

**The Republic of the Union of Myanmar**

**The Pyidaungsu Hluttaw**

**The Social Security Law, 2012**

( The Pyidaungsu Hluttaw Law No.--- / 2012 )

The th Waxing/Waning Day of 1373 M.E.

(The th, 2012)

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter I

Title, Coming into Force and Definitions

1. (a) This Law shall be called the Social Security Law, 2012.
  - (b) This Law shall come into force commencing from the date of notification determined by the President of the Union.
  - (c) This Law shall continue to be in force in areas where the Social Security Act, 1954 has been in force. In addition to those areas, the areas where this Law shall extend to apply may be determined , by notification, by the Ministry of Labour in co-ordination with the Social Security Board with the approval of the Union Government.
2. The following expressions contained in this Law shall have the meanings given hereunder:
    - (a) Worker means a person who is employed permanently or temporarily in any establishment and who earns a living with wages earned by physical or mental capacity. In such expression, it also include apprentices and trainees whether they are paid remuneration or not. However, it does not include members of the family of employer who live together with and depend upon the employer.
    - (b) Employer means a person who is responsible to pay remuneration to an employee, who employs an worker by employment agreement, or who manages on behalf of the employer. Unless otherwise provided in this Law, such expression includes a person who carries out private enterprise or joint venture enterprise, inheritor, successor or legal representative when the employer is expired..
    - (c) Insured person means a worker who is working at any establishment covered by this Law and who has insured through registration under the Social Security System and Employment Injury Benefit Insurance System, or a worker who is responsible to insure, or a person who effects insurance voluntarily under the Social Security System and Employment Injury Benefit Insurance System although he is not working at any establishment covered by this Law.
    - (d) Establishment means mills and organizations contained in sub-section (a) of section 11. In such expression, it also include any work- place working for the said establishment.
    - (e) Social Security Fund means health and social care fund, family assistance fund, invalidity benefit, superannuation benefit and survivors' benefit fund, unemployment benefit fund, Social Security Housing Plan fund for insured persons in order that they may have peacefulness in mind and not to have worry about

the future, and other social security fund specified by the Ministry of Labour, in co-ordination with the Social Security Board with the approval of the Union Government.

- (f) Employment injury means an injury, death or occupational disease occurred to a worker in and out of workplace due to employment, or in relation to duty of the employment, or in carrying out other works for the benefit of the employer, or in travelling to or from the workplace. In such expression, it does not include injury obtained due to willfully failure to abide by the orders and directives, regulations, bye-laws relating to industrial safety, or discarding or not using prescribed safety devices, or drinking alcohol or using drug.
- (g) Invalidity means permanent incapacity for work arising out of injury or disease obtained for any other causes including sickness and maternity but not for employment accident.
- (h) Employment injury benefit fund means a fund established by the employer's contributions for his workers to enjoy employment injury benefit.
- (i) Social security and employment injury benefit means benefit paid under this Law to insured persons from Social Security Fund and Employment Injury Benefit Fund.
- (j) Wages means all remunerations entitled to be received by a worker for the work done by him and employed by the employer. In such expression, it includes the overtime-fee and other incomes which may be determined as income. However, it does not include the travelling allowance, pension, gratuity, annual bonus, and income specified as irrelevant to wage by the Ministry of Labour with the approval of the Union Government.
- (k) Medical certificate means medical examination certificate issued after medical examination is carried out to an insured person or a person to effect insurance for the matter of benefit contained in this Law, by a doctor appointed or recognized by the Social Security Board.
- (l) Dependent means wife or husband of a worker or children of 18 years of age and under of such worker or unmarried children of 21 years of age and under who pursue education for full-time, or parents of such worker.
- (m) Executive Committee means Executive Committee of the Social Security Board formed under this Law.
- (n) Ministry of Labour means the Ministry of Labour of the Union Government.

## **Chapter II**

### **Objectives**

3. The objectives of this Law are as follows:

- (a) to support the development of the State's economy through the development of production by causing to enjoy more security in social life and health care by the workers who are major productive force of the State by the collective guaranty of the employer, worker and the State;
- (b) to enjoy more security in social life and medical care by the public by effecting their insurance voluntarily;
- (c) to raise public confidence upon the social security scheme by providing benefits which are commensurate with the realities;
- (d) to have the right to draw back some of the contributions paid by the employers and the workers as savings, in accord with the stipulations;

- (e) to obtain the right to continued medical treatment, family assistance benefit, invalidity benefit, superannuation benefit, survivors' benefit, unemployment benefit, the right to residency and ownership of housing after retirement in addition to health care and pecuniary benefit for sickness, maternity, death, employment injury of the workers.

### Chapter III

#### Establishment of the Social Security Board and Functions Thereof

- 4. The Union Government:
  - (a) shall establish the national level Social Security Board comprising suitable persons from the Ministry of Labour and the relevant Union Ministries, Government departments, organizations, representatives of employers and workers, and experts;
  - (b) the Social Security Board formed under sub-section (a) may be reconstituted as may be necessary.
  
- 5. The functions of the Social Security Board are as follows:
  - (a) carrying out necessary management and supervision for enabling to implement the provisions contained in this Law;
  - (b) forming the Executive Committee with suitable persons in co-ordination with the relevant Government departments and organizations to carry out the functions assigned by the Social Security Board, and determining the functions of such committee;
  - (c) causing to carry out the work of Social Security Board by laying down research and development programmes and plans and causing to report the finding;
  - (d) forming the Medical Advisory Board in co-ordination with the Ministry of Health and specifying the functions thereof;
  - (e) arranging and carrying out the health promotion works, works of occupational health, and works to create healthy environment;
  - (f) advising and submitting to the Ministry of Labour in coordination with the Ministry of Health to issue the percentage of loss of capacity for work to be based upon in determining permanent disability benefit;
  - (g) advising and submitting to the Ministry of Labour in coordination with the Ministry of Health to issue the list of occupational diseases;
  - (h) specifying the ratio of vacancies to be reserved in minimum according to the type of establishment to appoint those who have lost capacity for work due to employment injury;
  - (i) assigning duties to the suitable department, organization or person if it is necessary to carry out any functions of the Social Security Board after coordinating with the relevant Union Ministry;
  - (j) guiding and supervising relating to the functions of the Social Security Head Office and various levels of regional Social Security Offices, or relating to the functions of hospitals and clinics owned by the Social Security Board or those entered into agreement with that Board;

- (k) establishing Social Security Housings by laying down plans at land plots allowed by the State, or at land plots bought with the Social Security Fund and the Employment Injury Benefit Fund with the permission of the Ministry of Labour;
  - (l) granting permission to live, lease and live, use, own, buy, sell or transfer in any other means in accord with the stipulated terms and conditions and to borrow loan for purchasing that housing;
  - (m) assigning duty to the relevant social security officer to take action against persons who obtained permission under sub-section (l) and violate the stipulated terms and conditions, and if it is necessary, to remove them from the Social Security Housing in accord with the stipulations;
  - (n) communicating, coordinating and carrying out with the international organizations and regional organizations in order to give more effective social security and employment injury benefits;
  - (o) submitting report on the performance of the work of the Social Security Board to the Union Government in accord with the stipulations;
  - (p) carrying out other functions and duties assigned by the Union Government and the Ministry of Labour.
6. The Social Security Board shall:
- (a) devolve with the immovable property, movable property and funds owned by the Social Security Board established under the Social Security Act; 1954, social security matters, businesses being undertaken to raise the Social Security Fund, and the rights and liabilities of the Social Security Board;
  - (b) have the right to carry out under its own name and seal, the right to undertake in continuous succession, and the right to sue and be sued.
7. The allowances and remunerations for the members of the Social Security Board and of the Executive Committee who are not the members of civil service shall be incurred from the Social Security Fund and Employment Injury Benefit Fund for the days discharging duties of the Social Security Board under this Law.

#### Chapter IV

##### Formation of Social Security Offices, Hospitals, Clinics and Appointing Staff

8. (a) The Ministry of Labour may establish the following social security offices, hospitals and clinics as may be necessary and appoint and assign duty to necessary staff in conformity with the staff set-up sanctioned by the Union Government to carry out necessary responsibilities and office works of the Social Security Board in implementing the provisions contained in this Law in co-ordination with the Social Security Board:
- (i) Social Security Head Office;
  - (ii) Regional and State Social Security Offices;
  - (iii) Self- Administered Division Social Security Offices, Self- Administered Region Social Security Offices;
  - (iv) District Social Security Offices;
  - (v) Township Social Security Offices;
  - (vi) Social Security Hospitals;
  - (vii) Social Security Clinics.

