

▶ Myanmar legal framework on social protection for migrants

Brief 2

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▶ Social security system in Myanmar and migrant workers

Key points

- ▶ Myanmar is undertaking extensive legal and political reform in labour and social security.
- ▶ The new Social Security Law was adopted in 2012. It covers all nine branches of social security, in social insurance schemes operated by the Social Security Board (SSB). Implementation is being phased in.
- ▶ Men and women in formal sector employment currently covered by the social law have equal rights to available coverage.
- ▶ No distinction is made between workers entitlements to social security on the basis of nationality, race or citizenship in the Social Security law.
- ▶ The Social Security Law provides for voluntary registration of international migrant workers although a mechanism has not yet been established for payment by migrant workers.
- ▶ The number of all persons insured by the SSB has risen from 778,837 in 2014 to 1,149,232 in 2018 (SSB).
- ▶ The Social Security Board (SSB) of Myanmar reports its voluntary scheme has 1,511 members (2019)

Legal framework

The Constitution of Myanmar (2008) empowers the Pyidaungsu Hluttaw (Assembly of the Union/Parliament) to enact laws related to social security (Article 96 and Section 1) and reaffirms the right of citizens to health care (Article 367).

There are two main social security schemes in Myanmar:

1. The civil servant, military, and political personal pensions schemes for the public sector, regulated by the Civil Service Law and rules 2013 and Political Pension Law and Rules; and
2. Social security schemes for the private sector, regulated by the Social Security Law (2012) and its rules (2014), which replaced the Social Security Act (1954).

The Social Security Law provides for the establishment of a social insurance scheme operated by the Social Security Board. The law covers all nine contingencies outlined in the Social Security (Minimum Standards) Convention, 1952 (No. 102), namely: medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivors' benefits, as well as housing benefits (see Brief 1). Implementation of the branches is to be phased; in 2014 the following branches were activated: healthcare, sickness, family and employment injury (including funeral grant).

In addition, the Workmen Compensation Act, 1923 (amended in 2005) is an employer's liability scheme run under the Department of Labour, MOLIP. It applies to all employees not covered by the Social Security Law, 2012 except those in the agricultural sector.¹

The first Social Protection Strategic Plan (2014) was designed to reduce poverty and increase protection for the most vulnerable.² It is housed under the Ministry of Social Welfare, Relief and Resettlement (MWRR) and provides for social assistance which is partially tax financed from the Government budget and partially covered by the International Development Association Fund, as well as other donors. The plan introduced eight flagship programmes including for child allowance, disability, school feeding, and social pensions for those aged 65 and above. Implementation has begun of the Maternal and Child Cash Transfer (MCCT) programme, which was piloted in 2017 and the social pension for older persons in 2018.

In addition to the Social Security Medical Care Scheme, which only covers those insured under the SSB, the Ministry of Health and Sports runs a number of free health-care programmes which are not yet embedded in the law. These include provision of free medicine in Ministry of Health and Sports facilities; free childbirth services for women with five or fewer children; free medical care for all children under five years; free emergency care; a hospital trust fund intended to cover the poor who cannot otherwise receive medical treatment; and a maternal and child health voucher scheme providing for some pre- and post-natal care. In addition, there are a free medicine programmes for people with HIV/AIDS; malaria and tuberculosis; an expanded immunization programme; and free national nutrition programmes for people with specific deficiencies. Reform is underway to expand the supply of services.³ The Myanmar National Health Plan 2017-2021 aims to extend access to an Essential Package of Health Services to the entire population by 2020, as well as to increase financial protection and a Draft Social Health Insurance Bill is in preparation under the leadership of the MOHS to establish a new Single Purchasing Agency to purchase health care services for the entire population in a single pool. The Agency would rely on mixed funding: contributory through the SSB and tax financed for the poor and vulnerable, and most likely partial subsidies for non-poor workers in the informal economy.

Who is covered?

International migrants are not entitled to any state supported social protection. Although they can enroll voluntarily to the SSB scheme. Internal migrants have the same entitlements as the wider population. Just 3 per cent of the total population were covered by social security in 2015.⁴ The Social Security Law and its rules, provide for contributory social security coverage to formal sector workers. Registration is compulsory in governmental agencies conducting business, and companies that employ five workers or more (Section 11, Rules 40 and 41). Foreign workers are entitled to access SSB coverage in Myanmar however portability arrangements are not yet in place should foreign workers leave (Rule 202). The number of persons insured under the SSB has risen from 778,837 in 2014 to 1,149,232 in 2018.⁵

The Social Security Law explicitly excludes domestic workers, daily wage earners, seasonal farming and fishery businesses, international organizations, non-profit organizations, street vendors, and other workers determined by MOLIP (Article 12). However, excluded workers as well as "persons who are

¹ ILO. 2019. Myanmar National Occupational Safety and Health Profile – 2018. Available at: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_719281.pdf (checked 28th April 2020)

² The Myanmar National Social Security Plan. Accessed at: <http://www.dsw.gov.mm/en/node/2238> (checked 27th April 2020)

³ ILO. 2014. Social protection assessment based national dialogue: Towards a nationally defined social protection floor in Myanmar. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms_386563.pdf (checked April 29th 2020)

⁴ ILO. 2015. Social protection within the framework of labour legislation reform in Myanmar. Background research summary. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms_375564.pdf (checked 24th Feb 2020)

⁵ Central Statistics Office. 2018. Statistical yearbook 2018. Available at: <https://www.csostat.gov.mm/PublicationAndRelease/StatisticalYearbook#v-pills-yearBook> (checked 25th Feb 2020)

working abroad” can register to the scheme voluntarily (Article 20). In 2019, SSB reported the voluntary scheme had 1,511 members.

