

Art. 3.- § 1. For the purposes of this act, the following definitions shall apply:

- 1° well-being: the entirety of factors regarding the circumstances under which work as referred to in Article 4, second paragraph, is carried out;
- 2° Committee: Committee for Prevention and Protection at Work;
- 3° Service: Internal Service for Prevention and Protection at Work;
- 4° High Council: High Council for Prevention and Protection at Work;
- 5° organisation: the most representative employers and workers' organisations referred to in § 2;
- 6° the act of 19 March 1991: the act of 19 March 1991 containing Special Dismissal Arrangements for Workers' Representatives in the Works Council and in the Committees for Prevention and Protection at Work, and for applicant workers' representatives;
- 7° client: any natural or legal person for whom a project is carried out;
- 8° project supervisor responsible for the design: any natural or legal person responsible for the design of a project acting on behalf of the client;
- 9° project supervisor responsible for the execution: any natural or legal person responsible for the execution of a project and acting on behalf of the client;
- 10° project supervisor responsible for the supervision of the execution: any natural or legal person responsible for the supervision of the execution of a project and acting on behalf of the client;
- 11° contractor: any natural or legal person who performs activities during the execution stage of a project, regardless whether s/he is employer, self-employed or an employer who, together with his/her workers, works on the work site;
- 12° coordinator for safety and health matters at the project preparation stage: any person entrusted by the client or the project supervisor responsible for the design, with seeing to the co-ordination regarding safety and health matters at the project preparation stage;
- 13° coordinator for safety and health matters at the project execution stage: any person entrusted by the client, the project supervisor responsible for the execution or the project supervisor responsible for the supervision of the execution with seeing to the co-ordination regarding safety and health matters during the execution of the project;
- 14° temporary or mobile construction site: any work site where civil engineering works or building works are carried out, of which the King has established a list;
- 15° workplace: any place where work is done, regardless whether it is inside or outside an establishment and regardless whether this is in an enclosed or open space;
- 16° self-employed person: any natural person exercising a professional activity for which he is not bound by an employment agreement or for which his legal position is not unilaterally regulated by the government.

§ 2. For the implementation of this act, the following shall be regarded as [representative em-

ployers and workers' organisations (3)]:

- 1° [the inter-professional organisations of employers and of workers that are represented on the Central Economic Council and the National Labour Council; (19)]
- 2° the professional and inter-professional organisations that have joined or form part of the inter-professional organisation stated in 1°.

In addition, the organisations which, in accordance with the acts regarding the organisation of the small firms and traders, co-ordinated on 28 May 1979 and representing the small firms and traders in the National Labour Council, are regarded as representative employers' organisations.

[The organisations which represent the non-commercial sector, to which the composition of the National Labour Council was extended in accordance with Article 2, § 2, third subparagraph of the National Labour Council Act of 29 May 1952, are likewise regarded as representative employers' organisations. (1)]

CHAPTER II. – General provisions

Art.4. – [§1. (4)]The King may impose on the employers and workers any measures necessary for the well-being of the workers at work.

Measures relating to the following are used to strive for well-being:

- 1° work safety;
- 2° protecting workers' health at work;
- 3° psychosocial load caused by work, including violence, harassment and sexual harassment at work; (14)]
- 4° ergonomics;
- 5° work hygiene;
- 6° embellishing the workplaces;
- 7° the enterprise's measures regarding the natural environment, relating to their influence on points 1° to 6°.

The King may establish special measures to take into account the specific situation regarding home workers, small and medium-sized enterprises, the armed forces, the police and civil protection services, with a view to achieving a similar protection level.

[§ 2. During the period that a worker, who is bound by a PWA (Local Employment Agency) contract works for a user, the latter shall be responsible for applying the provisions of this act and its execution decrees applicable to the workplace, under the same conditions as an employer.

The King may determine which obligations are imposed on the user and the employer respectively and he may determine further provisions to apply this act and its execution decrees.

The provisions of Chapter XI are likewise applicable to the user. (4)]

Art. 5. - § 1. Employers shall take the necessary measures to promote the well-being of the workers at work.

For this purpose, the employer shall apply the following general principles of prevention:

- a) to avoid risks;
- b) to evaluate the risks which cannot be avoided;
- c) to combat the risks at source;
- d) to replace the dangerous by the non-dangerous or the less dangerous;
- e) to give collective protective measures priority over individual protective measures;
- f) to adapt the work to the individual, especially as regards the design of work places, the choice of work equipment and the choice of working and production methods, with a view, in particular, to alleviating monotonous work and work at predetermined work rate and to reducing their effect on health;
- g) to limit risks as much as possible, taking technical progress into account;
- h) to limit the risk of serious injury by taking material measures, and giving them priority over any other measures;
- i) to plan prevention and implementing the policy regarding the well-being of the workers at work with a view to a system approach in which the following elements, among others, are integrated: technology, organisation of work, working conditions, social relationships and the influence of factors related to the working environment;
- j) to inform the worker on the nature of his/her work, on the associated residual risks and on the measures aimed at preventing or limiting these hazards:
 - 1° when commencing employment;
 - 2° whenever necessary for protecting well-being
- k) to give appropriate instructions to the workers and establishing guiding measures to reasonably guarantee compliance with these instructions;
- l) to provide or ascertain the existence of appropriate safety and health signs at work whenever risks cannot be avoided or adequately limited by the collective technical protective measures or by measures, methods or practices regarding work organisation. (9)]

§ 2. The employer shall determine the following:

- a) the means and manner in which the policy referred to in § 1 regarding the well-being of the workers at work can be conducted;
- b) the competence and responsibility of the persons charged with the implementation of the policy regarding the well-being of workers at work.

