

The Social Security Law, 2012  
( Pyidaungsu Hluttaw Law No.----- )  
The-----, 1374 M.E.  
(----- August, 2012)

The Pyidaungsu Hluttaw hereby enacts this Law.

**Chapter I**

**Title, Effectiveness 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, by notification, issued by the President of the Union.
- (c) This Law shall be continued to apply in areas where the Social Security Act, 1954 has been applied. In addition to those areas where this Law shall apply may be prescribed, 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 employs permanently or temporarily in any establishment and who earns a living with wage obtained by using physical or mental capacity. In such expression, it also includes apprentices and trainees whether they obtain the wage or not. However, it does not include family members of the employer who live together and depend upon the employer.
  - (b) **Employer** means a person who is responsible to pay wage to a worker who employs a worker by employment agreement, 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 deceased.
  - (c) **The Insured** means a worker who is working at any establishment relevant to this Law and who has insured through registration under the Social Security System and Occupational 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 Occupational Injury Benefit Insurance System although he is not working at any establishment relevant to this Law.
  - (d) **Establishment** means factories and organizations contained in sub-section (a) of section 11. In such expression, it also includes any workplace 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 the insured in order that they may have peacefulness in mind and not to have worry in 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) **Occupational injury** means an accidental injury, disease or occupational disease contracted to a worker in and out of workplace due to employment, in connection with duty, in carrying out other works for the benefit of the employer or on the way to and from the workplace to serve duty. In such expression, it does not include injury due to wilfully failure to abide by the orders and directives, regulations, bye-laws in respect of safety of workplace, removal or not using the managed safety devices, or drinking alcohol or using drug.
- (g) **Invalidity** means permanent incapacity for work arising out of injury or disease due to any other causes including maternity and sickness but not due to occupational accident.
- (h) **Occupational injury benefit fund** means a fund established by the employer's contributions for his workers to enjoy occupational injury benefit.
- (i) **Social security and occupational injury benefit** means benefit paid under this Law to the insured from Social Security Fund and Occupational Injury Benefit Fund.
- (j) **Wage** means all remunerations entitled to be received by a worker for the work carried out by him. In such expression, it includes other remunerations which may be determined as overtime fees and income. However, it does not include the travelling allowance, gratuity, annual bonus, and remuneration 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 to an insured or a person to be insured 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 depending on him or her, children under 18 years of age of such worker and 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) causing to support the development of the State's economy through the increase of production to enjoy more security in social life and health care of workers who are major productive force of the Union by the collective guaranty of the employer, worker and the Union for enabling to fulfil health and social needs of the workers.
- (b) causing to enjoy more security in social life and health care by the public by their voluntary insurance;
- (c) causing to raise public reliance upon the social security system by providing benefits which are commensurate with the realities;
- (d) causing 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) causing to obtain the right to continue 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, decease and occupational injury of the workers.

### Chapter III

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

4. The Union Government:
  - (a) shall form the national level Social Security Board comprising suitable persons from the Ministry of Labour and the relevant Union Ministries, Government departments, organizations, representatives and experts of employers and workers;
  - (b) may re-form the Social Security Board formed under sub-section (a) 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 determining the functions thereof;
  - (e) causing to arrange and carry 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 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) determining the minimum proportion to be kept according to the type of establishment to employ the vacancies for those who have lost capacity for work due to occupational injury;
  - (i) assigning duties to the suitable department, organization or person if it is necessary for enabling to carry out any function of the Social Security Board in coordination with the relevant Union Ministry;
  - (j) guiding and supervising the functions relating to the Social Security Head Office and various levels of regional Social Security Office or relating to hospitals and clinics owned by the Social Security Board or those concluded agreement with that Board;
  - (k) establishing Social Security Housings by laying down plans at plots allowed by the State or at plots bought with the Social Security Fund and the Occupational Injury Benefit Fund with the permission of the Ministry of Labour;
  - (l) allowing to live, lease and live, use, own, purchase, sell or transfer in any other means in accord with the stipulated terms and conditions related to Social Security housings and granting loan to purchase that housing;

- (m) assigning duty to the relevant social security officer to take action against persons who obtain permission under sub-section(l) and violate the stipulated terms and conditions and if necessary, to remove them from the Social Security Housing in accord with the stipulations;
  - (n) communicating and co-ordinating with the international organizations and regional organizations in order to give more effective social security and occupational injury benefits;
  - (o) submitting report on the performance of the Social Security Board to the Union Government in accord with the stipulations;
  - (p) carrying out other functions assigned by the Union Government and the Ministry of Labour.
6. The Social Security Board shall:
- (a) succeed with the immovable property, movable property and funds owned by the Social Security Board established under the Social Security Act, 1954 or social security affairs or businesses being undertaken to raise the Social Security Fund or 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 allowance and remunerations for the members of the Social Security Board and of the Executive Committee who are not the members of civil services shall be incurred from the Social Security Fund and Occupational 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 Appointment of Staff

8. (a) The Ministry of Labour may form the following social security offices, hospitals and clinics under requirement and appoint and assign duty to necessary staff in conformity with the organizational 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) Region 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 staff appointed and assigned 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 civil service and shall abide by the Civil Service Regulations and perform 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 formation of social security offices, hospitals and clinics and appointing and assigning necessary staff contained in sub-section (a) based

on the situation of its fund in order to enable to carry out necessary duties and office duties of the Social Security Board in implementing the provisions contained in this Law.