- (b) The officials and staff appointed in the social security offices formed under sub-section (a) may enjoy salaries, allowances, honorariums or other benefits in conformity with laws, rules, regulations, by-laws, orders and directives relating to Government servants and shall abide by and comply with the Civil Service Regulations and duties.
  - (c) The Social Security Board may allow to enjoy salaries, allowances and honorariums or other benefits from its fund instead of the benefits contained in sub-section (b) relating to the establishment of social security offices, hospitals and clinics and appointing necessary officials and staff contained in sub-section (a) based on the situation of its fund in order to enable to carry out duties and functions which are necessary in implementing the provisions contained in this Law and office duties of the Social Security Board.
9. (a) The Ministry of Labour, to enable providing health care and medical treatment under this Law,
- (i) may carry out assigning duty jointly or assigning duty by transfer or appointing of doctors, dental and oral surgeons, nurses, midwives, and technicians who obtained medical practitioner licence or registration certificate issued by the Medical Council of the Republic of the Union of Myanmar, the Dental and Oral Medicine Council, and the Nurses and Midwives Council of the Republic of the Union of Myanmar, or practitioners of traditional medicine who obtained registration certificate issued by the Indigenous Medicine Council in coordination with the Ministry of Health;
  - (ii) if it is necessary, may appoint doctors, dental and oral surgeons, nurses, midwives, technicians and also practitioners of traditional medicine who obtained medical practitioner license or registration certificate issued by the respective council by hiring for a limited period or concluding agreement and determine the functions thereof.
- (b) The persons who are appointed and assigned duty under sub-section (a) may, unless there is specific agreement, may enjoy salaries, allowances and honorariums, gratuities, pensions and other benefits in accord with laws, rules, regulations, by-laws, orders, and directives relating to civil servants, and shall abide by and comply with the Civil Service Regulations and by-laws.
10. The Director General of the Social Security Head Office:
- (a) shall be responsible to perform necessary functions and duties in implementing the provisions contained in this Law and office duties relating to the Social Security Board;
  - (b) shall supervise the performance of the functions of the following social security offices, hospitals, and clinics in accord with the guidance of the Social Security Board;
    - (i) Social Security Head Office,
    - (ii) Regional and State Social Security Offices,
    - (iii) Self- Administered Division Social Security Offices, Self- Administered Region Social Security Offices,
    - (iv) District Social Security Offices,
    - (v) Township Social Security Offices,
    - (vi) Social Security Hospitals,
    - (vii) Social Security Clinics,
    - (viii) Hospitals and clinics which are concluded agreement with the Social Security Board.

## Chapter V

## Social Security System and Benefits

## The Establishments Applied

11. (a) The following establishments shall be applied with the provisions for compulsory registration for social security system and benefits contained in this Law if they employ minimum number of workers and above determined by the Ministry of Labour in co-ordination with the Social Security Board:
- (i) production industries doing business whether or not they utilize mechanical power or a certain kind of power, works of production, repairing or services, or engineering works, mills, warehouses, establishments;
  - (ii) Government departments, Government organizations and regional administrative organizations doing business;
  - (iii) development organizations;
  - (iv) financial organizations,
  - (v) companies, associations, organizations and their subordinate departments and branch offices doing business;
  - (vi) shops, commercial establishments, public entertaining establishments;
  - (vii) Government departments and Government organizations doing business or transport businesses owned by regional administrative body, and transport businesses carried out with the permission of such department, body or in joint venture with such department or body;
  - (viii) construction works carried out for a period of one year and above under employment agreement;
  - (ix) works carried out with foreign investment or citizen investment or joint ventured businesses;
  - (x) works relating to mining and gemstone contained in any existing law;
  - (xi) works relating to petroleum and natural gas contained in any existing law;
  - (xii) ports and out-ports contained in any existing law;
  - (xiii) works and organizations carried out with freight handling workers;
  - (xiv) Ministry of Labour and its subordinate departments and organizations;
  - (xv) establishments determined by the Ministry of Labour from time to time, in co-ordination with the Social Security Board and with the approval of the Union Government; that they shall be applied with the provisions of compulsory registration for Social Security System and benefits contained in this Law.
- (b) Any establishment which is applied with the provisions of compulsory registration under sub-section (a) shall continue to be applied by this Law even though any of the following situations occurs if it continues to carry out such work:
- (i) carrying out work by employing under stipulated minimum number of workers but more than one worker;
  - (ii) changing the employer or changing the type of business.

## The Establishments and Workers Not Applied

12. (a) The following establishments shall not be applied with the provisions of compulsory registration for Social Security System and benefits contained in this Law:

- (i) Government departments, Government organizations or regional administrative bodies which do not carry out the business;
  - (ii) international organizations, embassies or consulates of foreign governments;
  - (iii) seasonal farming and fishery works;
  - (iv) non-profit companies, associations or organizations;
  - (v) establishments working only for a period less than three months;
  - (vi) private establishments working only by the family members and without worker;
  - (vii) domestic services not for business purpose;
  - (viii) establishments exempted under section 99.
- (b) The following workers shall not be applied with the provisions of compulsory registration for Social Security System and benefits contained in this Law even though they may be working at any establishments:
- (i) workers who have not attained the working age in accord with the existing law and workers who have completed the age entitled for superannuation pension under section 34;
  - (ii) street vendors and vendors using bicycle, push-cart etc.;
  - (iii) daily wages earners, part-time workers, piece-workers or outside workers employed from time to time;
  - (iv) other workers determined by the Ministry of Labour, in co-ordination with the Social Security Board, with the approval of the Union Government that they shall not be applied with the provisions of compulsory registration for Social Security System and benefits contained in this Law.
- (c) If the workers from establishments which are not applied with the provisions of compulsory registration for Social Security System and benefits voluntarily register, made contribution and effect insurance, they shall be entitled to the social security benefits contained in this Law.

#### Social Security System

13. The Social Security Board shall manage and keep the following social security systems in accord with the stipulations that insured persons may enjoy social security benefits:

- (a) Health and Social Care Insurance System:
  - i) medical care and cash benefits for sickness;
  - ii) medical care and cash benefits for maternity and confinement;
  - iii) continued medical care for insured persons after retirement;
  - iv) funeral benefit for death due to any cause.
- (b) Family Assistance Insurance System:
  - i) education allowance benefit for the children of insured persons who earn below the specified amount of income;
  - ii) health care and aid benefit in time of natural disaster;
  - iii) suitable benefit for dependent family members.
- (c) Invalidity Benefit, Superannuation Pension Benefit and Survivors' Benefit Insurance System:
  - i) invalidity benefit;
  - ii) superannuation pension benefit;

- (iii) survivors' benefit arising out of death not owing to employment.
- (d) Unemployment Benefit Insurance System:
  - (i) medical care to persons who are entitled to unemployment benefit;
  - (ii) cash benefit for unemployment.
- (e) Other Social Security System:
  - (i) the right of insured persons to live, hire and live, purchase, own or use the Social Security Housings established under housing plans in accord with the stipulations;
  - (ii) Social Security System of compulsory registration and contribution specified by notification issued by the Ministry of Labour, in co-ordination with the Social Security Board, with the approval of the Union Government, or other social security systems of voluntary contribution.

14. The Government servants shall not be applied with the insurance systems contained in sub-sections (c) and (d) of section 13. However, if the Government servants voluntarily register and pay contribution to insurance system contained in sub-section (c) of section 13, they shall be entitled to relevant benefits in accord with the stipulations.

#### Social Security Fund

15. (a) The following funds are included in the Social Security Fund:
- (i) health and social care fund;
  - (ii) family assistance fund;
  - (iii) invalidity benefit, superannuation pension benefit, and survivors' benefit fund;
  - (iv) unemployment benefit fund;
  - (v) other social security fund for social security system of compulsory registration and contribution specified by the Ministry of Labour, in co-ordination with the Social Security Board, according to clause (2) of sub-section (e) of section 13;
  - (vi) other social security fund specified as to which contribution may be paid after voluntary according to clause (2) of sub-section (e) of section 13;
  - (vii) fund for Social Security Housing Plan;
- (b) The employers and workers of establishments shall pay contributions to the funds contained in clauses (1), (3),(4) and (5) of sub-section (a) after effecting compulsory registration.
- (c) The contribution for family assistance benefit fund contained in clause (2) of sub-section (a) shall not be specified in particular, but it shall be re-appropriated from health and social care fund in stipulated ratio.
- (d) The employers and workers of establishments may pay contribution voluntarily to the funds contained in clauses (6) and (7) of sub-section (a).