The employer shall adapt his/her well-being policy in the light of past experience, the development of the working methods or the working conditions.

§ 3. The King can specify the general principles of prevention referred to in § 1 and develop them in further detail by applying them on or in order to prevent specific risk situations.

Art. 6. – In their behaviour at the workplace, every worker must, to the best of his ability, take good care of his own safety and health and that of other persons concerned in accordance with their training and the instructions given by their employer.

For this purpose, workers must particularly do the following in accordance with their training and the instructions given by their employer:

- 1° make correct use of machinery, apparatus, tools, dangerous substances, transport equipment, and other means of production;
- 2° make correct use of the personal protective equipment supplied to them and, after use; return it to its proper place.
- 3° refrain from disconnecting, changing or moving arbitrarily safety devices fitted e.g. to machinery, apparatus, tools, plant and buildings and use such safety devices correctly;
- 4° immediately inform the employer and the internal service for prevention and protection at work of any work situation they have reasonable grounds for considering as representing a serious and immediate danger to safety and health and of any shortcomings in the protection arrangement;
- 5° cooperate with the employer and the internal service for prevention and protection at work, for as long as may be necessary to enable any tasks or requirements imposed by the competent authority to protect the well-being of the workers at work to be carried out;
- 6° cooperate with the employer and the internal service for prevention and protection at work, for as long as may be necessary to enable the employer to ensure that the working environment and working conditions are safe and pose no risk to safety and health within their field of activity;
- [7° contribute positively to the prevention policy that is brought about within the context of the protection of workers against violence, bullying, sexual harassment at work, refrain from any act of violence, bullying or sexual harassment at work and refrain from any unlawful use of the complaint procedure. (5)]

The King can specify the obligations of workers and develop them in further detail by applying them on or in order to prevent specific risk situations.

[CHAPTER IIbis.- Specific provisions regarding companies with certain high-risk activities

Art. 6bis. – Every employer is obliged to call on an authorized company to carry out demolition or disposal work where substantial amounts of asbestos may be released.

Every employer who performs demolition or disposal work where substantial amounts of asbestos may be released must be authorized with a view to protecting the workers on whom s/he calls to execute the work.

The King shall determine the conditions and rules according to which the companies referred

to in the first paragraph and the employers referred to in the second paragraph can be authorized, regarding the technical capacities necessary to execute the work, the workers' protective equipment, and their training and information.

By means of a Decree deliberated in the cabinet, the King can expand the obligations referred to in the first and second paragraphs to those cases where the fact that extremely specialised work is not executed correctly can lead to serious problems for the workers. (9)]

CHAPTER III. – [Special provisions regarding employment at the same workplace or at adjoining or neighbouring workplaces (16)]

[Art. 7. - § 1. Several undertakings or establishments sharing the same workplace where workers work, regardless whether they employ workers there themselves, shall be obliged to the following:

- 1° cooperate to implement the measures regarding the well-being of the workers in the execution of their work;
- 2° considering the nature of their work, coordinate their actions with a view to protecting the well-being of the workers at work against risks and to prevent such risks;
- 3° provide one another with the necessary information specifically regarding the following, as appropriate:
 - a) the risks for the well-being as well as the preventive measures and activities for every type of workstation and/or every type of function and/or every activity to the extent that this information is relevant to collaboration or coordination;
 - b) the measures that have been taken for first aid, fire-fighting and the evacuation of workers and the designated persons required to implement such measures.

§ 2. Several undertakings or establishments operating on adjacent or neighbouring workplaces situated on the same property and sharing equipment, access, evacuation or rescue provisions, shall cooperate and coordinate their actions regarding the use and, where applicable, the management of this equipment and these provisions which may affect the safety and health of the workers who work at these workplaces.

§ 3. The King can determine the manner in which the information referred to in § 1, 3° is provided.

He may also stipulate the rules for the collaboration and coordination referred to in §§ 1 and 2.

§ 4. The provisions of this Chapter shall not be applicable if the provisions of Chapter IV or V are applicable. (16)]

[CHAPTER IV. – Special provisions regarding work executed by outside undertakings or temporary workers (9)]

[Section 1. – Work by outside undertakings or self-employed persons

Art. 8. - § 1. The provisions of this section are applicable to contractors and sub-contractors who execute work in the employer's establishment, and to that employer him/herself.

§ 2. The following definitions shall apply for the application of the provisions of this section:

1° ‘facility’: the geographically demarcated area that forms part of an undertaking or establishment, and falls under the responsibility of an employer who him/herself employs workers there.

Plants operated by an employer are equated to facilities;

2° ‘contractor’: an outside employer or self-employed person who performs work on behalf of an employer or with his/her consent at the latter’s facility and in accordance with an agreement concluded with the latter;

3° ‘sub-contractor’: an outside employer or self-employed person who, within the context of the agreement referred to in 2°, performs work in the facility of an employer, based on an agreement concluded with a contractor.