9. (a) The Ministry of Labour, to enable to provide health care and medical treatment under this Law:
    - (i) may assign duty jointly or transfer or appoint doctors, dental and oral surgeons, nurses, midwives, and technicians who obtain 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, practitioners of traditional medicine who obtain registration certificate issued by the Indigenous Medicine Council in co-ordination with the Ministry of Health;
    - (ii) if necessary, may appoint doctors, dental and oral surgeons, nurses, midwives, technicians and also practitioners of traditional medicine who obtain medical practitioner licence, 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 under sub-section (a) may, unless there is specific agreement, enjoy salaries, allowances and honorariums, gratuities, pensions and other benefits in accord with laws, rules, regulations, by-laws, orders, and directives relating to civil services, and shall abide by the Civil Service Regulations and perform duties.
10. The Director General of the Social Security Head Office:
    - (a) shall be responsible to perform necessary functions 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) Region 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

#### Applicable Establishments

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:

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- (i) industries which carry out business whether or not they utilize mechanical power or a certain kind of power, businesses of manufacturing, repairing and servicing, or engineering businesses, factories, warehouses and establishments;
  - (ii) Government departments, Government organizations and regional administrative organizations which carry out business;
  - (iii) Development organizations;
  - (iv) financial organizations,
  - (v) companies, associations, organizations, and their subordinate departments and branch offices which carry out business;
  - (vi) shops, commercial establishments, public entertaining establishments;
  - (vii) Government departments and Government organizations which carry out business or transport businesses owned by regional administrative body, and transport businesses carried out with the permission of such departments, body or in joint venture with such department or body.
  - (viii) constructions carried out for a period of one year and above under employment agreement;
  - (ix) businesses carried out with foreign investment or citizen investment or joint venture businesses;
  - (x) businesses relating to mining and gem contained in any existing law;
  - (xi) businesses relating to petroleum and natural gas contained in any existing law;
  - (xii) ports and out-ports contained in any existing law;
  - (xiii) businesses 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, that they shall be applied with the provisions of compulsory registration for Social Security System and benefits contained in this Law in co-ordination with the Social Security Board and with the approval of the Union Government
- (b) Any establishment, applicable with the provisions of compulsory registration under sub-section (a) shall continue to apply with this Law even though any of the following situations occurs and such business is continued to carry out:
- (i) carrying out by one and more workers which is lesser than the stipulated minimum number of workers;
  - (ii) changing the employer or changing the category of business.

#### **Inapplicable Establishments and Workers**

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;
  - (iv) non-profit companies, associations or organizations;
  - (v) establishments which carry out only for a period less than three months;
  - (vi) private establishments which carry out only with 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 are working at any establishment:
  - (i) workers who have not attained the working age under the existing law and workers who have completed the age entitled for superannuation under section 34;
  - (ii) street vendors and vendors using bicycle, cart etc.;
  - (iii) daily wages earners, part-time workers, piece-workers, or outside workers employed occasionally;
  - (iv) other workers determined 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 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, registered voluntarily and effected insurance by making contribution, they shall be entitled to the social security benefits contained in this Law.

### **Social Security System**

13. The Social Security Board shall manage the following social security systems for enjoyment of social security benefits by the insured in accord with the stipulations:

- (a) **Health and Social Care Insurance System:**
  - (i) medical treatment and cash benefit for sickness;
  - (ii) medical treatment and cash benefit for maternity and confinement;
  - (iii) medical treatment for the insured after retirement;
  - (iv) funeral benefit for decease due to any cause;
- (b) **Family Assistance Insurance System:**
  - (i) scholastic stipend benefits for the children of the insured who earns less than the stipulated amount of income;
  - (ii) health care and aid benefit in time of natural disaster;
  - (iii) suitable benefit for dependent family;
- (c) **Invalidity Benefit, Superannuation Benefit and Survivors' Benefit Insurance System:**
  - (i) invalidity benefit;
  - (ii) superannuation benefit;
  - (iii) survivors' benefit arising out of decease not owing to work;
- (d) **Unemployment Benefit Insurance System:**
  - (i) Health care to persons who are entitled to unemployment benefit;
  - (ii) cash benefit for unemployment;
- (e) **Other Social Security System:**
  - (i) The right to live, hire, purchase, own or use the Social Security Housings established under housing plans to the insured in accord with the stipulations.

- (ii) Social Security System of compulsory registration and contribution stipulated by the Ministry of Labour, by notification, in co-ordination with the Social Security Board with the approval of the Union Government or other social security systems of voluntary contribution.

14. Civil services shall not be applied with the insurance systems contained in sub-sections (c) and (d) of section 13. However civil services 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 benefit, and survivors' benefit fund;
  - (iv) unemployment benefit fund;
  - (v) other social security fund for social security system of compulsory registration and contribution stipulated by the Ministry of Labour, in co-ordination with the Social Security Board, under clause (ii) of sub-section (e) of section 13;
  - (vi) other social security fund stipulated that contribution may be paid after voluntary registration under clause (ii) of sub-section (e) of section 13;
  - (vii) Social Security Housing Plan fund;
- (b) The employers and workers of establishments shall pay contributions after effecting compulsory registration to the fund contained in clauses (i), (iii),(iv) and (v) of sub-section (a);
- (c) The contribution for family assistance benefit fund contained in clause (ii) of sub-section (a) shall not be stipulated in particular, but it shall be transferred from health and social care fund in stipulated proportion;
- (d) The employers and workers of establishments may pay contribution voluntarily to the funds contained in clauses (vi) and (vii) 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 to enable to enjoy social security benefits by contributing to the social security fund contained in clauses (i),(iii),(iv), and (v) of sub-section (a) of section 15 in accord with the stipulations after registering the compulsory registration at the relevant township social security office:
- (i) employers of establishments;
  - (ii) employers of establishments employing the stipulated number of workers and above under sub-section(a) of section 11 including at least one worker and the relatives of the employers except wife, husband, children and parents depending on the employer;
  - (iii) employers of unpaid apprentices and trainees;
- (b) employers and workers of establishments who are not applied to the Social Security System, persons contained in section 20, if desirous 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 contained in section 15 in accord with the stipulations;

- (c) before effecting insurance under sub-sections(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.

17. In order to incur the costs for the benefits provided under this Law to the insured and to the remaining dependents of the deceased insured 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 contained in section 15 by employer and worker depending upon the monthly wages of the worker.

18. (a) Regarding to the workers in each establishment applied by the social security system, the contribution which shall be paid by the employer and worker according to the wage of the applied worker shall be paid according to the rates stipulated under section 17 to the relevant social security fund in accord with the stipulations until the completion of the age of retirement under section 34 or, if he continues to work after such completion of the age of retirement, until such working period;
- (b) The employer shall deduct contributions to be paid by worker from his wages together with contribution to be paid by him and pay to the social security fund. The employer shall also incur the expense for such contribution;
- (c) The Social Security Board may decide to pay defaulting fees stipulated under section 88 on the employer who defaults to pay the contribution in addition to the contribution.

#### **Establishment of Hospitals, Clinics, and Incurring Expenses**

19. The Social Security Board may carry out establishing and opening of hospitals, clinics or hiring them or incurring expenses of hospitals, clinics medicines and equipments owned by the Board, 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 the insured.