#### Effecting Insurance after Registration for Social Security and Contributions

16. (a) The following employers shall effect insurance for the workers working at their establishments by compulsorily registering at the relevant township social security office and contribute to the social security fund contained in clauses (1),(3),(4), and (5)of sub-section (a) of section 15 in accord with the stipulations to enable to enjoy social security benefits:
- (i) employers of establishments;



- (ii) employers of establishments employing the number of workers, including the relatives of the employers except at least one worker and their wife, husband, children and parents depending upon them, under sub-section(a) of section 11 ;
  - (iii) employers of unpaid apprentices and trainees.
- (b) employers and workers of establishments who are not applied to the Social Security System, or persons under section 20, if they desire to enjoy social security benefits under this Law, shall register voluntarily according to each insurance system at the respective township social security office and contribute to the funds under section 15 in accord with stipulations.
- (c) before effecting insurance under sub-section(a) and (b) after registration, a person to be insured shall undergo medical examination in accord with the stipulations and shall submit the medical certificate when effecting registration as an insured person.
17. In order to incur the costs for the benefits provided under this Law to insured persons and to the remaining dependents of the deceased insured persons, and for administrative purposes; the Ministry of Labour, in co-ordination with the Social Security Board, shall determine, by notification, with the approval of the Union Government, the rates of contribution which shall be paid into various social security funds under section 15 by employer and worker depending upon a months' remuneration of the worker.
18. (a) Regarding to the workers in establishments applied by the social security system, the contribution which shall be paid by the employer and workers according to the remuneration of worker shall be paid according to the rates stipulated under section 17 to the relevant social security fund in accord with stipulations until the completion of the age of pension specified under section 34 or, if he continues to work after such completion of pensionable age, until such working period.
- (b) The employer shall deduct contributions to be paid by worker from his remuneration and pay to the social security fund together with contribution to be paid by him. The employer shall also bear the expenses for such contribution.
- (c) The Social Security Board may decide to impose defaulting fee specified under section 88 on the employer who defaults to pay the contribution in addition to the contribution.

#### Establishment of Hospitals, Clinics and Bearing of Expenses

19. The Social Security Board may carry out establishing and opening of hospitals, clinics or hiring them or incurring expenses for them for the medicines and equipments with the capital allotted from the Union Consolidated Fund or aid or loan if its fund is not adequate to provide health care and medical treatment to insured persons.

#### Effecting Insurance Voluntarily for Social Security

20. To enable to enjoy the social security benefits under this Law, the following persons may contribute and collect the specified contribution voluntarily to the respective social security fund they prefer and enjoy the relevant social security benefits in accord with the stipulations:

- (a) employers and workers of establishments which are not applied by the provisions of compulsory registration under this Law;
- (b) public who are not working at the establishments;
- (c) students, persons who do not keep in touch with work place, housemaids and persons who have gone abroad and worked there;

- (d) persons doing private business, persons doing collective work, professionals and farmers;
- (e) persons from establishments specified by the Ministry of Labour from time to time, in co-ordination with the Social Security Board, with the approval of the Union Government, that they may register voluntarily and effect insurance.

#### Health and Social Care Insurance System Benefits

#### 21. Relating to the health and social care insurance system benefits:

- (a) insured person may enjoy the following benefits in accord with the stipulations:
  - (i) health care, medical treatment, and cash benefits depending upon the type of disease in times of sickness owing to any cause;
  - (ii) health care, medical treatment, and cash benefits in times of pregnancy and confinement for woman insured person;
  - (iii) the right to infant care and cash benefit in times of confinement of insured person's wife;
  - (iv) the right to continued medical care after retirement of the insured person.
- (b) When the insured person dies, a person nominated by that person or if there is no such nomination, dependent of that person or a person who incurred the expenses of the funeral has the right to claim for funeral benefit in accord with provision contained in section 30.

#### The Right to Take Medical Treatment for Sickness and Incurring of Expenses

#### 22. In times of sickness, the insured person who had paid contribution to health and social care fund:

- (a) has the right to take medical treatment at the permitted hospital or dispensary for a period of up to 26 weeks starting from the date of treatment taken. However, for repeated sickness, chronic disease and suffering more than a disease or sickness of special importance, it has the right to take medical treatment up to 52 weeks or to a period specifically prescribed by the Social Security Board;
- (b) has the right to take health care and medical treatment at the hospitals and clinics owned by the Social Security Board or at the State owned or private hospitals and clinics concluded agreement with that Board, or at hospitals and clinics arranged by the employer;
- (c) if he is unable to attend at the hospitals and clinics owned by the Social Security Board or hospitals and clinics concluded agreement with that Board, has the right to take health care and medical treatment by coming to the establishment where the insured person works as arranged by the Social Security Board;
- (d) in taking health care and medical treatment in accord with section 21 and this section, relating to the expenses incurred for health care and medical treatment, has the right to enjoy from the health and social care fund in accord with the stipulations.

#### Cash Benefits Relating to the Sickness

#### 23. The insured person:

- (a) has the right to enjoy sickness cash benefit only if he had worked at the establishment for a minimum of six months before the starting day of sickness and had paid contribution for a minimum of four months during the said six months;
- (b) on presentation of medical certificate for sickness and if reduction or suspension of earnings involved, shall enjoy sickness cash benefit of 60 percent of average wage of previous four months for up to 26 weeks in accord with the stipulations contained in sub-section (a).

24. The Social Security Board may, on arising of any of the following matters as regards insured person who is enjoying sickness cash benefit, suspend the said benefit in whole or in part:

- (a) wilfully provoking self-sickness;
- (b) sickness as a result of own criminal act;
- (c) wilful failure without sufficient cause to avail himself of medical care or to follow the instruction of the medical practitioner;
- (d) making deceitful claim for sickness cash benefit;
- (e) failure to carry out rehabilitation measures without sufficient cause;
- (f) leaving for foreign countries for good;
- (g) failure to comply with other terms and conditions prescribed by the Social Security Board.

#### The Right to Take Medical Treatment for Insured Women in Cases of Pregnancy and Confinement

25. Notwithstanding anything contained in the laws, rules, regulations, by-laws, orders, and directives regarding Government servants, the insured woman worker has the right to enjoy the following benefits in accord with the stipulations;

- (a) the right to take free medical care at the permitted hospital and clinic in cases of pregnancy and confinement;
- (b) the right to take medical care for her child for a period of not more than one year after birth;
- (c) the right to enjoy maternity leave of six weeks before confinement and a minimum of eight weeks after confinement, altogether a minimum of 14 weeks, moreover, another four weeks, after enjoying maternity leave, for child care if it is the twin delivery;
- (d) the right to enjoy a maximum of six weeks as maternity leave in case of miscarriage being not a criminal abortion;
- (e) the right to enjoy full remuneration for prenatal examination at the permitted hospital or clinic, on the basis of one session per day and up to a maximum of seven days;
- (f) if a child under one year of age is adopted in accord with existing law by registration, has the right to enjoy leave not exceeding eight weeks for child care, until that child has completed one year of age. Such leave shall only be entitled for one adopted child. During such enjoyment period, cash benefit under sub-section (a) of section 27 shall be entitled subject to the provision contained in section 26.

#### Maternity Benefits

26. The insured man and woman shall be entitled to enjoy maternity cash benefit under section 27 and 28 only if they have worked a minimum of one year before the commencement of leave period at the relevant establishment and paid contribution for a minimum of six months within the said one year.

27. The insured woman worker is entitled to the followings in accord with the stipulations of medical certificate:

- (a) 70 per cent of average wage of a year as maternity benefit during maternity leave period entitled in accord with sub-section (c) of section 25;
- (b) 50 per cent of average wage of a month as maternity expenses for single delivery, 75 per cent of average wage of a month for twin delivery, and 100 per cent of average wage of a month for triplet delivery and above;

(c) 70 per cent of average wage which is entitled for the maternity leave period in the case of miscarriage under sub-section(d) of section 25.

28. An insured man is entitled to enjoy the following paternity benefit for confinement of his wife in accord with the stipulations of the medical certificate:

- (a) 15-days leave to care for an infant on confinement of his wife who is an insured person;
- (b) the right to enjoy 70 per cent of average wage of previous one year as maternity benefit for the leave period contained in sub-section (a) on confinement of his wife who is an insured person;
- (c) in addition to the benefits contained in sub-section (a) and (b), half of maternity grant contained in sub-section (b) of section 27 on confinement of his wife who is not an insured person.

#### The Right to Take Medical Treatment for Pensioners

29. The insured Government servants , after having retired; or the insured person, after having received invalidity benefit and superannuation pension benefit under sections 33 and 35, have or has the right to enjoy medical care in accord with the stipulations if it is involved with the followings:

- (a) being a person who had paid contribution for 180 months and above;
- (b) being a bearer of pensioner's identity card issued by the township social security office after retirement.

#### Funeral Benefit

30. If an insured person dies of employment injury or any other cause, if a person nominated by the insured person or if there is no such nomination, dependent of that person or a person who incurred the expenses of the funeral, it is entitled to enjoy up to a maximum of five times of the average of the wage for a month during the last four months of that deceased person in accord with the stipulations.

