

Malaysia

Basic information of domestic workers

Information for 2008:

- Number of domestic workers: 253.000 (ILO, 2013)
- Percentage of women domestic workers: 88.3 (ILO, 2013)
- Percentage of urban domestic workers:
- Percentage of migrant domestic workers:
- Median/average income of domestic workers:

Legislation

- Workmen's Compensation Act. 1952 (Act 273).
- Employee's Provident Fund Act. 1991 (Act 452).
- Children and Young Persons (Employment) Act. 1966 (Act 350).

National definition of domestic work

Workmen's Compensation Act (Act 273). Part 1. "domestic servant" means a person employed exclusively in the work or in connection with work of a private dwelling house and not of any trade, business or profession carried on by the employer in such dwelling house and includes a cook, house servant (including bedroom and kitchen servants), waiter, butler, child's or baby's nurse, valet, footman, gardener, washer man or washerwoman, watchman, groom and driver or cleaner of any vehicle licensed for private use".

Excluded population according legislation:

People who are over 14 years old may work as domestic workers, with certain legal restrictions contained in the Children and Young Persons Act. 1966 (Act 350) (Section 2).

Regime of protection

Coverage through general scheme of Employees Provident Fund (KWSP). The Fund it is a compulsory savings plan for private sector workers in Malaysia.

The definition of domestic worker used by the Fund is the same as that contained in the Act 273.

Covered Population:

- Cooks;
- House servant;
- Waiter;
- Butler;
- Child's or baby's nurse;
- Valet;
- Footman;
- Gardener;
- Washer man or washerwoman;
- Watchman;
- Driver any vehicle licensed for private use.

Scope of coverage, according to the C.189

Convention 189	Workmen's Compensation Act	Social security
Cooking	Yes	Yes
Cleaning	Yes	Yes
Taking care of children, the elderly, others	Yes	Yes
Gardeners	Yes	Yes
Guardians	Yes	Yes
Family chauffeurs	Yes	Yes

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Contingencies covered

Covered Contingencies:

- Old-age benefits, through social security institution (KWSP)
- Invalidity benefits, through social security institution (KWSP)
- Survivors' benefits, through social security institution (KWSP)

Are there provisions for maternity protection: pre, during and post natal care, income replacement during maternity leave? N.D.

Prescribed qualification procedure (maternity): N.D.

Are the dependents of domestic workers covered? N.D.

Administration

Employees Provident Fund (KWSP) managed by a tripartite governing board, administers contributions and benefits and is responsible for investing members' funds.

Ministry of Finance provides general supervision.

Source: issa.int

N.D.

Social security coverage

Financing issues

Is the contribution rate differentiated? No.

Reference wage for contribution payments: Gross wage of the worker. These include payments such as salary, cash incentives, commission, allowances (except travelling allowance), bonus, incentive, arrears of wages, others (KWSP, 2014b).

Are there state subsidies for contributions? No.

Total contribution rate: From 11.5 to 24 per cent, depending on age and income of the worker.

Contribution rates for domestic workers

Detail	Total	Employer	Employee
<i>Employees below 55 years of age</i>			
Wages less than RM5,000	24	13	11
Wages more than RM5,000	23	12	11
<i>Employees between 55 years and 75 years of age</i>			
Wages less than RM5,000	12	6.5	5,5
Wages more than RM5,000	11,5	6,0	5,5

Source: KWSP (2014a).

Are there tax incentives for employers to pay contributions? One share of contributions to the EPF is tax deductible up to RM 6,000 (including life insurance premiums).

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Registration practices

Is the affiliation mandatory? No. Domestic workers, including foreign domestic workers, can only register voluntarily (Employees Provident Fund, First Schedule, [Section 2]).

Registration procedure: The procedure must be performed by an employer when the employee is hired. When the worker is registered, he or she will receive a registration number.

Entities involved: Employees Provident Fund (KWSP).

Registration of domestic workers: The procedure is equivalent to that applied to other employees. The employer and the employee must complete other forms, because registration is voluntary.

Is there a unique system of registration? Yes.

Is there portability in the contributions between the schemes? Yes, when domestic workers change their occupational category, they are still protected under the general social security scheme.

Are there complaint mechanisms available (in case of non-compliance with social security legislation)? No, because the coverage is voluntary.

Are there inspection mechanisms to enforce the compulsory coverage? No.

Are there rules for affiliation and payment of specific contributions to domestic workers working on a part time and/or multiple employers bases? N.A.

Contributory minimum wage: No.

What is the process for registering domestic workers? The registration is under employer responsibility, at the social security offices or online.

What are the specific requirements for registering?

- Fill out an application, which must be signed by the employer.
- Identification of the employer.
- Identification of the worker.

Are there any mechanisms in place to facilitate registration for domestic workers?

- Online administration (i-Akaun). More information: <http://www.kwsp.gov.my/portal/en/web/kwsp/demo/i-akaun-member-login>
<http://www.kwsp.gov.my/portal/en/member/faq/i-akaun>
- By post

Collection of contributions

Is there a single national system for the collection of contributions? Yes.

Are there measures to facilitate the payment of contributions? Yes. The procedure can be done in person, postal order, through the financial system, Check, electronic fund transfer or internet banking.

Are there sanction mechanisms for employers? No.

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Coverage of women domestic workers

Are there special provisions in the law for women domestic workers? Yes.

Does the state subsidize contributions of (women) domestic workers? No.

Are there problems of discrimination against women? What are these problems? Yes. Filipino domestic workers are reported to receive higher wages than Indonesian workers (Josiah, 2003).

Migrant domestic workers

Is there a difference between national and non-national domestic workers in terms of protection? No.

Is there a difference between resident and non-resident domestic workers in terms of protection? Yes. Workers must have a work permit, to register for social security.

Are there special provisions in the law for coverage of migrant domestic workers?
No.

Distinction between de jure coverage (legal coverage) and de facto (effective) coverage: There is not enough information.

Are there any agreements on portability with other countries? N.A.

Good practices

- Access to loans to insured members as part of the incentives to be included in social security.
- The contribution rate depends on the age of the worker. Among older, the contribution rate is lower.
- The contributions depend on income and age.
- Single national and centralized system for the collection of contributions (just for national workers).

Barriers

- Coverage for domestic workers is voluntary.
- A significant flow of migrant domestic workers.
- No social security agreements with countries with high flow of migrant workers, eg: Indonesia.
- The social security system does not provide protection against contingencies of sickness, unemployment, Employment injury and maternity.

Challenges

- Define the affiliation to social security as a compulsory, including foreign domestic workers.
- Improve the quality and access of information.
- Ratify various multilateral and bilateral agreements on social security.
- Increase the legal minimum age for domestic work activities.
- Extend scope of coverage.

ILO standards ratification and application

The country has no ratified any ILO Convention in this field.

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