#### **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 stipulated 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 contained in this Law;
- (b) the public who are not working at the establishments;
- (c) students, persons who are out of touch with work place, housemaids and persons who are working abroad;
- (d) persons who carries out private enterprise, persons of collective work, professionals and farmers;
- (e) persons from establishments stipulated 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. In respect of the health and social care insurance system benefits:

- (a) the insured has the right to enjoy the following benefits in accord with the stipulations:
- (i) health care, medical treatment and cash benefit based on the type of disease for self- sickness owing to any cause;

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- (ii) health care, medical treatment and cash benefit in time of pregnancy and confinement if the insured is female;
  - (iii) the right to care infant in time of confinement of the insured's wife and cash benefit;
  - (iv) the right to take medical treatment after retirement of the insured;
- (b) when the insured is deceased, if a person nominated by that person or if there is no such nomination, dependent of that person or a person who incurs for the funeral expenses claims, such claimant has the right to enjoy the funeral expenses in accord with the provisions contained in section 30.

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

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

- (a) has the right to take medical treatment at the permitted hospital or clinic for a period up to 26 weeks starting from the date of treatment. However, for recurrent sickness, chronic disease and suffering more than one disease or sickness of special importance, it has the right to take medical treatment up to 52 weeks or to a period specifically stipulated 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 State owned or private hospitals and clinics concluded agreement with that Board, or at hospitals and clinics arranged by the employer;
- (c) has the right to take health care and medical treatment by coming to the establishment where the insured works by the arrangement of the Social Security Board, if he is unable to come to the hospitals and clinics which are owned by the Social Security Board or hospitals and clinics concluded agreement with that Board;
- (d) has the right to enjoy expenses from the health and social care fund in accord with the stipulations in respect of expenses of taking health care and medical treatment under section 21 and this section.

### **Cash Benefit Relating to Sickness**

23. The insured:

- (a) has the right to enjoy cash benefit relating to sickness only if he had worked at the establishment for a minimum of six months before sickness and had paid contribution for a minimum of four months during the said six months;
- (b) has the right to enjoy 60 percent of average wage of the previous four months as cash benefit relating to sickness up to 26 weeks in accord with the stipulation contained in sub-section (a) for the period of unable to work if reduction or stop of income occurred because of unable to work after submitting the medical certificate for sickness.

24. The Social Security Board may, any of the following matters arises on the insured who is enjoying cash benefit relating to sickness, suspend the whole or part of the said benefit:

- (a) Deliberate making of self-sickness;
- (b) Sickness as a result of his punishable act;
- (c) deliberate failure without sufficient cause to take medical treatment or to follow the instruction of the medical practitioner who gives medical treatment;
- (d) making fraudulent claim to enjoy cash benefit relating to sickness;
- (e) deliberate failure to carry out rehabilitation matters without sufficient cause;
- (f) leaving the country for good;
- (g) failure to comply with the other terms and conditions stipulated by the Social Security Board.

### **The Right to Take Medical Treatment for Pregnancy and Confinement of the Female Insured**

25. Notwithstanding anything contained in the laws, rules, regulations, by-laws, orders, and directives of Civil services, the female insured worker has the right to enjoy the following benefits in accord with the stipulations:

- (a) the right to take free medical treatment at the permitted hospital and clinic in cases of pregnancy and confinement;
- (b) the right to take medical treatment for her child up to one year after confinement;
- (c) has the right to enjoy maternity leave for six weeks before confinement and a minimum of eight weeks after confinement up to a minimum of 14 weeks in total. Moreover, the right to enjoy another four weeks after enjoying maternity leave for child care if it is the twin delivery;
- (d) the right to enjoy maternity leave up to a maximum of six weeks in cases of miscarriage being not a punishable one;
- (e) the right to enjoy full wages for prenatal examination at the permitted hospital or clinic on the basis of at the rate one day per time and up to a maximum of seven times;
- (f) has the right to enjoy leave not exceeding eight weeks for child care for one adopted child only, until that child had attained the age of one year if a child under one year of age is adopted in accord with existing law by registration. During such enjoyment period, the right to enjoy cash benefit contained in sub-section (a) of section 27 shall be subject to the provision contained in section 26.

### **Benefits Relating to Maternity**

26. The male and female insured shall be entitled to enjoy cash benefit relating to maternity under sections 27 and 28 only if they have worked a minimum of one year at the relevant establishment before enjoying leave and paid contribution for a minimum of six months within the said one year.

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

- (a) 70 per cent of average wage of a year as benefit relating to maternity for the period of maternity leave which is entitled under 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 for the period of maternity leave for miscarriage contained in sub-section(d) of section 25.

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

- (a) 15 days leave for infant care on confinement of his insured wife;
- (b) the right to enjoy 70 per cent of average wage of previous one year as benefit relating to maternity for the leave period contained in sub-section (a) on confinement of his insured wife;
- (c) in addition to the benefits contained in sub-sections (a) and (b), the right to enjoy half of maternity expenses contained in sub-section (b) of section 27 on confinement of his uninsured wife.

### **The Right to Take Medical Treatment for Retired Persons**

29. The insured Civil Services after retiring or the insured after receiving invalidity benefit and superannuation benefit under sections 33 and 35 have the right to enjoy medical treatment 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 holder of identity card for retirement issued by the Township Social Security Office after retirement.

### **Benefit of Funeral Expenses**

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

### **Family Assistance Insurance System Benefits**

31. (a) In respect of the scholastic stipend for children:
- (i) if an insured who has paid contribution for a minimum of 36 months and who earns less than the stipulated amount of income has the children learning a full time education, he is entitled to enjoy scholastic stipend from family assistance fund in accord with the stipulations;
  - (ii) for the children born of an insured couple who earn less than the stipulated amount of income, only one insured is entitled to enjoy scholastic stipend contained in clause (i);
- (b) When the insured and the family encounter natural disaster, he is entitled to enjoy the following health care, relief materials and cash assistance from the family assistance fund in accord with the stipulations:
- (i) the right to take medical treatment if suffered from physical and mental injury, or if contracted disease due to natural disaster;
  - (ii) after the contribution had been paid for a minimum of 36 months prior to natural disaster and his own properties are lost due to the natural disaster, 40 percent of average wage of a month within one year before such day as cash assistance and relief materials provided by Social Security Board;
- (c) The insured is entitled to enjoy appropriate 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 is entitled to enjoy invalidity benefit under the medical certificate in accord with section 33, if he is totally incapable to work due to any other cause including sickness and maternity not owing to occupational injury.