#### Family Assistance Insurance System Benefits

31. (a) Relating to the education allowance for children pursuing education:
- (i) if an insured person who has paid contribution for a minimum of 36 months and who earns less than the specified amount of income, has the children pursuing a full time education, it is entitled to enjoy education allowance from family assistance fund in accord with the stipulations;
  - (ii) for the children who are born of an insured couple who earn less than the specified amount of income, only one insured person is entitled to enjoy education allowance contained in sub- sub-section (1).
- (b) When the insured person and family encounter natural disaster, it is entitled to enjoy the following health care, relief material and cash assistance from the family assistance fund in accord with the stipulations:
- (i) the right to take medical treatment if it is suffered from physical and mental injury or if it is contracted disease because of encountering natural disaster;
  - (ii) if the contribution had been paid for a minimum of 36 months prior to natural disaster and thereafter encountered the natural disaster and lost own properties, 40 percent of average wage per a month within one year before the day of such encountering natural disaster as cash assistance and relief materials provided by Social Security Board.
- (c) The insured person is entitled to enjoy suitable benefits allowed by the Social Security Board for his dependent family from the family assistance fund in accord with the stipulations.

Invalidity Benefit

32. An insured person is entitled to enjoy invalidity benefit according to medical certificate, in accord with section 33, if he is totally incapable to work not for employment injury but for any other cause including sickness and maternity.

Cash Benefit for Invalidity

33. (a) When the insured person becomes totally incapable to work in accord with section 32, he is entitled to enjoy the following benefits from the fund for invalidity benefit, superannuation benefit, and survivors' benefit in accord with the stipulations:
- (i) if contribution has been paid for 180 months before the date of invalidity allowed by medical certificate, the right to enjoy 15 times of average wage for a month obtained by him during the period of such contribution in installment or in lump sum according to his desire;
  - (ii) if contribution has been paid for more than 180 months, as regards such period of contribution in excess, the right to enjoy in addition to benefit contained in sub-sub-section(1) in accord with the stipulations;
  - (iii) in case where contributions have been paid for 12 months and above but under 180 months, the right to enjoy 40 percent of employer's paid contribution and contribution paid by that insured person together with interest in accord with the stipulations;
  - (iv) in case of contribution paid for less than 12 months, the right to withdraw the money contributed by that person in lump sum.
- (b) When the insured person obtains the right to enjoy invalidity benefit, the employer has the right to obtain 25 percent of his contribution for 12 months and above paid to the fund under clause (3) of sub-section (a) of section 15 together with interest in accord with the stipulations.

Age Limit for Superannuation Pension and Cash Benefit

34. The pensionable age for superannuation pension of the insured person shall be as specified by the Ministry of Labour, in co-ordination with the Social Security Board, with the approval of the Union Government.
35. (a) When the insured person retires for superannuation pension, the following benefits are entitled from invalidity benefit, superannuation pension benefit and survivors' benefit fund in accord with the stipulations;
- (i) if contribution has been paid for 180 months prior to the date of superannuation pension granted, the right to enjoy 15 times of an average wage of a month obtained within the periods of contribution of that insured person in installment or in lump sum according to the desire of that person;
  - (ii) if contribution has been paid for more than 180 months, relating to such period of contribution in excess, the right to enjoy in addition to benefit contained in clause (1) in accord with the stipulations.
  - (iii) in case where contribution has been paid for 12 months and above but under 180 months, the right to enjoy 40 per cent the contribution paid by the employer and contribution of that insured person together with interest in accord with the stipulations.
  - (iv) in case where contribution has been paid for less than 12 months, the right to withdraw the money contributed by that insured person in lump sum.
- (b) When the insured person receives superannuation pension benefit, the employer has the right to 25 per cent of his personal contribution paid to the fund under sub-sub-section (3) of sub-section (a) of section 15 for 12 months and above, together with interest in accordance with specifications.

Survivors' Benefit due to Death not from Employment Injury

36. When the insured person dies not for employment injury but for any other cause before the completion of pensionable age for superannuation pension:

- (a) a person nominated by the insured person is entitled to enjoy survivors' benefit same as the invalidity benefits contained in section 33, in installment or in lump sum as desired by that person in accord with the stipulations;
- (b) if there is no nominated person contained in sub-section (a), dependents of the said insured person in the following order are entitled to enjoy the benefit, same as the invalidity benefit contained in section 33, in installment or in lump sum as desired by that person in accord with the stipulations:
  - (i) wife or husband of the deceased person;
  - (ii) if there is no wife or husband of the deceased person, children of that person ;
  - (iii) if there is no wife, husband and children of the deceased person, mother and father of that person;
- (c) if there is a beneficiary entitled to enjoy benefits contained in clauses (a) and (b), the employer has the right to obtain 25 per cent of contribution paid by him into the fund for invalidity benefit, superannuation benefit, and survivors' benefit for 12 months and above together with interest in accord with the stipulations;
- (d) if there is no beneficiary entitled to enjoy benefits contained in sub-sections (a) and (b), the employer has the right to withdraw his contribution paid into the fund for invalidity benefit, superannuation benefit, and survivors' benefit together with interest in accord with the stipulations.

Requirements for Unemployment Benefit

37. The insured person shall be entitled to enjoy unemployment benefit if he has paid contribution for a minimum of 36 months and involved with the followings:

- (a) being unemployed not for voluntary resignation but for being removed from work or job terminated because of permanent close-down of work;
- (b) not being a person dismissed from work on conviction of work related offence or not being a person dismissed or removed from work for misappropriation, violation of Civil Service Regulations or intentionally failing to abide by the workplace regulations;
- (c) being a person of good health, capable to work and willing to work;
- (d) being a person registered at the relevant township labour exchange office in accord with the stipulations and reporting monthly to that office and township social security office.

Unemployment Benefit Period and Benefits

38. The insured person, on receiving unemployment benefit in accord with section 37:

- (a) if he has already paid contribution for 36 months, he is entitled to enjoy 50 percent of average wage for a month within the last one year as the unemployment benefit up to two months. If he is a person who has paid contribution for more than 36 months, one more month of unemployment benefit shall be entitled for every additional 12 months of contribution paid. However, total period of unemployment benefit shall be entitled only for up to six months;
- (b) if being a married person while unemployed, depending upon the condition of dependents, cash not more than 10 per cent of additional unemployment benefit contained in sub- section(a), awarded by the Social Security Board shall be entitled during the above mentioned relevant period in monthly installment;

- (c) if he suffers sickness; health care, medical treatment and cash benefit contained in clause (1) of sub-section(a) of section 21 and sub- sections (a) and (b) of section 23 shall be entitled in accord with sub-section(a) of this section;
- (d) for maternity and confinement; has the right to health care, medical treatment, and cash benefit contained in clause (2) of sub- section(a) of section 21, section 26, section 27, and section 28, for a minimum of 2 months to a maximum of 6 months in accord with sub- section(a) of this section;
- (e) has the right to attend skill trainings allowed by the Social Security Board;
- (f) if the insured person dies while enjoying unemployment benefit contained in sub-section (a), funeral grant may be entitled in accord with stipulations.

#### Limitations on Unemployment Benefit

39. (a) The insured person:
- (i) has the right to enjoy unemployment benefit contained in sub-sections (a) and (b) of section 38 for only once at an establishment;
  - (ii) after having enjoyed the unemployment benefit once in accord with clause (i) and then, if he rejoins with the same establishment and becomes unemployed again, unemployment benefit is entitled to be enjoyed in accord with the stipulations only if another payment of contribution for 36 months has been made.
- (b) The employer may deduct the amount of unemployment benefit; entitled to the insured person out of compensation money liable to that insured person in accordance with the existing laws concerning labour, or employment agreement; in line with specifications and in accordance with this Law.

#### Termination of Unemployment Benefit

40. The unemployment benefit shall be terminated if any of the following situations arises:
- (a) rejecting the job informed by the relevant labour exchange office or by the relevant township social security office without sufficient cause;
  - (b) rejecting to attend vocational training course as directed by the Board without sufficient cause;
  - (c) re-obtaining a new job;
  - (d) being convicted with imprisonment for the commission of any criminal offences under any criminal laws;
  - (e) leaving for foreign country for good or leaving for foreign job.

#### The Right to Draw Back from the Social Security Fund after Receiving Unemployment Benefit

41. If an insured person is unable to join with and work his former job or any other job relating to the Social Security Insurance System under this Law after termination of unemployment benefit period:
- (a) the insured person has the right to draw back 40 per cent of contribution paid for him into the fund for invalidity benefit, superannuation pension benefit and survivors' benefit for 36 months and above by the employer, and his contribution together with interest in accord with the stipulations;
  - (b) the employer has the right to draw back 25 per cent of his contribution paid into the fund contained in sub-section (a) for 36 months and above together with interest in accord with the stipulations.