For the purposes of the provisions of this Section, an outside employer or self-employed person who, within the context of the agreement referred to in the previous sub-paragraph 2°, performs work at the facility of an employer, based on an agreement concluded with a sub-contractor.

Art.9. - § 1. The employer in whose facility work is being done by contractors, and, where applicable, by sub-contractors, shall be obliged to the following:

1° provide the contractors with the necessary information for the benefit of the workers of the contractors and sub-contractors and for the benefit of the deliberation regarding the measures referred to in 4°.

This information specifically concerns the following:

a) the risks for the well-being of the workers and the protective and preventive measures and activities, both for the facility in general and for every type of work station and/or every type of function or activity to the extent that this information is relevant to the collaboration or coordination;

b) the measures that have been taken for first aid, firefighting and evacuation of workers and the designated persons required to implement such measures;

2° ascertain that the workers referred to in 1° have received appropriate training and instructions inherent to his/her (the employer’s) business activity;

3° take appropriate measures for the organisation of the reception, peculiar to his/her establishment, of the workers referred to in 1° and, where applicable, to entrust them to members of their hierarchical line;

4° coordinate the actions of contractors and sub-contractors and ensure the collaboration between these contractors, sub-contractors and his/her facility in implementing the measures regarding the well-being of the workers in the execution of their work;

5° see to it that contractors meet their obligations regarding the workers’ well-being in the execution of their work, pertaining to his/her facility.

§ 2. The employer in whose facility contractors and, where applicable, sub-contractors, are executing work, shall be obliged to do the following:

- 1° deter any contractor of whom s/he may know or of whom s/he establishes that this contractor fails to meet the obligations laid down by this act and its implementation decrees aimed at protecting the workers.
- 2° conclude an agreement with every contractor in which the following provisions are specifically included:
 - a) the contractor undertakes to meet his/her obligations and to make his/her sub-contractors meet the obligations regarding the workers' well-being at work pertaining to the facility where s/he executes the work;
 - b) if the contractor fails to meet or inadequately meets the obligations referred to in a), the employer in whose facility the work is executed, can, at the expense of the contractor, take the necessary measures him/herself in the cases stipulated in the agreement, and at the expense of the contractor;
 - c) the contractor who relies on (a) sub-contractor(s) for the execution of work at the facility of an employer, undertakes to incorporate in the agreement (s) with this (these) sub-contractor(s) the provisions as referred to under a) and b), which, in particular, entails that if the sub-contractor fails to meet or inadequately meets the obligations referred to in a), s/he can, take the necessary measures him/herself in the cases stipulated in agreement at the expense of the sub-contractor;
- 3° after having given the contractor a notice of default, him/herself immediately take the necessary measures regarding the workers' well-being at work pertaining to the facility if the contractor does not take these measures or meets them inadequately.

Art.10. - § 1. The contractors and, where applicable, the sub-contractors who execute the work at the facility of an employer shall be obliged to do the following:

- 1° meet and make their sub-contractors meet their obligations regarding the workers' well-being in the execution of their work, pertaining to the facility where they execute their work;
- 2° provide the information referred to in Article 9, § 1, 1° to their workers and sub-contractor(s);
- 3° provide the necessary information regarding the risks inherent to the work to the employer where they will execute the work;
- 4° cooperate to the coordination and collaboration referred to in Article 9, § 1, 4°.

§ 2. The contractors and, where applicable, the sub-contractors have the same obligations towards their sub-contractors as the employer, in application of Article 9, § 2 has towards the contractors.

Art. 11. – In derogation from Articles 9, § 2, 2°b) and 10 § 2, a contractor or, where applicable, a sub-contractor, can agree with the employer in whose facility s/he executes the work, that, on behalf of and at the expense of the contractor, the employer shall ensure the compliance of the measures regarding the workers' well-being in the execution of their work per-

taining to the facility.

Art. 12. - § 1. The King can do the following:

- 1° declare the obligations of Articles 9 and 10 applicable to the employer in whose facility the work is being executed by employers or self-employed persons, without them having concluded an agreement with the first-named employer, and to those employers or self-employed persons, when this work is executed in circumstances similar to those referred to in Articles 9 and 10;
- 2° determine the manner in which the information referred to in Articles 9, § 1, 1° and 10, § 1, 2° and 3° is provided;
- 3° establish more specific rules regarding coordination and collaboration;
- 4° determine which obligations regarding the workers' well-being in the execution of their work are inherent to the facility where contractors and, where applicable, sub-contractors, execute work;
- 5° determine in further detail the obligations of the employers in whose facility contractors and, where applicable, sub-contractors, execute work and the obligations of these contractors and sub-contractors.

§ 2. The King can also determine under which terms and in accordance with which specific rules the employers referred to in Article 9, § 1 have to inform and train the workers of contractors and sub-contractors.

§ 3. The manner in which the information referred to in § 1, 2° is provided, the further specific rules referred to in § 1, 3°, or the terms referred to in § 2 can be established, for the employers for whom the act of 5 December 1968 regarding the collective labour agreements and the joint committees is applicable, in the case of a collective labour agreement concluded in a joint committee or in the National Labour Council which has been declared generally binding, and for the other employers, in the case of an agreement concluded between the organisations that represent the respective employers and workers and the Minister responsible for the workers' well-being at work.