### **Cash Benefit for Invalidity**

33. (a) When the insured becomes totally incapable to work permanently 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 permission of medical certificate for invalidity, the right to enjoy 15 times of average wage of 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, relating to such period of contribution in excess, the right to enjoy additional benefit contained in clause (i) 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 of contribution paid by the employer and by that insured 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 person in lump sum;
- (b) When the insured obtains the right to enjoy invalidity benefit, the employer is entitled to obtain 25 per cent of his contribution for 12 months and above paid to the fund contained in clause (iii) of sub-section (a) of section 15 together with interest in accord with the stipulations.

#### **Age Limit for Superannuation and Cash Benefit**

34. The age for superannuation of the insured shall be as stipulated 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 retires for superannuation, the following benefits are entitled 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 superannuation, the right to enjoy 15 times of an average wage of a month for the period contributed of that insured in installment or in lump sum according to his desire;
  - (ii) if contribution has been paid for more than 180 months, relating to such period of contribution in excess, the right to enjoy additional benefit contained in clause (i) 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 of the contribution paid by the employer and by that insured 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 in lump sum;
- (b) When the insured obtains superannuation benefit, the employer is entitled to obtain 25 per cent of his personal contribution for 12 months and above paid to the fund contained in clause (iii) of sub-section (a) of section 15 together with interest in accord with the stipulations.

#### **Survivors' Benefit for Decease not owing to Occupational Injury**

36. When the insured is deceased for any other cause not owing to occupational injury before the age for superannuation:

- (a) a person nominated by the insured is entitled to enjoy survivors' benefit which is the same as the invalidity benefits contained in section 33, in installment or in lump sum according to his desire in accord with the stipulations;
- (b) if there is no nominated person contained in sub-section (a), dependents of the said insured are entitled to enjoy the survivors' benefit, which is the same as the invalidity benefit contained in section 33, in installment or in lump sum according to his desire in accord with the stipulations in the following order:

- (i) wife or husband of the deceased;
- (ii) if there is no wife or husband, children of the deceased;
- (iii) if there is no wife, husband and children, mother and father of the deceased;
- (c) if there is a person who is entitled to benefits contained in sub-sections (a) and (b), the employer is entitled to obtain 25 per cent of contribution for 12 months and above paid by him to the fund for invalidity benefit, superannuation benefit, and survivors' benefit together with interest in accord with the stipulations;
- (d) if there is no person who is entitled to benefits contained in sub-sections (a) and (b), the employer has the right to draw his contribution paid into the fund for invalidity benefit, superannuation benefit, and survivors' benefit together with interest in accord with the stipulations.

#### **Requirement for Unemployment Benefit**

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

- (a) being unemployed for dismissal or termination because of permanent close-down of work but not voluntary resignation;
- (b) not being a person dismissed from work of occupational punishment 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 report monthly his unemployment to that office and Township Social Security Office.

#### **Period and Benefits of Unemployment Benefit**

38. When the insured obtains unemployment benefit in accord with section 37:

- (a) if he has paid contribution up to 36 months, he is entitled to enjoy 50 per cent of average wage for a month within the previous one year as the unemployment benefit monthly up to two months. If he has paid contribution for more than 36 months, unemployment benefit shall be entitled to enjoy additional one month each for every additional 12 months of contribution. However, total period of unemployment benefit shall be entitled to six months only;
- (b) if he is married at the time of unemployment, additional cash awarded by the Social Security Board which is not exceeding 10 per cent of unemployment benefit contained in sub-section(a), shall be entitled monthly during the above mentioned period depending upon the condition of dependents of that person.
- (c) if he is sick, the right of health care, medical treatment and cash benefit contained in clause (i) 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, the right of health care, medical treatment, and cash benefit contained in clause (ii) of sub-section(a) of sections 21, 26, 27 and 28 shall be entitled 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 trainings permitted by the Social Security Board;
- (f) if the insured is deceased while enjoying unemployment benefit contained in sub-section (a), he is entitled to funeral expense in accord with the stipulations.

### Limitation on Unemployment Benefit

39. (a) The insured:
- (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 enjoying the unemployment benefit once under clause (i) and then, if he rejoins with the same establishment and become unemployed again, has the right to enjoy unemployment benefit in accord with the stipulations, only when another payment of contribution for 36 months has been paid;
- (b) The employer may deduct for the insured who is unemployed, in accord with the stipulation, the amount of unemployment benefit entitled to the insured under this Law out of compensation to be paid to that insured in accord with the existing labour laws, or employment agreement.

### Termination of Unemployment Benefit

40. A person who has the right of Unemployment Benefit shall be terminated that benefit if any of the following situations arises:

- (a) rejecting the job informed by the relevant township labour exchange office or by the relevant township social security office without sufficient cause;
- (b) rejecting to attend vocational course as directed by the Social Security Board without sufficient cause;
- (c) being employed a new job;
- (d) being convicted with imprisonment for the commission of any criminal offences under any criminal law;
- (e) leaving for good to foreign or going foreign to work.

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

41. If an insured who has the right to enjoy unemployment benefit is unable to work his former job or any other job relating to the Social Security Insurance System under this Law although the unemployment benefit period is terminated:

- (a) the insured has the right to draw 40 per cent of contribution paid for him by the employer into the fund for invalidity benefit, superannuation benefit and survivors' benefit for 36 months and above and his contribution together with interest in accord with the stipulations;
- (b) the employer has the right to draw 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 fund for Social Security Housing Project contained in clause (vii) of sub-section (a) of section 15 relating to the Social Security Housing, has the right to live, hire, use, own, purchase, sell or transfer by any other means and to obtain loan in priority for enabling to purchase that housing in accord with the stipulated terms and conditions;
- (b) If an insured who had not paid contribution to the fund for Social Security Housing Project contained in clause (vii) of sub-section (a) of section 15 but is in conformity with the stipulations relating to the Social Security Housing, he has the right to live, hire, use, own, purchase, sell or transfer by any other means and to obtain loan for enabling to purchase that housing;
43. A person who is entitled to the right contained in section 42 in 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 in accord with the stipulations and removed from the Social Security Housing.