#### Benefits and Responsibility for Other Social Security Systems

42. (a) A person who has paid voluntary contribution to the Social Security Housing Fund contained in clause (7) of sub-section (a) of section 15, relating to the Social Security Housing, has the right to live, hire and live, use, own, buy, sell or transfer by any other means and to obtain loan in priority to purchase that housing if it is in conformity with the stipulations.
- (b) If an insured person who has not paid contribution to the Social Security Housing Fund contained in clause (7) of sub-section (a) of section 15 is in conformity with the stipulations, relating to the Social Security Housing, he is entitled to live, hire and live, use, own, transfer by any other means or to borrow loan to purchase that housing.
43. A person who is entitled to enjoy the right contained in section 42 concerning Social Security Housing:
- (a) shall comply with the stipulated terms and conditions,
- (b) if he violates the said terms and conditions, shall be taken action and ejected from the Social Security Housing.
44. The persons who have contributed to each of the Social Security Fund contained in clauses (5) and (6) of sub-section (a) of section 15 shall have the right to enjoy benefits specified by the Ministry of Labour, in co-ordination with the Social Security Board, with the approval of the Union Government.

#### Chapter VI

#### Application to Employment Injury Benefit Insurance System, Employment Injury Benefit Fund and Benefits

##### Application

45. The provisions contained in this Law relating to the employment injury benefit insurance system shall apply to the following workers:
- (a) workers at establishments which are applied to social security system who have registered compulsorily in accord with sub-section (a) of section 16 and contributed to the social security funds contained in clauses (1),(3),(4) and (5) of sub-section (a) of section 15;
- (b) workers specified as being applied to provisions of compulsory registration for employment injury benefit insurance system by notification of the Ministry of Labour, in co-ordination with the Social Security Board with the approval of the Union Government.
46. If the employers of establishments contained in sub-section (a) of section 12 which are not applied to provisions of compulsory registration for social security insurance system have not compulsorily registered and paid contribution for their workers to enjoy employment injury benefit, the provisions of employment injury insurance system shall not be applied.

##### Employment Injury Benefit Insurance System and Registration

47. The Social Security Board shall manage to avoid from paying to the employment injury benefit insurance system by the employer in lump sum and to enable the worker enjoy the following benefits in accord with the stipulations:
- (a) medical treatment;
- (b) temporary disability benefit;
- (c) permanent disability benefit;
- (d) survivors' benefit of death owing to employment.



48. (a) The employer shall effect insurance by registering for employment injury benefit insurance system contained in section 45 at the relevant township social security office and pay contribution to employment injury benefit fund in accord with stipulations in order that workers applied to provisions of compulsory registration may obtain the employment injury benefits;
- (b) The employers may effect insurance by registering voluntarily for insurance of the workers who are not applied to provisions of compulsory registration for employment injury benefit insurance system, by paying stipulated contribution to employment injury benefit insurance fund;
- (c) When registering to effect insurance for employment injury benefit in accord with sub-sections (a) and (b), the worker shall submit medical certificate.

#### Non-application to the Workmen's Compensation Act

49. (a) The employers and insured persons of establishments where the employer had registered compulsorily in accordance with sub-section (a) of section 48 or where the employer had registered voluntarily in accord with sub-section (b) of section 48 who have paid contribution to employment injury benefit fund shall not apply to the provisions contained in the Workmen's Compensation Act as regards the employment injury benefit;
- (b) The insured persons who has effected insurance for employment injury benefit in accord with sub-sections (a) and (b) of section 48 shall be entitled only to the employment injury insurance benefits contained in this Law.

#### Contributions for Employment Injury Insurance System

50. As regards employer's contribution to employment injury benefit fund for the worker's entitlement to employment injury benefit under section 47, rates of contribution shall be determined according to worker's remuneration and degree of possibility of occupational hazard, by the Ministry of Labour, by notification, in co-ordination with the Social Security Board, with the approval of the Union Government.

51. The employer:
- (a) shall pay contribution monthly to Employment Injury Benefit Fund at the rates stipulated under section 50. Moreover, he shall also bear the expenses for paying as such;
- (b) shall pay defaulting fee stipulated under section 88, in addition to the contribution if fails to contribute after effecting insurance for employment injury benefit.

#### The Right to Take Medical Care and Other Benefits Regarding Employment Injury

52. (a) The insured person has the right, if the employment injury occurs, to take medical care in accord with the stipulations and to enjoy other benefits contained in this chapter.
- (b) The types of occupational diseases contained in sub-section (a) shall be as specified by the rules and regulations.

#### Occupational Safety

53. (a) The employers and workers shall co-ordinate, co-operate and carry out with the Board or insurance agent departments in carrying out workers' occupational safety measures and keeping health plan in order to prevent employment accident, or employment injury or disease contracting and death in addition to safety and educational work of the workers.

- (b) The costs of medical care regarding employment injury resulting from criminal action or omission of the employer, or resulting from employer's failure to keep occupational safety plans and protections; and other benefits under this Law shall be borne without fail by the employer in accord with the stipulations.
54. (a) The employer shall report to the relevant township social security office immediately if a serious employment accident occurs to his insured worker. There shall not be any delay without sufficient cause to report as such.
- (b) A team of officers and other staff who inspect the establishments, if it is found out the employment injury, death, and contracting disease, shall report to the relevant township social security office in accord with the stipulations.

Temporary Disability Benefit

55. The insured person who, by reason of employment injury, became incapable to work which involves reduction or suspension of earnings; free medical care and temporary disability benefit of 70 per cent of average wage during four months prior to employment accident shall be entitled, commencing from the date of incapacity for work, to a maximum of 12 months upon medical certificate.
56. (a) The temporary disability benefit under section 55 shall be terminated from the date on which the insured person becomes capable for work within 12 months.
- (b) If an insured person continues to be incapable to work after the expiration of 12 months period of temporary disability benefit, it shall be converted into permanent disability pension.
  - (c) If permanent disability for work of an insured person can be expected by the medical certificate even during 12 months while temporary disability benefit has been enjoyed, it has the right to terminate the temporary disability benefit, convert into permanent disability benefit and enjoy it.

Permanent Disability Benefit

57. The insured person has the right to enjoy, owing to an employment accident, permanent partial disability cash benefit if there is likely to cause partial loss of capacity for work; or permanent total disability cash benefit if there is likely to cause total loss of capacity for work.. As regards that benefit, fixation for a month benefit which may be enjoyed in accord with section 58 shall be calculated upon 70 per cent of a months' average wage during four months before employment injury occurs, in relation to percentage of loss of capacity for work decided by the Medical Board.
58. The person who suffers loss of capacity to work may enjoy permanent disability benefit calculated basing upon 70 per cent of a months' average wage contained in section 57, in relation to percentage of loss of capacity for work, as specified hereunder:
- (a) in cases in which the degree of incapacity is less than 20 per cent, the right to enjoy monthly cash benefit entitled to such person for five years in lump sum;
  - (b) in cases in which the degree of incapacity is above 20 per cent to 75 per cent, the right to enjoy monthly cash benefit entitled to such person for seven years in installment or in lump sum, according to the desire of that person;
  - (c) in cases in which the degree of incapacity is above 75 per cent, the right to enjoy monthly cash benefit entitled to such person for nine years in installment or in lump sum or in monthly installment until death, according to the desire of that person;
  - (d) if the medical certificate is submitted that permanently disabled person contained in sub-section (c) requires the constant attendance of another person, the right to enjoy the supplement of 10 per cent of his benefit in

installment, or in lump sum, or in monthly installment until death, according to the desire of that person, in addition to the benefit contained in sub-section (c).

59. (a) The ratio of permanent partial disability benefit and permanent total disability benefit shall be proportionate to the loss of capacity for work contracted by employment injury.
- (b) If an insured person who obtained the permanent partial disability benefit suffers another employment injury, his percentage of loss of capacity for work shall be fixed afresh taking into consideration of his former percentage of loss of capacity for work. The combined percentage of loss of capacity for work shall not exceed his overall loss of capacity for work. For the new fixing as such, due cash benefit is entitled for added loss of capacity for work in accord with the stipulations.

#### Rehabilitation and Job Reservation

60. If it is necessary to rehabilitate those who have lost their limbs owing to employment injury, or to make them capable of work from being incapable, the Social Security Board shall:

- (a) perform in making, fixing, and providing instruments to operate, instruments to make up and to fix, upon medical certificate;
- (b) provided vocational training courses and nurturing measures for reintegration into community .
61. The Social Security Board may, in co-ordination with the Ministry of Labour, specify the ratio of the minimum number of jobs to be kept according to the establishment for appointing workers whose organs are damaged and become disabled and lost their capacity for work owing to employment injury at the establishments which are applied to this Law in addition to the stipulated number of worker.