§ 4. The King takes the decrees referred to in §§ 1 and 2 pursuant to the advice of the Minister responsible for self-employed persons, if these decrees can be applicable to self-employed persons (16)]

[Section 2. – Work by temporary workers for user undertakings

Art. 12bis. – The provisions of this section are applicable to user undertakings and temporary agencies, as referred to in the act of 24 July 1987 regarding temporary work, temporary employment and the provision of workers to user undertakings.

Art. 12ter. –Every user undertaking shall be obliged to refuse the services of the temporary agency of which s/he may know that it does not meet the obligations towards temporary workers as imposed by this act and by the act of 24 July 1987 regarding temporary work, temporary employment and the provision of workers to user undertakings, and the implementation decrees (of these acts).

The provision as referred to in the first paragraph, does not derogate from the obligations that

the user undertaking has regarding temporary workers in terms of this act and the act of 24 July 1987 concerning temporary workers, temporary employment and the provision of workers to user undertakings, and the implementation decrees (of these acts).

Art. 12^{quater}. – Every temporary agency is obliged to refuse to provide temporary workers to a user undertaking of whom it (the agency) may know that, as regards his temporary workers, this user undertaking does not comply with his obligations imposed by this act and the act of 24 July 1987 concerning temporary workers, temporary employment and the provision of workers to user undertakings, and the implementation decrees (of these acts).

The provision as referred to in the first paragraph, does not derogate from the obligation that the temporary agency has regarding temporary workers in terms of this act and the act of 24 July 1987 concerning temporary workers, temporary employment and the provision of workers to user undertakings, and the implementation decrees (of these acts). (7)]

Art. 13. – [The provisions of Chapter IV, Section 1 are not applicable to the temporary or mobile construction sites referred to in Chapter V. (7)]

CHAPTER V. – Special provisions regarding temporary or mobile construction sites

Section 1. – Preliminary provisions

Art. 14. – The following persons are involved in the obligations regarding work on temporary or mobile construction sites:

- 1° client;
- 2° project supervisor responsible for the design and the persons to whom s/he has entrusted certain assignments under a sub-contract;
- 3° project supervisor responsible for the execution;
- 4° project supervisor responsible for the supervision of the execution of a project and the persons to whom s/he has entrusted certain assignments under a sub-contract;
- 5° contractor;
- 6° coordinator for safety and health matters at the project preparation stage;
- 7° coordinator for safety and health matters at the project execution stage;
- 8° worker.

Whenever an architect, as referred to in the act of 20 February 1939 on the protection of the title and the profession of architects, fully or partly executes the assignments of the project supervisor responsible for the design, or of the project supervisor responsible for the supervision of the execution, this architect shall be obliged to comply with the obligations imposed by this act and its implementation decrees on these project supervisors.

Art. 15. – The persons who, in application of this Chapter, are in any way involved in the obligations regarding the work at a temporary or mobile construction site, shall apply the general principles of prevention referred to in Article 5.

Section 2. – Project preparation stage

Art. 16. – The client or the project supervisor responsible for the design:

- 1° shall appoint a coordinator for safety and health matters at the project preparation stage for any construction site on which more than one contractor is present;
- 2° shall ensure that prior to the setting up of a construction site a safety and health plan is drawn up.

Art. 17. – During the design, study and execution stages of the project, the project supervisor responsible for the design or his/her sub-contractor and, where applicable, the client, shall take account of the general principles of prevention referred to in Articles 5 and 15, when architectural, technical or organisational aspects are being decided, in order to plan the various items or stages of work which are to take place simultaneously or in succession, as well as when estimating the period required for completing such work or work stages.

Art. 18. – The coordinator for safety and health matters at the project preparation stage, shall, in particular:

- 1° coordinate the implementation of the provisions of Article 17;
- 2° draw up, or cause to be drawn up, a safety and health plan, setting out the rules applicable to the construction site concerned, taking into account where necessary, the industrial activities taking place on the site; this plan must also include specific measures concerning work which falls within one or more of the categories determined by the King;
- 3° prepare a file with appropriate characteristics of the project containing relevant safety and health information to be taken into account during any subsequent works.

Art. 19. - § 1. The King shall determine the following:

- 1° the terms and detailed rules for the application of Article 16;
- 2° in which cases [(10)] a safety and health plan is drawn up, its contents and specific application measures;
- 3° in which cases the obligations referred to in Articles 16 and 17 belong to the client and in which cases they belong to the project supervisor responsible for the design;
- 4° the terms that the coordinators for safety and health matters at the project preparation stage have to meet to exercise their function [including their training and the terms, and more specific rules regarding the organisation and possible recognition of this training, (9)], as well as their competences and the resources at their disposal;
- 5° the more specific obligations pertaining to the project preparations stage resulting from the Directives that have been laid down by the European Union, said rules relating to the client, the project supervisor responsible for the design and his/her sub-contractor and the coordinator for safety and health matters at the project preparation stage.

[When determining the terms, cases, obligations and more detailed rules referred to in the first paragraph, the King can make a distinction between construction sites according to scale, complexity or risk level, with a view to achieving an equivalent protection level for the workers. (10)]

§ 2. The decrees referred to in this Article shall be taken pursuant to the recommendation of the Minister responsible for small firms and traders, whenever they concern the profession and responsibilities of the architect.