44. The persons who have contributed to each of the Social Security Fund contained in clauses (v) and (vi) of sub-section (a) of section 15 shall, in co-ordination with the Social Security Board, have the right to enjoy benefits stipulated by the Ministry of Labour with the approval of the Union Government.

## Chapter VI

### Applicability to Occupational Injury Benefit Insurance System, Fund and Benefits of Occupational Injury Benefit

#### Applicability

45. The provisions of the occupational injury benefit insurance system contained in this Law shall apply to the following workers:

- (a) workers at establishments applicable 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 (i),(iii),(iv) and (v) of sub-section (a) of section 15;
- (b) workers stipulated as being applied to provisions of compulsory registration for occupational 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 applicable to provisions of compulsory registration for social security insurance system and benefits have not compulsorily registered and paid contribution for their workers to enjoy occupational injury benefit, the provisions applicable to occupational injury benefit insurance system shall not be applied.

#### Occupational Injury Benefit Insurance System and Registration

47. The Social Security Board shall manage, in accord with the stipulation, the occupational injury benefit insurance system in order to avoid from giving the occupational injury benefit by the employer in lump sum and to enable the worker to enjoy the following benefits:

- (a) medical treatment;
- (b) temporary disability benefit;
- (c) permanent disability benefit;
- (d) survivors' benefit for decease owing to occupation.

48. (a) The employer shall effect insurance by registering at the relevant township social security office in order to get occupational injury benefit by the workers applied to provisions of compulsory registration for occupational injury benefit insurance system contained in section 45 and by paying contribution to occupational injury benefit fund in accord with the stipulations;
- (b) The employers may effect insurance by registering voluntarily for the workers who are not applied to provisions of compulsory registration for occupational injury benefit insurance system and by paying stipulated contribution to occupational injury benefit insurance fund;

- (c) When registering to effect insurance for occupational injury benefit under sub-sections (a) and (b), the worker shall submit medical certificate.

#### **Inapplicability to the Workmen's Compensation Act**

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

#### **Contributions for Occupational Injury Insurance System**

50. In respect of employer's contribution to be paid to occupational injury benefit fund for the worker to enjoy the occupational injury benefit under section 47, the Ministry of Labour shall determine rates of contribution depending on the worker's wage and degree of possibility of occupational hazard, 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 occupational Injury Benefit Fund at the rates stipulated under section 50. Moreover, he shall also incur the expenses for paying as such;
- (b) shall pay defaulting fees stipulated under section 88, in addition to the contribution if fails to contribute after effecting insurance for occupational injury benefit.

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

52. (a) The insured has the right, if the occupational injury occurs, to take medical care in accord with the stipulations and to enjoy other benefits contained in this chapter;
- (b) The types of disease caused by occupation 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 with the Social Security Board or insurance agency in respect of keeping plans for safety and health in order to prevent occupational injury, contracting disease and decease owing to occupation and in addition to safety and educational work of the workers and accident at the establishment;
- (b) The employer shall incur the costs of medical treatment for occupational injury occurring from criminal action or omission of the employer, or occurring from employer's failure to keep occupational safety plans and protections, and other benefits entitled to enjoy under this Law in accord with the stipulations without fail.
54. (a) The employer shall report immediately to the relevant township social security office if a serious occupational accident has been occurred to his insured worker. There shall not be any delay without sufficient cause to report as such;
- (b) A team of officers and staff who inspect the establishments shall, if it is found that the occurrence of occupational injury, decease and contracting diseases, report to the relevant township social security office in accord with the stipulations.

### Temporary Disability Benefit

55. The insured who suffers reduction or cessation of earnings by reason of incapable to work of occupational injury, free medical treatment in addition to temporary disability benefit of 70 per cent of average wage within four months prior to occupational accident shall be entitled to enjoy commencing from the date of incapacity for work, to a maximum of 12 months under medical certificate.

56. (a) The temporary disability benefit under section 55, shall be terminated from the date on which the insured becomes capable for work again within 12 months;
- (b) If an insured continues to be incapable to work after the expiration of 12 months period of temporary disability benefit, it shall be converted to enjoy permanent disability benefit;
- (c) The insured while enjoying temporary disability benefit for 12 months due to occupational accident, and expected that it be permanent disability by medical certificate, terminate the temporary disability benefit and is converted to enjoy the permanent disability benefit.

### Permanent Disability Benefit

57. The insured is entitled to the cash benefit for permanent partial disability if there is likely to cause permanent partial loss of capacity for work and is entitled to the cash benefit for permanent total disability if there is likely to cause permanent total loss of capacity for work due to occupational injury. As regards that benefit, cash benefit calculated based upon 70 per cent of average wage of a month within four months before occupational injury occurs with percentage of permanent loss of capacity for work decided by the Medical Board as a month benefit and shall be entitled in accord with section 58.

58. The person who suffers loss of capacity for work is entitled to permanent disability benefit calculated based upon 70 per cent of average wage of a month contained in section 57, with percentage of loss of capacity for work, as specified hereunder:

- (a) in case of loss of capacity for work is 20 per cent and under, the right to enjoy monthly cash benefit entitled to such person for five years in lump sum;
- (b) loss of capacity for work is from over 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) loss of capacity for work is over 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 proportion of permanent partial disability benefit and permanent total disability benefit shall be proportionate to the loss of capacity for work contracted by occupational injury;
- (b) If an insured who obtained the permanent partial disability benefit suffers another occupational injury, his percentage of loss of capacity for work shall be stipulated afresh taking into consideration to his former stipulated percentage of loss of capacity for work. The combined percentage of loss of capacity for work shall not exceed valued percentage of his overall loss of capacity for work. For the afresh stipulation as such, due

cash benefit is entitled to obtain for added percentage of loss of capacity for work in accord with the stipulations.

### **Rehabilitation and Job Arrangement**

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

- (a) carry out the making, fixing and providing instruments to operate, substitute and fix upon medical certificate;
- (b) carry out training courses relating to work and nurturing measures to be compatible with community.

61. The Social Security Board may, in co-ordination with the Ministry of Labour, stipulate the proportion of the minimum number of job to be kept according to the types of establishment for appointing workers whose limbs are damaged and become disabled and lost their capacity for work owing to occupational injury at the establishments which are applied to this Law in addition to the stipulated number of workers.