#### Survivors' Benefit for Employment Death

62. When the insured person died of employment injury:
- (a) a person nominated by the insured person shall be entitled to enjoy survivors' benefits in installment or in lump sum, up to the desire of that person, according to the average wage based on contribution period within four months before the death of that insured person as follows:
- (i) if it is contributed for 60 months and under, 30 times of an average wage for a month;
- (ii) if it is contributed for above 60 months to 120 months and under, 50 times of an average wage for a month;
- (iii) if it is contributed for above 120 months to 240 months and under, 60 times of an average wage for a month;
- (iv) if it is contributed for above 240 months, 80 times of an average wage for a month;
- (b) if there is no nominated person under sub-section (a), persons who have depended upon the earnings of that insured person shall enjoy the survivors' benefit in installment or in lump sum according to the desires of those persons, in accord with the stipulations in the following order :
- (i) wife or husband of the deceased person;
- (ii) if there is no wife or husband of the deceased person, his children;
- (iii) if there is no wife, husband and children; mother and father of that person.

#### Chapter VII

#### Provisions Relating Both to Social Security Fund and Employment Injury Benefit Fund

**Benefits not Payable Simultaneously**

63. (a) The following benefits shall not be payable simultaneously to an insured person:
- (i) sickness benefit and maternity benefit;
  - (ii) sickness benefit and temporary disability benefit;
  - (iii) maternity benefit and temporary disability benefit;
  - (iv) sickness, maternity, temporary disability benefits and unemployment benefit.
- (b) In cases in which two of the benefits contained in sub-section (a) are payable but their amounts are different, the beneficiary shall be paid the larger of the two amounts.

**Suspension of Benefits**

64. If the insured person who is enjoying any of the sickness benefit, maternity benefit and temporary disability benefit shall be suspended if an insured person enjoying one of those benefits engages in a work for which he has been certified to be incapable or in any other work for wages, such benefits shall be suspended for him.

**Entitlement for Reimbursement of Payment**

65. The employer:
- (a) has the right to reimbursement out of benefits granted under this Law, for payments made as social obligation for an insured person in cases of health care, medical treatment and other matters entitled to benefit;
  - (b) if the total amount of wages and cash benefit paid to the insured person during a period of sickness benefit, or maternity benefit, or employment injury benefit under this Law exceeds the normal wages of that insured person; may deduct the amount in excess out of benefits granted under this Law. Such payment of excess amount shall be informed to the relevant township social security office.

**Restrictions to Employment**

66. (a) The employer, subject to health care and medical treatment in accord with sections 67 and 68:
- (i) shall not remove or terminate the insured person from work or reduce his wage level during the period during which an insured person is enjoying any of the sickness benefit or maternity benefit or temporary disability benefit due to employment injury under this Law;
  - (ii) shall not reduce or deduct wages and fees of his worker because of liability for contribution payable under this Law;
- (b) The insured person, as regards his injury due to employer's violation of restrictions under sub-section (a), may submit the matter to the relevant township social security office for settlement in accord with the stipulations.

**Providing Health Care and Medical Treatment**

67. (a) The employer may; in order to provide medical treatment to his insured workers, after obtaining permission and terms and conditions of the Social Security Board, establish private hospital and clinic in accord with the existing law and give health care and medical treatment in accord with the stipulations through doctors and nurses appointed by him.
- (b) The Social Security Board shall carry out to enable opening of clinics at the establishments which have many insured persons and have stipulated number and above, according to the proportion of labour force.

- (c) The Social Security Board shall support medical stores and expenses for doctors and nurses at the hospitals and clinics opened under sub-sections (a) and (b) in accord with the stipulations.
68. The Social Security Board, to be able to perform relating to health care and medical treatment successfully:
- (a) shall specify functions and duties to social security medical staff relating to health care and medical treatment in co-ordination with the Medical Advisory Board;
  - (b) shall educate, inspect and supervise matters relating to occupational safety and health, and health care and medical treatment works in establishments applied by this Law in co-ordination with the relevant departments;
  - (c) shall supervise, arrange and carry out in giving necessary health care and medical treatments to insured persons who come to hospitals and clinics owned by the Social Security Board;
  - (d) if it is necessary, may conclude agreement in co-ordination with the Ministry of Health, and give medical treatment at the State owned hospitals and clinics or incur the cost of health care and medical treatment in accord with the stipulations;
  - (e) after concluding agreements with responsible persons from departmental hospitals and clinics or owners of private hospitals and clinics, may allow them giving health care and medical treatment in accord with the stipulations;
  - (f) shall carry out health promotion, disease prevention, and health education works by adopting plans.

Not Losing the Right to Benefit despite Defaulting in Contribution

69. (a) Even if the employer who has registered under section 16 and section 48 or the employer liable to register has not paid contribution or even if the contribution was not deducted from the worker's wage and paid for contribution; an insured person or .after the death of the insured person, a person nominated by that person or, if there is no such nomination, his dependent shall be entitled to the benefits under this Law.
- (b) The employer who fails to pay contribution shall pay contribution liable under section 17 and section 50 and also defaulting fee specified under section 88, and bear the cost of benefits payable to the insured person and all expenses.

The Right to Draw from the Relevant Social Security Fund

70. (a) When the insured person voluntarily resigns from work or transfers to any other establishment not applied by this Law before the completion of age specified for superannuation pension benefit under section 34:
- (i) if an insured person has paid contribution for up to 180 months to the fund for invalidity benefit, superannuation pension benefit and survivors' benefit; he has the right to enjoy 12 times of a months' average wage of the period of contribution in installment or in lump sum according to his desire;
  - (ii) if an insured person has paid contribution more than 180 months, in addition to benefits under clause (1), he may draw back 40 per cent of contribution paid by the employer during that period and contribution paid in excess by himself as such from that fund, together with interest in accord with the stipulations;
  - (iii) if an insured person has paid contribution to the fund contained in clause (1) for more than 36 months to under 180 months, he has the right to draw 40 per cent of contribution paid for him by the employer to the fund for invalidity benefit, superannuation pension benefit, and survivors' benefit and

contribution paid by him during such period together with interest from that fund in accord with the stipulations;

- (iv) the employer has the right to draw 25 per cent of contribution paid by him for insured person to the fund for invalidity benefit, superannuation benefit, and survivors' benefit for 36 months and above, together with interest from that fund in accord with the stipulations;
- (b) In the case of permanent total disability or death of an insured person resulting from employment injury:
  - (i) The insured person or a person nominated before his death or if there is no such nomination, his dependent has the right to draw the contribution paid by the insured person to the fund for invalidity, superannuation pension benefit, and survivors' benefit for 36 months and above, and 40 per cent of contribution paid by the employer, together with interest, in accord with the stipulations;
  - (ii) the employer has the right to draw 25 per cent of contribution paid for 36 months and above to the fund under clause (1) for insured person, together with interest in accord with the stipulations;
- (c) If the voluntary resignation or transfer to any other establishment which is not applied by this Law or taking superannuation pension or becoming invalidity, permanent total disability owing to employment injury, or death resulting from any cause of an insured person occurs:
  - (i) the insured person or after the death of the insured person, a person nominated by that person or, if there is no such nomination, his dependent has the right to draw contribution paid by the insured person to the unemployment benefit fund for 36 months and above, together with interest in accord with the stipulations;
  - (ii) the employer has the right to draw contribution paid for that insured person to the fund for unemployment benefit for 36 months and above, together with interest in accord with the stipulations.
- (d) If any of the following situations arises before a person who has paid contribution to the fund for Social Security Housing Plan receives any benefit in respect of housing; the insured person or ,if that insured person has died, a person nominated before his death or, if there is no such nomination, a person depending upon the insured person has the right to draw all contributions paid by that insured person to the fund for Social Security Housing Plan, together with interest in accord with the stipulations:
  - (i) retiring for superannuation pension;
  - (ii) being incapable to work;
  - (iii) being permanently and totally disabled owing to employment injury;
  - (iv) resigning from work, being dismissed from work or death.

#### Prohibitions Relating to Benefits

71. Any person shall not:

- (a) attach warrant or transfer or accept benefits granted in conformity with this Law without permission of the Social Security Board;
- (b) claim for social security and any employment injury benefit dishonestly.

#### Survivors' Benefit

72. If an insured beneficiary dies, the remaining benefit which is due but not yet paid up to the day of his death shall be entitled to by enjoyed by the person nominated by the insured person or, if there is no such nomination, his dependent in accord with the stipulations.

## Time Limit to Claim for Benefits

73. Relating to any benefit paid to the beneficiary from Social Security Fund and Employment Injury Benefit Fund:
- (a) if the benefit is granted in installment or monthly, the person who has the right to claim shall claim, with documents attached, to the relevant township social security office within the following period commencing from the date of entitlement;
    - (i) for superannuation pension benefit, one year from the day of completion of the age, specified in accord with section 34 , of insured person;
    - (ii) for invalidity benefit, one year from the day of the issue of medical certificate;
    - (iii) for survivors' benefit of death, not owing to employment, one year from the day of death of the insured person;
    - (iv) for benefit of permanent disability due to employment, one year from the day of accident of the insured person, or from the day temporary disability benefit period terminated;
    - (v) for survivors' benefit of employment death, one year from the day of the death of the insured person.
  - (b) For the rest of benefits under this Law except benefits contained in sub-section (a), it shall be claimed within three months commencing from the date they should be claimed, with documents attached , to the relevant township social security office.
  - (c) Though the period specified under sub-sections (a) and (b) has been passed, the claim may be made with sufficient cause. However, it shall not have the right to claim if there is no sufficient cause.

