clause of article 97, last clause of provisional article 1, provisional article 3, fourth clause of provisional article 6, second clause of provisional article 11, provisions of provisional article 12 take effect on 1/7/2008,
- d) Its other provisions take effect at the beginning of October, 2008.

**Enforcement**

**ARTICLE 109 -** The Cabinet enforces provisions of this Act.

**LIST OF EFFECTIVENESS DATE OF LEGISLATION, MAKING AMENDMENTS AND SUPPLEMENTS TO ACT 5510**

**No. Amended articles of Act 5510**  
**Effectiveness dates of legislation**

5655	69 and 108	
20/05/2007		
5754	a) Last clause of provisional article 20 on	
01/01/2008,		
	b) articles 72 and 73, sub clause (b) of clause seven of provisional article 6, last clause of provisional article 7, clause one to four of provisional article 9, and provisional article 17, clause twelve of provisional article 20 take effect on	30/04/2008,
	c) Regarding the implementation of universal health insurance provisions for individuals specified in sub - sub clauses (3) to (8) and (10) of sub clause (c) of clause one of article 60 and sub clause (f); sub clauses (1), (2), (8), (9), (10), (16), (17), (20), (22), (23), (24), (25), (26) and (27) of clause one of article 3, articles 63,	

	64, 66, 67, 68, 69, 70, 71, 72, 74, 75, 77, 78, 79, clause four of article 80, sub clause (f) of clause one and clause two of article 81, clause one, two and three of article 82, articles 87 to 89, last clause of article 97, last clause of provisional article 1, provisional article 3, clause four of provisional article 6, clause two of provisional article 11, provisions of provisional article 12 take effect on		01/07/2008, 01/10/2008.
d) Other provisions take effect			
	5763	Provisional articles 23 and 24	
26/05/2008	81 and provisional article 16		01/10/2008
	5797	Provisional article 4, 12 and 25	
19/08/2008			
	81		01/10/2008
	80		15/10/2008