### **Survivors' Benefit for Occupational Decease**

62. When the insured is deceased of occupational injury:

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

## **Chapter VII**

### **Provisions Relating to Both Social Security Fund and Occupational Injury Benefit Fund**

#### **Benefits not Payable Simultaneously**

63. (a) The following benefits shall not be paid simultaneously to an insured:
- (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;
- (c) In cases in which two of the benefits, among benefits contained in sub-section (a) are payable if the amounts are different, the beneficiary shall be paid the larger of the two amounts.

### **Suspension of Benefits**

64. If any insured who is enjoying any of the sickness, maternity and temporary disability benefits is working in an establishment which he has been certified to be incapable or in any other establishment for wage, such benefits shall be suspended.

### **Entitlement for Reimbursement of Expenses**

65. The employer:

- (a) has the right of reimbursement out of benefits granted under this Law, for expenses incurred according to social obligation for an insured 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 during the period of enjoying any of sickness or maternity, or occupational injury benefits under this Law exceeds the normal wages of that insured, 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.

### **Prohibitions of Employment**

66. (a) The employer, subject to health care and medical treatment in accord with sections 67 and 68:
- (i) shall not dismiss or terminate the insured from work or demote to lower wage level during the period which an insured is enjoying any of the sickness or maternity or temporary disability benefits owing to occupational injury under this Law;
  - (ii) shall not reduce or deduct wages and fees of his worker due to liability for contribution payable under this Law;
- (b) The insured, as regards his injury due to employer's violation of prohibitions 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 provide health care and medical treatment in accord with the stipulations with doctors and nurses appointed by him;
- (b) The Social Security Board shall carry out to enable to open clinics according to the proportion of labour force at the establishments which have many insured and have stipulated number and above;
- (c) The Social Security Board shall support the necessary pharmaceutical and expenses for doctors and nurses in accord with the stipulations at the hospitals and clinics opened under sub-sections (a) and (b).
68. The Social Security Board, to be able to perform health care and medical treatment successfully:
- (a) shall stipulate functions relating to health care and medical treatment to social security medical staff 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 in establishments applied by this Law in co-ordination with the relevant departments;
  - (c) shall supervise and arrange to give necessary health care and medical treatments to the insured 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 expenses 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 the health care and medical treatment in accord with the stipulations;
- (f) shall carry out health service promotion, prevention of disease and educational works for health by laying down the plans.

#### **Not Losing the Right to enjoy Benefit despite of Defaulting to Contribute**

- 69. (a) Notwithstanding the employer who has registered under sections 16 and 48 or the employer liable to register has not paid contribution or notwithstanding the contribution was not deducted and paid from the worker's wage an insured or, after the death of the insured, 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 defaults to pay contribution shall pay contribution liable under sections 17 and 50 and also defaulting fees stipulated under section 88, and incur the benefits and cost payable to the insured and all expenses.

#### **The Right to Draw from the Relevant Social Security Fund**

- 70. (a) When the insured voluntarily resigns from work or transfers to any other establishment not applied by this Law before the completion of age stipulated for superannuation benefit under section 34:
  - (i) if an insured has paid contribution for up to 180 months to the fund for invalidity benefit, superannuation benefit and survivors' benefit, he has the right to enjoy 12 times of a month's average wage of the period of contribution in installment or in lump sum according to his desire;
  - (ii) if the insured has paid contribution more than 180 months, in addition to benefits contained in clause (i), he has the right to draw 40 per cent of contribution paid by the employer within that period and contribution paid in excess by him together with interest in accord with the stipulations;
  - (iii) if the insured has paid contribution to the fund contained in clause (i) over 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 benefit and survivors' benefit and contribution paid by him within 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 the insured 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 case of permanent total disability or decease of an insured owing to occupational injury:
  - (i) The insured or a person nominated before his decease or if there is no such nomination, his dependent has the right to draw the contribution paid by the insured to the fund for invalidity benefit, superannuation 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 contained in clause (i) for an insured together with interest in accord with the stipulations;

- (c) In case of voluntary resignation or transfer to any other establishment which is not applied by this Law or taking superannuation or becoming invalidity or permanent total disability owing to occupational injury, or decease resulting from any cause of an insured:
- (i) the insured or, a person nominated after the decease of the insured or if there is no such nomination, his dependent has the right to draw contribution paid by the insured 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 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 or, if that insured has deceased, a person nominated before his decease or, if there is no such nomination, his dependent has the right to draw all contribution paid by that insured to the fund for Social Security Housing Plan together with interest in accord with the stipulations:
- (i) superannuation pension;
  - (ii) invalidity;
  - (iii) permanent total disability owing to occupational injury;
  - (iv) resignation, dismissal or decease.

#### **Prohibitions in respect of Benefits**

71. No one shall:

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

#### **Survivors' Benefit**

72. If the insured who is entitled to enjoy the benefit is deceased but the benefit which is not yet paid until the day of his decease shall be entitled to enjoy by the person nominated by the insured or, if there is no such nomination, by his dependent in accord with the stipulations.

#### **Time - Limit to Claim for Benefits**

73. In respect of any benefit paid to the beneficiary from Social Security Fund and Occupational Injury Benefit Fund:

- (a) if the benefit is granted in installment or monthly, the person who has the right to claim shall, with documents attached, claim to the relevant township social security office within the following period commencing from the day of entitlement;
  - (i) one year from the day of completion of the age of the insured stipulated under section 34 for superannuation benefit;
  - (ii) one year from the day of issue of medical certificate for invalidity benefit;
  - (iii) one year from the day of decease of the insured for survivors' benefit for decease not owing to occupation;
  - (iv) one year from the day of accident of the insured, or from the day of termination of temporary disability benefit for permanent disability benefit owing to occupational injury;

- (v) one year from the day of decease of the insured for decease owing to occupation for survivors' benefit;
- (b) For the rest of benefits contained in this Law except benefits contained in sub-section (a), it shall be claimed within three months commencing from the day to be claimed, with documents attached to the relevant township social security office;
- (c) Although the period stipulated under sub-sections (a) and (b) has been passed, the claims may be made with sufficient ground. No right to claim if there is no sufficient ground.