Section 3. – Project execution stage

Art. 20. – The client, the project supervisor responsible for the execution, or the project supervisor responsible for the supervision of the execution shall organise the coordination of the work of the various contractors and, where applicable, of other persons involved, as well as the collaboration between these various contractors, and, where applicable, other persons involved with a view to safety and health on the construction site:

- 1° when they work simultaneously on the construction site;
- 2° when they work in succession on the construction site.

The contractors and, where applicable, the other persons involved, shall be obliged to cooperate with this coordination and collaboration.

Art. 21. – The client, the project supervisor responsible for the execution or the project supervisor responsible for the supervision of the execution shall

- 1° appoint a coordinator for safety and health matters at the project execution stage, for any construction site on which more than one contractor is present;
- 2° communicate to the authority appointed by the King a prior notice before work starts.

Art. 22. – The coordinator for safety and health matters at the project execution stage shall

- 1° coordinate the implementation of the general principles of prevention and safety when technical or organisational aspects are being decided in order to plan the various items or stages of work which are to take place simultaneously or in succession, as well as when estimating the period required for completing such work or work stages;
- 2° coordinate the implementation of the relevant provisions in order to ensure that contractors:
 - a) apply in a consistent manner the general principles of prevention, and the principles to be complied with during the project execution stage referred to in Articles 4, 5 and 15;
 - b) apply the safety and health plan referred to in Article 16, 2°;
- 3° make, or cause to be made, any adjustments required to the safety and health plan referred to in Article 16, 2° and the file referred to in Article 18, 3° to take account of the progress of the work and any changes which have occurred;
- 4° organise the collaboration and coordination of the contractors, including successive contractors on the same construction site, with a view to protecting workers, preventing accidents and occupational health hazards, and to provide reciprocal information;
- 5° coordinate arrangements to check that the working procedures are being implemented correctly;

6° take the steps necessary to ensure that only authorised persons are allowed onto the construction site.

Art. 23. – The King shall determine the following:

- 1° the terms, and detailed rules for the application of Articles 20 and 21;
- 2° in which cases the obligations referred to in Articles 20 and 21 belong to the client, in which cases they belong to the project supervisor responsible for the execution and in which cases they belong to the project supervisor responsible for the supervision of the execution;
- 3° in which cases the prior notice referred to in Article 21, 2°, must be made, as well as its contents;
- 4° the terms that the coordinators for safety and health matters at the project execution stage have to meet to exercise their function [including their training and the terms, and the more specific rules regarding the organisation and possible recognition of this training, (9)] as well as their competences and the resources at their disposal;
- 5° the more specific obligations pertaining to the project execution stage resulting from the Directives that have been laid down by the European Union for:
 - a) the client;
 - b) the project supervisor responsible for the execution;
 - c) the project supervisor responsible for the supervision of the execution;
 - d) the sub-contractors of the project supervisor responsible for the supervision of the execution;
 - e) the coordinators for safety and health matters at the project execution stage;
 - f) the contractors.

[When determining the terms, cases, obligations and more specific rules, referred to in the first paragraph, the King can make a distinction between construction sites according to scale, complexity or risk level, with a view to achieving an equivalent protection level for the workers. (10)].

Art. 24. – The King determines the safety and health measures that should be respected by the contractors involved in the project execution stage.

Art. 25. – The project supervisor responsible for the execution is obliged to comply with all measures taken in implementation of Articles 23, 5° and 24, and to enforce these with all contractors and sub-contractors involved in the project execution stage.

Art. 26. – Every contractor is obliged to comply with all measures taken in implementation of Articles 23, 5° and 24, and to enforce these with (impose these on) every person who acted as sub-contractor for him/herself or for any other sub-contractor at any stage whatsoever, as well as with (on) any other person who provides him/her with workers.

Art.27. – Every sub-contractor is obliged to comply with all measures taken in implementa-

tion of Articles 23, 5° and 24, and to enforce these with (impose these on) every person who acted as sub-contractor for him/herself, as well as with (on) any other person who provides him/her with workers.

Art. 28. – If the project supervisor responsible for the execution, the contractor or the sub-contractor enlists self-employed persons for the execution of certain work, they shall ensure that these self-employed persons comply with all measures taken in implementation of Articles 23, 5° and 24.

The self-employed persons are obliged to collaborate on the application of the measures pursuant Articles 23, 5° and 24.

Art. 29. – With a view to the application of the provisions of Articles 25, 26, 27 and 28 and depending on the case, the project supervisor responsible for the execution, the contractors or the sub-contractors, have the following obligations:

- 1° to exclude the contractors, sub-contractors or self-employed persons of whom they may know that these do not comply with the obligations imposed by this act and its implementation decrees;
- 2° to conclude an agreement with the contractors, sub-contractors or self-employed persons in which the following provisions have specifically been included:
 - a) the contractor, the sub-contractor or the self-employed person undertakes to comply with safety and health requirements on temporary or mobile construction sites;
 - b) if the contractor, sub-contractor or self-employed person does not comply with or inadequately complies with the requirements referred to in a), the project supervisor responsible for the execution or the contractors themselves may take the necessary safety and health measures on temporary or mobile construction sites in the cases determined in the agreement and at the expense of the person in default;
- 3° to take the necessary measures themselves, if the contractors, sub-contractors or self-employed persons do not comply with or inadequately comply with the safety and health obligations on temporary or mobile construction sites, after having sent these contractors, sub-contractors or self-employed persons a notice of default.