## Keeping and Submitting Records on Contribution and Benefit

74. The employer of each establishment applied by this Law shall keep record of contributions paid to the Social Security Fund and Employment Injury Benefit Fund for himself and his insured workers, keep the record of benefits received for each insured person, and open account for each insured person. Those records and accounts shall be submitted to the relevant township social security office in accord with the stipulations.

## Keeping Work Records and Accounts

75. The employer of establishments applied by this Law:
- (a) shall prepare and keep the following records and lists correctly and submit to the relevant township social security office in accord with the stipulations:
    - i) records and lists of workers' daily attendance;
    - ii) records of appointing new worker, employing worker by changing of work, suspension from work, dismissal from work and resignation from work;
    - iii) records of promotion and paying remuneration ;
    - iv) records and lists of employers, managers, and administrators; and records of changes of them;
  - (b) shall inform the relevant township social security office if the following matters arise:
    - i) change in number of workers and address of establishment;
    - ii) change of employer, change of business, suspension from work, and termination of work;
    - iii) employment injury, employment death, and occupational diseases;
  - (c) shall produce work records and lists on requirement of inspection team or official assigned duty under this Law by the Social Security Head Office and various Regional Social Security Offices.

## Investigation

76. Relating to the social security and employment injury benefit:
- (a) the Social Security Board may, to know and decide whether or not the employers keep work record and lists to be kept under this Law systematically, keep records of contribution paid to the social security fund and employment injury fund, contribute correctly, open accounts for each insured person, and the insured workers receive social security and employment injury benefits correctly, and whether or not the stipulated reports are submitted, require the relevant department to investigate or cause to investigate by a suitable person or body by forming it;
  - (b) if it is necessary, the Social Security Board or person assigned duty by that Board or the investigation team may summon and examine the relevant employers and workers and other necessary persons, and require them to submit evidence;
  - (c) the Social Security Board or the person assigned duty by that Board or the investigation team may, if it is necessary, enter into and investigate the establishment.

## Prohibitions Relating to the Responsibilities of Employers

77. Any employer of establishments concerning with the social security and employment injury benefit:
- (a) shall not maintain incorrectly, alter or delete records contained in section 74, and sub-section (a) of section 75;
  - (b) shall not report incorrectly to the relevant township social security office relating to the number of workers and contributions;
  - (c) shall not refuse when the inspection team or the official requires under this Law or in accord with duty assigned by the Social Security Board, to produce those records, reports, and other necessary documents;
  - (d) shall not fail to attend when he is summoned by the inspection team or the official under this Law or in accord with the assignment of the Social Security Board or various regional Social Security Office.

## Recovery of Contributions and Defaulting Fees

78. (a) The official assigned duty by the Social Security Board shall, if it is failed to pay contributions under sections 17, 50 and 88 and defaulting fees or benefits liable and expenses which are due under sub-section (b) of section 69, recover them as if they were arrears of land revenue or as if a decree is executed in civil suit, by exercising necessary power in accord with the stipulations.
- (b) In managing recovery in accord with sub-section (a), the fund for social security and employment injury benefit shall have priority over other debts resulting from Insolvency Act or liquidation of a company under the Myanmar Companies Act, a partnership under the Partnership Act or under any other existing law.
  - (c) The person who fails to pay money collected in accord with sub-section (a) shall not obliterate or transfer his moveable and immovable property during such recovery period by any means without permission of the Social Security Board or the official assigned duty by that Board.

## Chapter (8)

## Establishing and Maintaining the Social Security Fund and Employment Injury Benefit Fund

79. (a) The Social Security Board shall establish and maintain the Social Security Fund and Employment Injury Benefit Fund to implement the objectives contained in this Law.



- (b) The Social Security Board shall stand on its Social Security Fund and Employment Injury Benefit Fund.
  - (c) The Social Security Fund shall be established by contributions of employers and workers, and contribution and subsidy from the Union Consolidated Fund granted by the Union Government.
  - (d) The employment Injury Benefit Fund shall be established by contributions of employers and subsidy from the Union Consolidated Fund.
  - (e) The established Social Security Fund and Employment Injury Benefit Fund shall be deposited, by opening bank account, with any State Bank, or any other bank directed by the Social Security Board in accord with the stipulations.
  - (f) The Social Security Fund and Employment Injury Benefit Fund include the followings, in addition to the contribution and the subsidy contained in sub-sections (c) and (d):
    - (i) saving from fund, depositing and interests from loans;
    - (ii) defaulting fees imposed under this Law;
    - (iii) increased money from investments;
    - (iv) money donated by well wishers from local and abroad.
80. The following two main funds shall include in the account of the Social Security Board:
- (a) The Social Security Fund:
    - (i) health and social care fund;
    - (ii) family assistance fund;
    - (iii) invalidity benefit, superannuation pension benefit and survivors' benefit fund;
    - (iv) unemployment benefit fund;
    - (v) Social Security Housing Plan Fund;
    - (vi) other social security fund stipulated under clauses (5) and (6) of sub-section(a) of section 15.
  - (b) The Employment Injury Benefit Fund.
81. The Social Security Board may, if it is necessary for the interest of insured persons, allow to transfer the head of the fund and use the fund for which bank account is opened and maintained under section 80 .
82. (a) The Social Security Board has the right, in conformity with the stipulated accounts procedures:
- (i) to use its fund only for the social security system, employment injury insurance system and administrative matters contained in this Law;
  - (ii) if the foreign currency is received, to keep it in separate bank account and use only for the social security system, employment injury insurance system and administrative matters contained in this Law.
- (b) As the Social Security Fund and the Employment Injury Benefit Fund are the savings of contribution of insured persons for the social security and employment injury benefit, it shall not be transferred and deposited as credit to the Union Consolidated Fund.
83. The Social Security Board shall, in order to maintain and audit the Social Security Fund and Employment Injury Benefit Fund methodically, draw up the accounting procedures in co-ordination with the Office of the Union Auditor-General, and maintain the accounts in conformity with such procedures.

84. The Social Security Board may, in order to increase the Social Security Fund and Employment Injury Benefit Fund established under section 79 and section 80, carry out the following works which are in conformity with the existing law and which may be profitable with the fund which are not yet necessary to be used for the time being:

- (a) depositing, saving, purchasing saving certificates and securities at any State Bank or other bank;
- (b) carrying out and investing in any investment business;
- (c) issuing loans to contributors by prescribing the interest rate under appropriate terms and conditions;
- (d) investing by establishing Social Security Housing by adopting plans;
- (e) hiring movable property and immovable property owned by the Social Security Board, selling any of those property which are not necessary to be used in accord with the stipulations or transferring by any other means;
- (f) carrying out any other business for the interest of the Social Security Board.

85. The Social Security Board shall, relating to the Social Security Fund and the Employment Injury Benefit Fund, prepare the budget mentioning estimate incomes and expenditures for the coming financial year and submit to the Union Government through the Ministry of Labour.

#### Chapter IX

##### Providing Contribution and Subsidy from the Union Consolidated Fund

86. Before the Social Security Board may carry out the matters contained in sub-section (c) of section 8, the Ministry of Labour shall allow to incur the salaries, allowances, pensions and other benefits, in accord with relevant laws, rules, regulations, by-laws, orders and directives concerning the Government servant, of the service personnel who are appointed and assigned duty at the Social Security offices, hospitals and clinics in conformity with the organizational set-up of the service personnel, in co-ordination with the Social Security Board and with the approval of the Union Government, from the Union Consolidated Fund.

87. (a) The Social Security Board shall stand on the Social Security Fund and Employment Injury Benefit Fund and, if it is not sufficient to give benefits from that fund, may submit and request, together with explanation, to the Union Government through the Ministry of Labour, for contribution, subsidy or loan from the Union Consolidated Fund.
- (b) The Union Government may, after scrutinizing the request made under sub-section (a), contribute, subsidize, or issue loan of the appropriate amount from the Union Consolidated Fund under appropriate terms and conditions.
- (c) The Ministry of Labour shall, relating to the money, contributions, subsidies incurred from the Union Consolidate Fund, submit an annual budget estimate to the Union Government for approval and cause the Social Security Board to manage it.
- (d) The Social Security Board shall, relating to the money, contributions, subsidies incurred from the Union Consolidated Fund; conduct regular audit and accept the audit of the Office of the Union Auditor-General. Moreover, an annual audit report shall be submitted to the Union Government through the Ministry of Labour.
- (e) The Union Government may, relating to the land plots for Social Security Housing Project which shall be implemented under clause (1) of sub-section (e) of section 13 and sub-section (d) of section 84; grant the use of suitable land plots, upon the request of the Social Security Board, out of the lands managed by the

Government, by stipulating terms and conditions. Moreover, the Union Government may subsidize for the Social Security Housing from the Union Consolidated Fund as may be necessary.