#### **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 Occupational Injury Benefit Fund for himself and his insured workers, keep the record of benefits received for each insured and open account for each insured. Those records and accounts shall be submitted to the relevant township social security office in accord with the stipulations.

#### **Keeping Records of Work and Lists**

75. The employers 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 on appointment of new workers, employing worker by changing of work, termination, dismissal and resignation;
  - (iii) records on promotion and paying remuneration;
  - (iv) records and lists of employer, manager, and administrator and records on change of them;
- (b) shall inform the relevant township social security office if the following matters arise:
  - (i) changes in number of workers and address of establishment;
  - (ii) change of employer, change of business, suspension of work, and close-down of work;
  - (iii) occupational injury, decease and contracting diseases;
- (c) shall submit records of work and lists if requested by inspectorate or official assigned by the Social Security Head Office and various levels of Regional Social Security Office under this Law.

#### **Investigation**

76. In respect of the social security and occupational injury benefit:

- (a) the Social Security Board may, in order to know and decide whether or not the employers keep records of work and lists to be kept systematically, keep records of contribution paid to the social security fund and occupational injury benefit fund, contribute correctly, open accounts for each insured, and whether or not the insured workers draw social security and occupational injury benefits correctly, and whether or not the stipulated reports are submitted under this Law, investigate the relevant department or cause to investigate a suitable person or by forming an investigation body;
- (b) the Social Security Board or the person assigned by that Board or the investigation body may, if it is necessary, summon and examine the relevant employers and workers and other necessary persons and cause to submit evidence;

- (c) the Social Security Board or the person assigned by that Board or the investigation body may, if it is necessary, investigate the establishment.

### **Prohibitions in respect of Responsibilities of Employers**

77. Any employer of establishment concerning with the social security and occupational injury benefit:
- (a) shall not prepare incorrectly, modify 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 contribution;
  - (c) shall not refuse when the inspectorate or the official requests to produce those records, reports and other necessary documents under this Law or assigned by the Social Security Board;
  - (d) shall not fail when he is summoned by the inspectorate or the official under this Law or assigned by the Social Security Board or various levels of Regional Social Security Office.

### **Recovery of Contribution and Defaulting Fees**

78. (a) The official assigned by the Social Security Board shall, if it is failed to pay contributions under sections 17, 50 and 88 and defaulting fees or benefits and expenses to be incurred 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 authorities in accord with the stipulations;
- (b) In managing the recovery under sub-section (a), the social security and occupational injury benefit fund shall entitle priority over other debts resulting from Insolvency Act, or liquidation of a company under the Myanmar Companies Act and the 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 movable and immovable properties by any means during such recovery period without permission of the Social Security Board or the official assigned by that Board.

## **Chapter VIII**

### **Establishing and Maintaining the Social Security Fund and Occupational Injury Benefit Fund**

79. (a) The Social Security Board shall establish and maintain the Social Security Fund and occupational Injury Benefit Fund in order to implement the objectives contained in this Law;
- (b) The Social Security Board shall stand on its Social Security Fund and Occupational Injury Benefit Fund;
- (c) The Social Security Fund shall be established by contribution of employers and workers, and contribution and subsidy from the Union Consolidated Fund granted by the Union Government;
- (d) The Occupational Injury Benefit Fund shall be established by contributions of employers and subsidy from the Union Consolidated Fund;
- (e) The established Social Security Fund and Occupational Injury Benefit Fund shall be deposited by opening a bank account in any State Bank, or any other bank directed by the Social Security Board in accord with the stipulations;
- (f) The Social Security Fund and Occupational Injury Benefit Fund include the followings in addition to the contributions and the subsidies contained in sub-sections (c) and (d):
- (i) interest from savings, deposit and loan from the fund;

- (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 be included 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 benefit and survivors' benefit fund;
  - (iv) unemployment benefit fund;
  - (v) Social Security Housing Plan Fund;
  - (vi) other social security fund stipulated under clauses (v) and (vi) of sub-section(a) of section 15;
- (b) The Occupational Injury Benefit Fund.

81. The Social Security Board may, if it is necessary for the interests of the insured, transfer the head of the fund and use the fund from the bank account opened and maintained under section 80.

82. (a) The Social Security Board, in accord with the stipulated accounting procedures:

- (i) has the right to use its fund only for the social security system and occupational injury insurance system and relevant benefits and administrative matters contained in this Law;
- (ii) if the foreign currency is received, it is kept in a separate bank account and has the right to use only for the social security system, occupational injury insurance system and relevant benefits and administrative matters contained in this Law;

- (b) As the Social Security Fund and the Occupational Injury Benefit Fund are the savings of contribution of the insured workers for the social security and the occupational injury benefits, it shall not be transferred to the Union Consolidated Fund as receipts.

83. The Social Security Board shall, in order to maintain and audit the Social Security Fund and the Occupational Injury Benefit Fund systematically, draw up the accounting procedures in co-ordination with the Office of the 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 the Occupational Injury Benefit Fund established under sections 79 and 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, savings, purchasing, saving certificates and debenture at any State Bank or other bank;
- (b) carrying out and investing in any investment business;
- (c) issuing loan to contributors by fixing interest rate under appropriate terms and conditions;
- (d) investing after establishing Social Security Housing by laying down plans;
- (e) hiring movable and immovable properties owned by the Social Security Board, selling any of those properties which are not necessary to use in accord with the stipulations or transferring by any other means;
- (f) carrying out any other business for the interests of the Social Security Board.

85. The Social Security Board shall, in respect of the Social Security Fund and the Occupational Injury Benefit Fund, compile the budget mentioning estimate receipts and payment for the next financial year and submit to the Union Government through the Ministry of Labour.

## Chapter IX

### Contribution and Subsidization form the Union Consolidated fund

86. The Ministry of Labour shall appoint the service personnel at the social security offices , hospitals and clinics, in accord with the organizational set up , in co-ordination with the Social Security Board and with the approval of the Union Government, and allow to incur their salaries, allowances, pensions and other benefits from the Union Consolidated Fund in accord with laws, rules, regulations, by-laws, orders and directives concerning the Civil Service.