Art. 30. – *repealed* (18)

Art. 31. – The employer is obliged to comply with all measures laid down for the implementation of Articles 23, 5° and 24 and to enforce (impose) these measures on his/her workers.

Art. 32. - The King determines when the scale of the construction site requires a coordination structure.

Taking into account the scale of the construction site and the risk level, he also determines the terms and specific rules regarding the institution of this coordination structure on the construction site.

[CHAPTER Vbis. – Special provisions regarding violence, harassment and sexual harassment at work

Section 1. – General provisions and definition

[**Art. 32bis.** – The employers and workers and the persons who have been assimilated to them as referred to in Article 2, § 1, and the persons other than those persons referred to in Article 2, § 1 who come into contact with the workers in the execution of their work, shall refrain from any act of violence, harassment or sexual harassment at work.

The persons other than those persons referred to in Article 2, § 1 who come into contact with the workers in the execution of their work shall apply the provisions of Articles 32*decies* to 32*duodecies* with a view to their protection.

The King shall determine the terms, and more specific rules regarding the application of this Chapter to the workers of the outside enterprises who will be continuously present in the facility of the employer where the work is to be executed. (14)]

Art. 32ter. – For the purposes of this act, the following definitions shall apply:

- [1° violence at work: every act whereby a worker or another person to whom this Chapter is applicable, is psychologically or physically threatened or attacked during the execution of his/her work; (14)]
- [2° harassment at work: variety of similar or different types of appropriate behaviour, outside or within the enterprise or the organisation, taking place over a specific period of time, the goal or consequence of which is that the personality, dignity or physical or psychological integrity of a worker or of another person to whom this Chapter applies, is affected in the execution of his/her work, that his/her position is placed at risk or that a threatening, hostile, insulting, demeaning or hurtful environment is created manifesting particularly in words, threats, actions, gestures or one-sided communication. Such behaviour is frequently associated with religion or beliefs, disabilities, age, sexual orientation, gender, race or ethnic origin; (14)]
- [3° sexual harassment at work: any form of unwanted verbal, non-verbal or physical behaviour with a sexual connotation, the goal or consequence of which is a compromise of the dignity of a person, or the creation of a threatening, hostile, insulting or injurious environment. (14)]

All function titles used in this Chapter, such as prevention advisor or confidential counsellor, relate to both men and women.

[Insofar as harassment is associated with religion or beliefs, disabilities, age, sexual orientation, gender, race or ethnic origin, the stipulations of the Chapter are the transposition into Belgian law of the following:

- 1° Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation;
- 2° Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;
- 3° Council Directive 76/207/EEC on the implementation of the principle of equal treatment

for men and women as regards access to employment, vocational training and promotion, and working conditions, amended by Directive 2002/73 of 23 September 2002. (14)]

Section 2. – Prevention measures

Art. 32^{quater}. – [§ 1. In application of the general principles of prevention referred to in Article 5, the employer shall determine which measures must be taken to prevent violence, harassment and sexual harassment at work.

He shall determine these prevention measures based on a risk analysis and taking into account the nature of the activities and the size of the enterprise.

The minimum measures referred to in the second paragraph are the following:

- 1° material and organisational measures that can prevent violence, harassment and sexual harassment at work;
- 2° whenever an act is reported, the applicable procedures that specifically concern the following:
 - a) the reception of and advice to persons who declare to have been the object of violence, harassment or sexual harassment at work;
 - b) the specific rules according to which these persons can appeal to the prevention advisor and the confidential counsellor appointed for acts of violence, harassment and sexual harassment at work;
 - c) a quick and completely impartial intervention by the confidential counsellor and the prevention advisor;
 - d) the reintegration of workers who have declared to have been the object of violence, harassment or sexual harassment at work and the guidance of these persons following reintegration;
- 3° the specific measures to protect workers who come into contact at work with persons other than those persons referred to in Article 2, § 1 who come into contact with workers at work;
- 4° the obligations of the hierarchical line to prevent acts of violence, harassment and sexual harassment at work;
- 5° informing and training workers;
- 6° informing the committee.

The measures referred to in the third paragraph are taken pursuant to the committee's advice, with the exception of the measures referred to in 2°, which are established after the committee has given its consent.

If no agreement is reached, the employer shall, subject to the terms and in accordance with the detailed rules determined by the King, request the advice of the official charged with the supervision referred to in Article 80.

Without prejudice to the provisions governing the relationship between the government and the trade unions of its personnel, the employer can, if no agreement has been reached in accordance with the advice referred to in the fifth paragraph, take measures insofar as at least two-thirds of the member-representatives of the personnel members on the committee agree. (14)]

§ 2. The King can establish the terms, and specific rules for the application of this Article. In addition, can he take special measures to take into account specific or new risk situations or the workers' specific situation.

For employers to whom the act of 5 December 1968 on Collective Labour Agreements and Joint Committees is applicable, the terms, specific rules and special measures referred to in the first paragraph can, however, be established by a collective labour agreement concluded in the National Labour Council and declared generally binding by Royal Decree.

[Art. 32quinquies – The employer shall ensure that workers who, in the execution of their work, have been the object of an act of violence committed by a person other than those persons referred to in Article 2, § 1 of the act, and who are at the workplace, receive suitable psychological support from specialised services or institutions.

Without prejudice to other legal provisions, the employer bears the costs of the measure referred to in the first paragraph.