Under the active flagship programmes of the Social Protection Strategic Plan, the MCCT was rolled out in Chin State, Rakhine State and Naga Self-Administered zone in 2017 and expanded to Kayin and Kayah states in 2018, reaching some 200,000 beneficiaries.⁶ There are currently plans to expand into Ayeyawady Region and Shan State.⁷ The non-contributory social pension was introduced for people aged 90 and above in 2017; and expanded to people over 85 in 2018, reaching a total of 118,000 beneficiaries.⁸

How the social security system works

The SSB, under the Ministry of Labour, Immigration and Population (MOLIP), manages implementation of the Social Security Law. The law provides for the establishment of social security funds, managed by the SSB, to which both workers and employers contribute. These comprise: 1) Health and Social Care Fund; 2) Family Assistance Fund; 3) Disability, Superannuation and Survivor’s Benefit Fund; and 4) Unemployment Benefit Fund. The Employment Injury Benefit Fund collects payments only from employers, and the beneficiary is not entitled to dual coverage under the Workmen’s Compensation Act.

Employers are to register new workers at the relevant Township Social Security Office within 30 days of employment. To register, the employee or voluntary contributor needs to undertake a medical exam to prove they are fit to work (Rule 46a); they may be refused insurance if they are found to be suffering from a chronic illness (Rule 46c). If the person is deemed fit for insurance, the Township Social Security Office will register them and issue a social insurance scrutiny card (Rule 46e). Employers, or workers who are voluntarily contributing, remit funds every month to their Township Social Security Office directly or to the Office’s bank account (Rules 54.(a)(b)). Contributions are a percent of workers’ monthly income (see Table 1).

Voluntary contributors pay the combined employer and worker contributions (Rule 54(b)), to the Social Security Fund, and can also voluntarily contribute to the Employment Injury fund by paying the employers’ contribution (see Table 1).

Social Security Law implementation challenges

Interviews with employers, trade unions and NGOs, raised some of the following challenges:

- Benefits paid to workers are considered disproportionately low in comparison to their contributions.
- Complicated procedures in claiming for benefits.
- Low awareness among workers of rights and entitlements.
- Low capacity of many voluntary contributors to cope with heavy administrative burden of registering, paying and claiming for benefits.
- Voluntary contribution rate above financial capability of many uninsured women and men.

Table 1: Overview of social security benefits under the 2012 Social Security Law

Social security fund^{a*}:

Health and social care fund

⁶ UNICEF. February 6th 2020. Department of Social Welfare unveils key findings of the Formative Evaluation of Maternal and Child Cash Transfer (MCCT) programme in Chin and Rakhine States. Available at: <https://www.unicef.org/myanmar/press-releases/department-social-welfare-unveils-key-findings-formative-evaluation-maternal-and> (checked April 29th 2020)

⁷ The Republic of the Union of Myanmar President Office. 12th Dec 2019. National Social Protection Committee produces seven decisions at third meeting. Available at: <https://www.president-office.gov.mm/en/?q=briefing-room/news/2019/12/21/id-9795> (checked April 29th 2020)

⁸ Interview, Help Age International, Nov 26th, 2019

Contribution ^b (% wage)	Benefits ^c	Status	ILO Social Security Branch
2% employer plus 2% worker for those aged under 60 years 2.5% employer plus 2.5% worker for those aged 60 and over	Medical care Expenses up to 26 weeks for worker only Infants of insured worker covered for 12 months.	Active	Medical care C102, C130
	Sickness benefit 60% of average salary of last 4 months for up to 26 weeks.	Active	Sickness C102, C130
	Maternity benefit Cash benefit: 70% of average salary of the last 6 months for up to 14 weeks. Plus: additional lump sum as % of average wage at delivery depending on the number of children – 50% (1 child), 75% (2), 100% (3) Paternity benefit 70% of the average salary to last 6 months for up to 15 days. Plus: half the maternity provisions for the uninsured wife.	Active	Maternity C102, C183
	Funeral grant Lump sum: average income or wages in last 4 months x (no. months contributed/18)+1	Active	Medical care and sickness, C130
10% contribution from the Health and Social Care Fund.	Family benefit <ul style="list-style-type: none"> • Education allowance (means-tested) 10% Active average wage per child in primary school for 10 months a year • Natural disaster: 40% of one month's average wage over last 12 months. Lump sum. 	Inactive	Family C102
Social security fund^{a*}: Employment injury benefit fund			
1% employer (if less than 5% of workers claim the benefit, or 2 workers in establishments of less than 50 employees). 1.5% if more claims	Employment injury benefit <ul style="list-style-type: none"> • Temporary disability benefit: 70% average wage over last 4 months. Weekly payment for up to 12 months. • Permanent disability benefit: level and length of benefit depend on degree of incapacity. Maximum 70% average wage over last 4 months. • Survivor benefit: 30-80 times average monthly wage of the deceased over the last 4 months for one month, depending on length of contribution (under 60 months, to over 240 months). 	Active	Employment Injury, C102, C121
Social security fund^{a*}: Disability, superannuation, survivors' benefit fund			