87. (a) The Social Security Board shall stand on the Social Security Fund and the Occupational Injury Benefit Fund and if it is not sufficient to give benefits from that fund, may submit and request, together with reason, to the Union Government through the Ministry of Labour, for contribution, subsidization or issue 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, in respect of the money incurred, contribution, subsidy from the Union Consolidated Fund, submit an annual budget to the Union Government for approval and cause the Social Security Board to manage;
- (d) The Social Security Board shall, in respect of the money incurred, contribution, subsidy from the Union Consolidated Fund, audit regularly and shall be audited by the Office of the Auditor-General. Moreover, an annual audit report shall be submitted to the Union Government through the Ministry of Labour;
- (e) The Union Government may, in respect of the plots for Social Security Housing Projects which shall be implemented under clause (i) of sub-section (e) of section 13 and sub-section (d) of section 84, grant the use of suitable plots upon the request of the Social Security Board, out of lands managed by the Government, by stipulating terms and conditions. Moreover, the Union Government may subsidize for the Social Security Housing Project from the Union Consolidated Fund as may be necessary.

## Chapter X

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

#### Defaulting Fees 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 the Occupational Injury Benefit Fund, pay 10 percent of the contribution as the defaulting fees in addition to the contribution for the month of default in accord with the stipulations. Moreover, if he continues failing to pay contribution, the mentioned defaulting fees for each month of default shall be paid in addition;
- (ii) if state the reduced wage of insured worker and reduce the contribution to be paid to the relevant Social Security Fund and the Occupational 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 of default, or deducted contribution as prescribed

in clause (i), and 10 percent of the reduced amount of contribution shall be paid as the defaulting fees to the relevant fund in accord with the stipulations. If he continues failing to pay contribution as such, the mentioned defaulting fees for each month of default shall be paid in addition;

- (b) The relevant township social security office shall calculate the amount of contribution and defaulting fees to be paid under sub-section (a) and inform the relevant employer to contribute within the stipulated date. Moreover, the contribution shall be paid to the respective 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 to this Law;
  - (ii) matter whether or not the employer and the worker are applied to this Law;
  - (iii) matter relating to the liability for contribution and amount of contribution, amount of defaulting fees 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 cash benefit or means of awarding such benefit;
  - (vi) matter submitted by the insured relating to the injury due to violation of prohibition contained in such-section (a) of section 66 by the employer;
- (b) The officer-in-charge of the township social security office shall initially negotiate and settle the disputes relating to social security and any occupational injury benefit among the disputes contained in sub-section (a) and the dispute relating to injury caused by violation of prohibition contained in sub-section (a) of section 66 by the employer on mutual consent by summoning the persons in dispute in accord with the stipulations;
- (c) The officer-in-charge of the township social security office shall submit the records of investigation together with remarks on the matter which cannot be settled although it is negotiated on mutual consent under sub-section (b), or any dispute contained in sub-section (a), after making investigation in accord with the stipulations, to the Region or State Social Security Office so as to enable to make a decision as appropriate;
- (d) No suit shall be instituted before any court relating to the disputes contained in sub-section (a). However, relating to the disputes whether or not the remaining dependents are legal heirs and whether or not they have legal right to enjoy benefit shall be as decided by the relevant court.
90. The Region or State Social Security Office:
- (a) after scrutinizing the submission under sub-section (c) of section 89, may conduct or cause to conduct further investigation as may be necessary;
  - (b) after carrying out under sub-section (a), and after allowing the persons in dispute to defend and after hearing both parties, a decision may be made relating to the dispute 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 to the Social Security Appellate Tribunal in accord with the stipulations within 60 days from the day of such decision;
- (c) The Social Security Appellate Tribunal may, after hearing the appeal under sub-section (b), approve, cancel or revise the decision of the Region or State Social Security Office or may cause to re-submit further investigation as may be necessary and make the decision.

#### **Prosecuting for Wilful default to Pay Contribution and Defaulting Fees**

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

- (a) failing to pay contribution and defaulting fees by the employer within 30 days from the last date stipulated by the township social security office due to failure to pay the contribution and defaulting fees;
- (b) expiry of appealable period by the employer under sub-section (b) of section 91;
- (c) failing to pay contribution and defaulting fees by the employer although the Social Security Appellate Tribunal has decided to pay such contribution and defaulting fees after hearing the appeal of the employer under sub-section (b) of section 91.

### **Chapter XI**

#### **Offences and Penalties**

93. Any employer who is prosecuted under section 92 of wilful default to pay contribution and defaulting fees shall, on conviction, 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 any responsibility to be followed contained in sub-section (a) of section 54, sections 74 and 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 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**

95. (a) The relevant township social security office shall prosecute the offences under sections 93 and 94, only if it obtains the prior sanction of the Social Security Board;

- (b) When the person prosecuted under sub-section (a) has paid all the due contribution 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 suit or criminal proceeding shall lie against any person or organization that discharges functions assigned under this Law in good faith.
97. The member of the Social Security Board, member of the Executive Committee, member of the Social Security Appellate Tribunal, member of the Medical Advisory Board, and any other member or person assigned under this Law who are not civil service shall be deemed as civil service while discharging functions assigned under this Law.
98. Relating to the payment of contribution and defaulting fees under this Law to the Social Security Fund and the Occupational 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 interests of the Union, by notification, exempt the regions which is not yet necessary to implement currently according to the plan to be implemented all or any part of the provisions contained in this Law or any establishment applied by this Law or any type of employer or worker.
100. The Ministry of Labour may, by notification, carry out amending the stipulated rates of contribution and benefit for the Social Security Fund and the Occupational Injury Benefit Fund and implementing insurance systems in phases based on the economic development of the Union, financial sufficiency and economic development of establishments, or changing social needs or situations of developments 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 to pay contribution in accord with the stipulations to the Social Security Fund and the Occupational Injury Benefit Fund established in conformity with this Law;
- (b) Relating to all benefits claimable after this Law had come into force, the benefits allowed under this Law shall be enjoyed in accord with the 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 incurred from the Health and Social Care Fund contained in this Law;
- (d) The Occupational Injury Benefits payable under the Social Security Act, 1954 shall be incurred from the Occupational Injury Benefit Fund contained in this Law.
102. If the insured earns his wage in foreign currency, contribution shall be paid to the Social Security Fund and the Occupational Injury Benefit Fund in foreign currency and each of social security and occupational injury benefits 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 come into force.

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

(Sd.)

Thein Sein  
The President of the Union  
Republic of the Union of Myanmar