The King may determine the limits within which the costs referred to in the second paragraph are borne by the employer. (14)]

[Art. 32sexies. - § 1. In accordance with the provisions established in implementation of Chapter VI, the employer decides whether the tasks assigned to the prevention advisor in this Chapter shall be carried out by the internal service for prevention and protection at work or by an external service for prevention and protection at work.

If s/he entrusts these tasks to the internal service for prevention and protection at work, s/he shall, after prior agreement of all representatives of the members of personnel on the committee, appoint a prevention advisor specialised in the psychosocial aspects of work, including violence, harassment and sexual harassment at work.

If no agreement is reached, the employer shall, subject to the terms, specific rules determined by the King, request the official charged with the supervision referred to in Article 80 for his advice

If, in accordance with the advice referred to in the third paragraph, there is still no agreement or if the employer employs fewer than 50 workers, the employer shall call upon a prevention advisor who is part of an external service for prevention and protection at work and who is specialised in the psycho-social aspects of work, including acts of violence, harassment and sexual harassment at work.

The employer who has a prevention advisor specialised in psycho-social aspects of work, including acts of violence, harassment and sexual harassment at work, in his/her internal service for prevention and protection at work, may make an additional appeal to an external service for prevention and protection at work.

The prevention advisor referred to in this paragraph may not simultaneously exercise the position of prevention advisor in occupational medicine.

§ 2. Where applicable and after prior agreement by all representatives of the members of personnel on the committee, the employer appoints one or more confidential counsellors.

He removes them from office after prior agreement by all representatives of the members of personnel on the committee.

If no agreement is reached on the appointment of the confidential counsellor or on removing him/her from office, and subject to the terms and specific rules determined by the King, the employer requests the advice of the official charged with supervision, before making a decision. If s/he does not follow this official's advice, s/he shall also inform the committee of the reasons for this.

If the employer only calls on a prevention advisor from an external service for prevention and protection at work, the confidential counsellor must be one of the employer's personnel if the employer employs more than 20 workers.

Confidential counsellors perform their duties with total autonomy and may experience no disadvantage because of their activities as confidential counsellors.

Confidential counsellors may not simultaneously exercise the function of prevention advisor in occupational medicine.

The King may determine the terms and specific rules regarding the confidential counsellor's legal position.

§ 3. The King determines the assignments and the tasks of the prevention advisor and the confidential counsellor, as well as the training required to execute their assignment adequately. (14)]

Art. 32septies. – Whenever the employer is informed of acts of violence, harassment or sexual harassment at work, s/he must take appropriate measures in accordance with this Chapter. If the acts of violence, harassment or sexual harassment at work persist after the measures have been enforced or if the employer fails to take the necessary measures, the prevention advisor shall [after agreement by the worker who has lodged the substantiated complaint (14)] approach the official charged with supervising this act.

Art. 32octies. – The minimum elements to be incorporated into the labour regulations shall be the following:

- 1° names, address and telephone number of the prevention advisor and, where applicable, those of the confidential counsellor;
- 2° the procedures referred to in Article 32quater, § 1, third paragraph, 2°. (14)]

Section 3. – Protection [of the employers, workers and other persons present at the workplace(14)] against violence, harassment and sexual harassment at work

[Art. 32nonies. – The worker who considers him/herself the object of violence, harassment or sexual harassment at work approaches the prevention advisor or confidential counsellor and can lodge a substantiated complaint with these persons, in accordance with the terms, and specific rules established in application of Article 32quater, § 2.

The worker referred to in the first paragraph can also address the official charged with the supervision referred to in Article 80, who, in accordance with the act of 16 November 1972 on labour inspection, examines whether the employer complies with the stipulations of this Chapter and its implementation decrees. (14)]

[Art. 32decies - § 1. Anyone who can demonstrate an interest can institute a claim before a competent court to enforce compliance with the provisions of this Chapter and can specifically claim allocation of compensation for damages.

If the labour court establishes that the employer has compiled a procedure to deal with substantiated complaints in application of this act and its implementation decrees and it establishes that this procedure can be legally applied, the court can, if it is approached by the worker, order this worker to apply the abovementioned procedure. In that case, the matter is suspended until the end of the procedure.

§ 2. At the request of the person who declares that s/he is the object of acts of violence, harassment or sexual harassment at work or of the organisations and institutions referred to in Article 32duodecies, the Chairperson of the labour court shall establish the existence of these acts and make a cease-and-desist order, within a term that s/he determines, even if these acts fall under criminal law.

The claim in the first paragraph is instituted and dealt with in interlocutory proceedings. It is instituted as an application *inter partes*.

A ruling is given on the claim, notwithstanding prosecution due to the same acts before any criminal court.

Where an application has been made for a cease-and-desist order of the acts instituted before the criminal judge, judgement on the criminal prosecution shall only be given after the cease-and-desist order has been pronounced to be a final judgement. Prescription of the criminal claim shall be suspended during the deferment.

Within five days of the pronouncement of the ruling, the Clerk of the Court sends an unsigned copy of the ruling to every party and the labour prosecutor by ordinary post.

The Chairperson of the labour court can lift the cease-and-desist order as soon as it has been proven that the acts of violence, harassment or sexual harassment at work have ceased.