## Chapter X

### Taking Administrative Action, Adjudication of Disputes and Appeal

#### Defaulting Fee for Failing to Pay Contribution

88. (a) The employer, who is responsible to pay contribution under this Law, shall:

(i) if he fails to pay contribution to the relevant Social Security Fund and Employment Injury Benefit Fund, pay 10 percent of the contribution, in addition to the contribution defaulted, in accord with the stipulations. Moreover, if he continues failing to pay contribution, such defaulting fee for each month of contribution defaulted shall be paid in addition.

(ii) if reduced statement of insured workers' wages is made and reduced contribution is made in paying contribution to the relevant Social Security Fund and Employment Injury Benefit Fund or if the contribution is made by concealing the number of workers or if he fails to pay contribution deducted from the workers' wages; such reduced amount of contribution for the month defaulted and deducted contribution, and 10 percent of the reduced amount of contribution shall be paid as the defaulting fee to the relevant fund in accord with the stipulations. If the default to pay contribution continues as such, the mentioned defaulting fee for each month of contribution defaulted shall be paid in addition.

(b) The relevant township social security office shall calculate the amount of contribution and defaulting fee to be paid under sub-section (a) and inform the relevant employer to contribute within the stipulated time. Moreover, the contribution paid shall be credited to the relevant fund.

#### Settlement of Disputes

89. (a) It may be submitted to the relevant township social security office to settle disputes arising out of any of the following matters:

(i) matter whether or not any establishment is applied by this Law;

(ii) matter whether or not the employer and the worker are applied by this Law;

(iii) matter relating the liability for contribution and amount of contribution, amount of defaulting fee under this Law;

(iv) matter whether or not it is entitled to benefits;

(v) matter whether or not the benefit is received in full, the amount of benefit or means of awarding such benefit;

(vi) matter submitted by the insured person relating to the injury due to violation of prohibition contained in sub-section (a) of section 66 by the employer.

(b) The officer-in-charge of the township social security office shall initially negotiate and settle on mutual consent, the disputes relating to social security and any employment accident among the disputes contained in sub-section (a) and dispute relating to injury caused by violation of prohibition contained in sub-section (a) of section 66 by the employer.

(c) The officer-in-charge of the township social security office shall submit the records of enquiry together with remarks, on the matter which cannot be settled although it is negotiated on mutual consent under sub-section (a) or any dispute contained in sub-section (a), after making enquiry in accord with the stipulations, to the Region or State Social Security Office so as to enable to pass decision.

- (d) Relating to the disputes contained in sub-section (a), civil suit shall not be instituted before any court. However, relating to the disputes whether or not the remaining dependents are legal heirs and whether or not they have legal right to inherit shall be as decided by the relevant court.

90. The Region or State Social Security Office:

- (a) after scrutinizing the report submitted under sub-section (c) of section 89, may conduct or cause to conduct further enquiries as may be necessary;
- (b) after carrying out according to sub-section (a), and after allowing the persons in dispute to defend and after hearings the both parties, a decision may be made as appropriate.

Forming the Social Security Appellate Tribunal and Appeal

- 91. (a) The Social Security Board shall form the Social Security Appellate Tribunal comprising suitable persons in order to hear the appeal against the decision of the Region or State Social Security Office.
- (b) The person who dissatisfies with the decision of the Region or State Social Security Office made under sub-section (b) of section 90 may appeal in accord with the stipulations to the Social Security Appellate Tribunal within 60 days from the day such decision was made.
- (c) The Social Security Appellate Tribunal may, after hearing the appeal made under sub-section (b), approve or set-aside the decision of the Region or State Social Security Office or may require to make further enquiry as may be necessary and re-submit it, and make the decision.

Prosecuting for Wilfully Failing to Pay Contribution and Defaulting Fee

92. The relevant township social security office may, when it is found out that the employer is wilfully failing to pay contributions and defaulting fees, and if any of the following facts arises, prosecute such employer defaulted at the relevant court:

- (a) failing to pay contributions and defaulting fees within 30 days from the last date stipulated by the township social security office to make such payment due to failure of the employer to pay the contributions and defaulting fees;
- (b) expiration of appealable time limit by the employer under sub- section (b) of section 91;
- (c) failing to pay the contributions and defaulting fees by the employer although the Social Security Appellate Tribunal, after hearing the appeal of the employer made under sub-section (b) of section 91, has decided that the employer shall pay the contributions and defaulting fees.

#### Chapter XI

#### Offences and Penalties

93. Any employer who is prosecuted under section 92 shall, on conviction that he has wilfully failed to pay contributions and defaulting fees, be punished with imprisonment for a term not exceeding one year, or with fine, or with both.

- 94. (a) Any employer who fails to comply with any responsibility to register and effect insurance contained in sub-section (a) of section 16 and sub-section (a) of section 48 shall , on conviction, be punished with imprisonment for a term not exceeding one year or with fine or with both.
- (b) Any employer who violates any prohibition contained in sub-section (b) of section 53, section 77 and sub-section (c) of section 78 shall, on conviction, be punished with imprisonment for a term not exceeding six months or with fine or with both.

- (c) Any person who violates any prohibition contained in section 71 shall, on conviction, be punished with imprisonment for a term not exceeding six months or with fine or with both.
- (d) Any employer who fails to comply with and carry out any responsibility contained in sub-section (a) of section 54, section 74 and section 75 shall, on conviction, be punished with imprisonment for a term not exceeding three months or with fine or with both.
- (e) Any person who violates any prohibition contained in the rules, regulations, by-laws and orders issued under this Law shall, on conviction, be punished with imprisonment for a term not exceeding three months or with fine or with both.

## Chapter XII

### Miscellaneous Provisions

95. (a) The relevant township social security office shall prosecute the offences under section 93 and section 94, only if it obtains the prior sanction of the Social Security Board.
- (b) When the person prosecuted under sub-section (a) has credited all the due contributions and defaulting fees to the relevant fund after being prosecuted and before the final order has been passed, the relevant social security office shall, after obtaining the permission of the Social Security Board, apply to the relevant court to withdraw that case.
96. No criminal or civil proceeding shall lie against any person or organization that discharges functions and duties assigned under this Law in good faith.
97. The member of the Social Security Board, member of the Executive Committee, member of the Appellate Tribunal, member of the Medical Advisory Board, and any other member or person assigned duties under this Law, who are not Government servant, shall be deemed as Government servant while discharging duties assigned under this Law.
98. Relating to the payment of contributions and defaulting fees made under this Law to the Social Security Fund and the Employment Injury Benefit Fund, or benefits provided under this Law; it shall be exempted from stamp duty and income tax.
99. The President of the Union may, for the interest of the State, by notification, exempt the areas in which immediate implementation of work plan to be implemented is not yet necessary or any establishment applied by this Law or any category of employer or worker from all or any part of the provisions contained in this Law.
100. The Ministry of Labour may, by notification, carry out amending the stipulated rates of contributions and benefits relating to the Social Security Fund and the Employment Injury Benefit Fund and implementing insurance systems in phases, based on the economic development of the State, financial sufficiency and economic development of establishments or changing social needs or situations of development according to regions and zones, in co-ordination with the Social Security Board and with the approval of the Union Government.
101. (a) The employers and workers who have paid contribution to the insurance system stipulated by the Social Security Act, 1954 shall continue paying the contribution in accord with the stipulations to the Social Security Fund and the Employment Injury Benefit Fund established in conformity with this Law.
- (b) Relating to all benefits claimable after this Law comes into force, the benefits allowed under this Law shall be enjoyed in accord with stipulations only if the contribution period stipulated under this Law is fulfilled.
- (c) The General Insurance benefits payable under the Social Security Act, 1954 shall be borne from the Health and Social Care Fund contained in this Law.

(d) The Employment Injury Benefits payable under the Social Security Act. 1954 shall be borne from the Employment Injury Fund contained in this Law.

102. If the insured person earns his wages in foreign currency, contribution shall be paid to the Social Security Fund and the Employment Injury Benefit Fund in foreign currency and each benefit of social security and employment injury shall also be enjoyed in foreign currency in accord with the stipulations.

103. In implementing the provisions contained in this Law:

- (a) the Ministry of Labour may, in co-ordination with the Social Security Board and with the approval of the Union Government, issue necessary rules, regulations and by-laws;
- (b) the Ministry of Labour and the Social Security Board may issue necessary notifications, orders, directives, and procedures.

104. The Social Security Act,1954 shall cease to be in force commencing from the day on which this Law comes into force.

I hereby sign according to the Constitution of the Republic of the Union of Myanmar

(Sd.)

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Thein Sein

The President of the Union

The Republic of the Union of Myanmar