3% employer 3% worker	Disability benefit <ul style="list-style-type: none"> • Over 180 months contribution: 15 months average wage • 12-180 months contribution: 40% collected contributions (employer + worker) • Less than 12 months contribution: right to retrieve workers' contributions from SSB • When worker is granted disability benefit, the employer can claim 25% of their contributions 	Inactive	Invalidity C102, C128
	Superannuation pension benefit <ul style="list-style-type: none"> • Benefits are the same as disability <p>Employer can claim back 25% of contributions when worker has contributed for over 12 months and is granted superannuation benefit</p>	Inactive	Old age C102, C128
	Survivors' benefit for death <ul style="list-style-type: none"> • Benefits are the same as disability • Not for employment injury <p>Employer can claim back 25% of contributions when worker contributed for over 12 months and survivors benefit is granted</p>	Inactive	Survivors' benefit C102, C128
Social security fund^{a*}:			
Unemployment benefits fund			
1% employer 1% worker	Unemployment insurance <ul style="list-style-type: none"> • 50% average wage over the last year for up to 6 months. • Additional month of benefit for each additional year of contribution (over 36 months) • Deductible from employer severance packages <p>Employer can claim back 25% of contributions plus interest when benefit granted.</p>	Inactive	Unemployment C102, C168
Social security fund^{a*}:			
Social security Housing Fund			
Not defined	Expenses for housing project	Inactive	
	Loans to purchase housing	Inactive	
	Reimbursement to the insured person	Inactive	

- a. Contribution as per cent of monthly pay. Employment and Social Security Rules, Rule 55
<http://ilo.org/dyn/natlex/docs/ELECTRONIC/108952/134948/F1257271235/MMR108952%20Eng.pdf>
- b. Employment and Social Security Rules, Rule 55
<http://ilo.org/dyn/natlex/docs/ELECTRONIC/108952/134948/F1257271235/MMR108952%20Eng.pdf>
- c. Employment and Social Security Rules, Rule 26

Provisions for international migrants

The Social Security Law does not provide for compulsory social security coverage to Myanmar's overseas migrant workers. Nonetheless it does allow for voluntary contributions to the respective social security fund for persons "who are working abroad" (Article 20.c). No specific instructions are provided on how migrant workers can pay their contributions or with what frequency.

The Second Five-Year National Plan of Action on the Management of International Labour Migration (2018-2022)

Myanmar's Second National Plan of Action (NPA) for the Management of International Migration (2018-2022) aims to create a coherent, legal, policy and institutional framework in Myanmar for the management of cross-border migration for employment. MOLIP is directly responsible for coordinating and overseeing its implementation. The Migration Division of the Department of Labour under MoLIP acts as the focal point for the management of international labour migration and provides technical expertise to planning, policymaking, and implementation.⁹

The NPA has three main objectives:

1. Empowerment and protection of migrant workers;
2. Increasing the development benefits of labour migration; and
3. Improving the governance and administration of labour migration.

Under the second main objective, on increasing the development benefits of labour migration, the NPA outlines plans to enhance the welfare and protection of migrant workers and their families. It aims to collect data on welfare and protection issues; to negotiate with destination countries for portability of benefits; and to consider the establishment of a welfare fund for Myanmar migrant workers and their families. The Technical Working Group on Effective Implementation, Monitoring and Evaluation of the NPA held its first meeting in October 2019.

Recommendations

- Unilaterally extend social security to Myanmar overseas workers, including by:
 - Establishing a Migrant Workers Welfare Fund to support workers with little access to protections in destination countries.
 - Fully implementing the voluntary scheme under the Social Security Law and issue implementing documents to enable overseas migrant workers to register and make contributions.
- Simplify mechanisms for claiming benefits, reducing the number of steps required and burden of proof, or making use of one stop shops, where technological solutions are limited.
- Increase awareness of migrant workers on their rights to social security and how they can contribute and claim benefits during pre-departure trainings

Key resources

[Building a social protection floor in Myanmar: Time for Action](#)

[ILO: Labour migration in Myanmar](#)

[ILO. 2015. Social protection within the framework of labour legislation reform in Myanmar: Background research summary](#)

⁹ Myint, G. (2017). International Labour Organization. Building Labour Migration Policy Coherence in Myanmar, p. 15.

Social Protection and Myanmar migrants: ILO Brief Series

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1. International law, social protection and Myanmar migrant workers
2. Social security system in Myanmar and migrant workers
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