The Chairperson of the labour court can order that his/her decision or the summary that s/he compiles be put on a notice board for a term that s/he determines and, where applicable, both inside and outside the employer's establishments and that his/her judgement or the summary that s/he compiles be published in newspapers or in any other manner. This is all done at the perpetrator's expenses. These publication measures may, however, only be imposed if they can contribute to putting an end to the objectionable act or its impact.

§ 3. Preliminary measures can be imposed on the employer with the purpose of enforcing compliance with the stipulations of this Chapter and its implementation decrees.

The provisional measures referred to in the first paragraph specifically concern the following:

1° application of the prevention measures;

- 2° measures that see to it that an actual end is put to the acts of violence, harassment or sexual harassment at work.

The claim regarding the preliminary measures is instituted by an application *inter partes* and brought before the Chairperson of the labour court so that a decision be made on it in the forms and within the terms of interlocutory proceedings. (15)]

Art. 32undecies. – Where a person who can show an interest before the competent court submits facts leading one to believe that the existence of acts of violence, harassment or sexual harassment at work is possible, the burden of proving that there is no violence, harassment or sexual harassment at work lies with the defendant.

The first paragraph is not applicable to criminal proceedings and does not derogate from other more favourable legal provisions regarding the burden of proof.

Art. 32duodecies. – The following persons may lawfully act to defend the rights of the persons to whom this Chapter is applicable and in all disputes to which application of this Chapter may lead:

- 1° the representative workers' and employers' organisations, such as those that have been determined in Article 3 of the act of 5 December 1968 on Collective Labour Agreements and Joint Committees;
- 2° the representative trade unions in the sense of Article 7 of the act of 19 December 1974 on relations between public authorities and the trade unions representing their staff;
- 3° the representative trade unions in the appointed body of trade union deliberations for the administration, services and institutions to which the act of 19 December 1974 on relations between public authorities and the trade unions representing their staff is not applicable;
- 4° the institutions of public utility and non-profit organisations referred to in the act of 27 June 1921 where the non-profit organisations and the institutions of public utility were given legal personality, with at least three years of legal personality on the day that the claim is instituted where acts of violence, harassment or sexual harassment compromise what they strive for in terms of their Articles of Association;
- [5° the Centre for Equal Opportunities and Opposition to Racism in the disputes regarding the fields referred to in Article 2, first paragraph, 1° and 2°, of the act of 15 February 1993 pertaining to the foundation of a centre for equal opportunities and opposition to racism;
- 6° the Institute for the Equality of Women and Men instituted by the act of 16 December 2002, in disputes regarding gender. (14)]

[The authority of the organisations referred to in the first paragraph does not derogate from the right of the person who is of the opinion that s/he is the object of violence, harassment or sexual harassment at work to act him/herself or intervene in the dispute. (14)]

However, the organisations referred to in the first paragraph can only exercise their authority on condition that the person [who is of the opinion that s/he is the object of violence, harassment or sexual harassment at work (14)] is agreeable.

Art. 32redecies. [§1. Except for reasons that are alien to the complaint, legal claim or witness statement, the employer may not terminate the legal relationship of the following workers, and likewise s/he may not unfairly and unilaterally amend the labour terms of those workers:

- 1° the worker who has lodged a substantiated complaint in accordance with the applicable procedures regarding the undertaking or establishment employing him/her;
- 2° the worker who has lodged a complaint with the official charged with the supervision referred to in Article 80;
- 3° the worker who has lodged a complaint with the police services, a member of the public ministry or the examining magistrate;
- 4° the worker who institutes a legal claim or for whom a legal claim is instituted on the grounds of this Chapter;
- 5° the worker who intervenes as a witness for the investigation of the substantiated complaint by informing the prevention advisor, in a signed and dated document, of the acts that s/he him/herself has seen or heard and that are related to the situation that is the object of the substantiated complaint, or by acting as a witness *in jure*. (14)]

§ 2. The burden of proof of [the reasons and justification referred to in § 1 (14)] lies with the employer if the worker is dismissed or the labour terms and conditions are unilaterally amended within twelve months after the complaint has been lodged or the witness statement made. This burden of proof likewise lies with the employer in the event of dismissal or unilateral amendment of the labour terms and conditions after a legal claim was instituted, until three months after the judgement became a definitive ruling.

§ 3. Where the employer terminates the labour relationship or unilaterally amends the labour terms and conditions in contravention of the stipulations of § 1, the worker, or the workers' organisation of which s/he is a member, can request that s/he be re-employed in the enterprise or the institution under the terms and conditions that existed before the acts that led to the complaint.

The request must be made by registered letter within thirty days following the date of the dismissal notice, of the termination without notice or of the unilateral amendment of the labour terms and conditions. The employer must respond within thirty days of the notification of the letter regarding the request.

The employer who again employs the worker in the enterprise or institution or re-instates him/her to exercise his/her position under the terms and conditions that existed before the acts that led to the complaint, shall have to pay the wages lost as a result of the dismissal or amendment to the labour terms and conditions, as well as the employers' and workers' contribution for those wages. (5)]

[§ 4. The employer must pay the worker compensation in the following cases:

- 1° where the worker is not re-employed in the enterprise or cannot exercise his/her position under the terms and conditions that existed before the acts that led to the complaint after the request referred to in § 3, first paragraph and the judge ruled that the dismissal or unilateral amendment of the labour terms and conditions infringes on the stipulations of § 1;